

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4607**

BY DELEGATES HAMRICK, HIGGINBOTHAM, HOWELL AND

GRAVES

[Reported February 19, 2018; Referred to the

Committee on the Judiciary.]



1 A BILL to amend and reenact §20-5-2 of the Code of West Virginia, 1931, as amended, relating  
2 to parks and recreation permitting the use of recreational drones at state parks; requiring  
3 persons who intend to operate drones to register with the superintendent prior to  
4 participating in the use of any drone; establishing certain criteria for the restricted  
5 operation of drones within State Parks, Forests, and Rail Trails; and clarifying that persons  
6 who operate drones assume full responsibility and liability.

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

**ARTICLE 5. PARKS AND RECREATION.**

**§20-5-2. Powers of the director with respect to the section of parks and recreation.**

1 (a) The Director of the Division of Natural Resources is responsible for the execution and  
2 administration of the provisions in this article as an integral part of the parks and recreation  
3 program of the state and shall organize and staff the section of parks and recreation for the  
4 orderly, efficient and economical accomplishment of these ends. The authority granted in the year  
5 1994 to the Director of the Division of Natural Resources to employ up to six additional  
6 unclassified personnel to carry out the parks' functions of the Division of Natural Resources is  
7 continued.

8 (b) The Director of the Division of Natural Resources shall:

9 (1) Establish, manage and maintain the state's parks and recreation system for the benefit  
10 of the people of this state and do all things necessary and incidental to the development and  
11 administration of the state's parks and recreation system;

12 (2) Acquire property for the state in the name of the Division of Natural Resources by  
13 purchase, lease or agreement; retain, employ and contract with legal advisors and consultants;  
14 or accept or reject for the state, in the name of the division, gifts, donations, contributions,  
15 bequests or devises of money, security or property, both real and personal, and any interest in  
16 the property, including lands and waters, for state park or recreational areas for the purpose of  
17 providing public recreation: *Provided*, That the provisions of section ~~§20-1-4~~ §20-1-20 et seq. of

18 this code are specifically made applicable to any acquisitions of land: *Provided, however,* That  
19 any sale, exchange or transfer of property for the purposes of completing land acquisitions or  
20 providing improved recreational opportunities to the citizens of the state is subject to the  
21 procedures of ~~article one-a of this chapter~~ §5a-10-1 et. seq. of this code: *Provided further,* That  
22 no sale of any park or recreational area property, including lands and waters, used for purposes  
23 of providing public recreation on the effective date of this article and no privatization of any park  
24 may occur without statutory authority;

25 (3) Approve and direct the use of all revenue derived from the operation of the state parks  
26 and public recreation system for the operation, maintenance and improvement of the system,  
27 individual projects of the system or for the retirement of park development revenue bonds:  
28 *Provided,* That all revenues derived from the operation of the state parks and public recreation  
29 system shall be invested by the Treasurer and all proceeds from investment earnings shall accrue  
30 for the exclusive use for the operation, maintenance, and improvement of the system, individual  
31 projects of the system or for the retirement of park development revenue bonds;

32 (4) Effectively promote and market the state's parks, state forests, state recreation areas  
33 and wildlife recreational resources by approving the use of no less than 20 percent of the:

34 (A) Funds appropriated for purposes of advertising and marketing expenses related to the  
35 promotion and development of tourism, pursuant to §29-22-18 (j) of this code; and

36 (B) Funds authorized for expenditure from the Tourism Promotion Fund for purposes of  
37 direct advertising, pursuant to §5B-2-12 and §29-22A-10 of this code;

38 (5) Issue park development revenue bonds as provided in this article;

39 (6) Provide for the construction and operation of cabins, lodges, resorts, restaurants and  
40 other developed recreational service facilities, subject to the provisions of ~~§1-15-20~~ §20-5-15 and  
41 §20-1-20 of this code;

42 (7) The director may sell timber that has been severed in a state park incidental to the  
43 construction of park facilities or related infrastructure where the construction is authorized by the

44 Legislature in accordance with §20-1-20 of this code, and the sale of the timber is otherwise in  
45 the best interest of park development, without regard to proceeds derived from the sale of timber.  
46 The gross proceeds derived from the sale of timber shall be deposited into the operating budget  
47 of the park from which the timber was harvested;

48 (8) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et*  
49 *seq.* of this code to control the uses of parks: *Provided*, That the director may not permit public  
50 hunting, except as otherwise provided in this section, the exploitation of minerals or the harvesting  
51 of timber for commercial purposes in any state park.

