

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2259

BY DELEGATE STEELE

[Introduced February 10, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §55-7-32, relating to creating a cause of action for injuries suffered in a gun-
3 free zone; legislative findings; definitions; damages recoverable; exceptions; and
4 providing that no crime is created for carrying a concealed weapon.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-32. Right of action for injuries suffered in a gun-free zone.

1 (a) It is a recognized constitutional right of the citizens of this state to arm themselves for
2 the purpose of self-defense. The Legislature also recognizes that there exist certain areas of the
3 code that provide owners and administrators the ability to create “gun-free zones” due to safety
4 or security concerns.

5 (b) A “gun-free zone” is defined as an area of real or personal property designated by the
6 owner, custodian, lessee, remainderman or any other person or entity where the carrying or
7 possession, concealed or open, of firearms is prohibited.

8 (c) The governments of this state, all municipal and county governments and all
9 government entities are subject to this section. There is no entity or person under the jurisdiction
10 of the state that is immune from liability pursuant to this section.

11 (d) It is incumbent on the persons listed in subsection (b) of this section who designate
12 “gun-free zones” to provide for the personal safety of all persons in the “gun-free zones”. These
13 persons owe a duty to all persons to provide defense and protection to their person and property
14 due to the fact that these same persons have prevented said persons from protecting themselves
15 with a gun.

16 (e) The creator, administrator and/or property owner of any “gun-free zone” is liable in tort
17 to any person who suffers an injury due to violence upon their person in that area designated as
18 a “gun-free zone”.

19 (f) Any person injured due to violence upon their person in a “gun-free zone” is entitled to

20 treble damages and reasonable attorney's fees in any action under this section. There is no
21 category of damages excluded under this section.

22 (g) The relief provided under this section is not available to a person whose damages were
23 suffered as a proximate result of the person's commission, attempted commission or immediate
24 flight from the commission or attempted commission of a felony.

25 (h) No provision of this section may be construed to create a crime of carrying a concealed
26 weapon in a "gun-free zone" unless otherwise provided by a separate statute under this code.

NOTE: The purpose of this bill is to provide a cause of action for a person injured in a "gun-free zone" with a certain exception; and that no crime is created for carrying a concealed weapon.

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