

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 13**

5 (Senators Nohe, Boley, Ferns, D. Hall, Karnes, Maynard, Mullins, Sypolt, Trump, Blair,

6 Williams and Cole (Mr. President), *original sponsors*)

7 _____
8 [Passed February 18, 2015; in effect from passage.]
9 _____

10
11
12 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
13 designated §55-7-27, relating to the liability of a possessor of real property for injuries
14 caused by open and obvious hazards; reinstating and codifying the open and obvious doctrine
15 of common law as it existed prior to judicial abolition; clarifying that this section does not
16 create, recognize or ratify claim or cause of action; stating legislative intent; and providing
17 for judicial application.

18 *Be it enacted by the Legislature of West Virginia:*

19 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
20 section, designated §55-7-27, to read as follows:

21 **ARTICLE 7. ACTIONS FOR INJURIES.**

22 **§55-7-27. Limiting civil liability of a possessor of real property for injuries caused by open**
23 **and obvious hazards.**

1 (a) A possessor of real property, including an owner, lessee or other lawful occupant, owes
2 no duty of care to protect others against dangers that are open, obvious, reasonably apparent or as
3 well known to the person injured as they are to the owner or occupant, and shall not be held liable
4 for civil damages for any injuries sustained as a result of such dangers.

5 (b) Nothing in this section creates, recognizes or ratifies a claim or cause of action of any
6 kind.

7 (c) It is the intent and policy of the Legislature that this section reinstates and codifies the
8 open and obvious hazard doctrine in actions seeking to assert liability against an owner, lessee or
9 other lawful occupant of real property to its status prior to the decision of the West Virginia Supreme
10 Court of Appeals in the matter of *Hersh v. E-T Enterprises, Limited Partnership*, 232 W. Va. 305
11 (2013). In its application of the doctrine, the court as a matter of law shall appropriately apply the
12 doctrine considering the nature and severity, or lack thereof, of violations of any statute relating to
13 a cause of action.