

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 13**

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

5 Williams and Cole (Mr. President))

6 _____
7 [Originating in the Committee on the Judiciary;

8 reported January 22, 2015.]
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12 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
13 designated §55-7-27, relating to liability of possessor of real property for injuries caused by
14 open and obvious hazards; reinstating and codifying open and obvious doctrine of common
15 law as it existed prior to judicial abolition; clarifying that this section does not create,
16 recognize or ratify claim or cause of action; and stating legislative intent.

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

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

20 **ARTICLE 7. ACTIONS FOR INJURIES.**

21 **§55-7-27. Limiting civil liability of a possessor of real property for injuries caused by open**
22 **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 of the Legislature that this section reinstates and codifies the open and
8 obvious hazard doctrine in actions seeking to assert liability against an owner, lessee or other lawful
9 occupant of real property to its status prior to the decision of the West Virginia Supreme Court of
10 Appeals in the matter of *Hersh v. E-T Enterprises, Limited Partnership*, 232 W. Va. 305 (2013).

(NOTE: This section is new; therefore, underscoring and strike-throughs have been omitted.)