52 (9) Exempt designated state parks from the requirement that all payments must be  
53 deposited in a bank within 24 hours for amounts less than \$500 notwithstanding any other  
54 provision of this code to the contrary: *Provided*, That such designated parks shall make a deposit  
55 in any amount no less than every seven working days;

56 (10) Waive the use fee normally charged to an individual or group for one day's use of a  
57 picnic shelter or one week's use of a cabin in a state recreation area when the individual or group  
58 donates the materials and labor for the construction of the picnic shelter or cabin: *Provided*, That  
59 the individual or group was authorized by the director to construct the picnic shelter or cabin and  
60 that it was constructed in accordance with the authorization granted and the standards and  
61 requirements of the division pertaining to the construction. The individual or group to whom the  
62 waiver is granted may use the picnic shelter for one reserved day or the cabin for one reserved  
63 week during each calendar year until the amount of the donation equals the amount of the loss of  
64 revenue from the waiver or until the individual dies or the group ceases to exist, whichever first  
65 occurs. The waiver is not transferable. The director shall permit free use of picnic shelters or  
66 cabins to individuals or groups who have contributed materials and labor for construction of picnic  
67 shelters or cabins prior to the effective date of this section. The director shall propose a legislative  
68 rule for promulgation legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of  
69 this code governing the free use of picnic shelters or cabins provided in this section, the eligibility

70 for free use, the determination of the value of the donations of labor and materials, the appropriate  
71 definitions of a group and the maximum time limit for the use;

72 (11) Provide within the parks a market for West Virginia arts, crafts and products, which  
73 shall permit gift shops within the parks to offer for sale items purchased on the open market from  
74 local artists, artisans, craftsmen and suppliers and local or regional crafts cooperatives;

75 (12) Provide that reservations for reservable campsites may be made, upon two days'  
76 advance notice, for any date for which space is available within a state park or recreational area  
77 managed by the parks and recreation section;

78 (13) Provide that reservations for all state parks and recreational areas managed by the  
79 parks and recreation section of the division may be made by use of a valid credit card;

80 (14) Develop a plan to establish a centralized computer reservation system for all state  
81 parks and recreational areas managed by the parks and recreation section and to implement the  
82 plan as funds become available; and

83 (15) Notwithstanding the provisions of §20-2-58 of this code, the Natural Resources  
84 Commission is authorized to promulgate rules in accordance with the provisions of §29A-3-1 *et*  
85 *seq.* of this code to permit and regulate the hunting of white-tail deer in any state park as ~~deemed~~  
86 considered appropriate by the director to protect the ecological integrity of the area.

87 (16) Permit the use of drones within State Parks, Forests and Rail Trails. Persons who  
88 intend to operate drones shall register at the area superintendent's office prior to engaging or  
89 participating in the operation of any drone and specify where the activity will take place. A  
90 superintendent may only prohibit, issue directives, or implement time and place restrictions on  
91 drone use in areas or portions thereof in order to: (i) protect the safety and privacy of other park  
92 users, (ii) protect area facilities, (iii) protect the peaceful and quiet atmosphere of the area, or (iv)  
93 prevent harassment of wildlife. Upon registration the superintendent shall provide a list and map  
94 to the drone operator of any prohibited areas within the park. Participants in drone operation  
95 activities assume full responsibility and liability for any risk or injury related to using drones.

NOTE: The purpose of this bill is to prohibit the banning of the use of recreational drones at state parks except within 150 feet from lodging.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.