

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 236**

By Senators Maynard, Rucker, Karnes, and Queen

[Originating in the Committee on Outdoor Recreation;

reported on January 20, 2023]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §20-17B-1, §20-17B-2, §20-17B-3, §20-17B-4, and §20-17B-5, all relating to  
3 creating the Motorsports Responsibility Act; identifying purpose; defining terms; providing  
4 for duties of motorsports; and providing for duties of participants.

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

## **ARTICLE 17B. MOTORSPORTS RESPONSIBILITY ACT.**

### **ARTICLE 1. MOTORSPORTS RESPONSIBILITY ACT.**

#### **§20-17B-1. Motorsports Responsibility Act.**

1 This Article shall be known as the Motorsports Responsibility Act.

#### **§20-17B-2. Purpose.**

1 Every year, in rapidly increasing numbers, the inhabitants of the State of West Virginia and  
2 nonresidents are enjoying the recreational and driver training value of West Virginia motorsports  
3 and Driver Training. The tourist trade is of vital importance to the State of West Virginia and the  
4 services offered by motorsports and Driver Training which significantly contribute to the economy  
5 of the State of West Virginia and respective local economy. It is recognized that there are inherent  
6 risks in motorsports and driver training activities provided by the motorsports and Driver Training  
7 industry which should be understood by each participant. It is essentially impossible for  
8 motorsports and Driver Training providers to eliminate these risks. It is the purpose of this article to  
9 define those areas of responsibility and affirmative acts for which motorsports as well as Driver  
10 Training facilities are liable for loss, damage or injury suffered by participants and to define the risk  
11 which participants expressly assume and for which there can be no recovery.

#### **§20-17B 3. Definitions.**

1 Unless the context of usage clearly requires otherwise:

2 (a) "Motorsports" means any person, partnership, corporation or other organization, or any  
3 combination hereof offering motorsports activities, whether it be driver training, vehicle storage,

4 competition racing, non-competitive racing, performances, fairs, shows included but not limited to  
5 motorized vehicles, cars, trucks, motorcycles or any vehicle regardless of power source.

6 (b) "Driver Training" means any motorsports facility that provides qualified instruction to  
7 enhance a vehicle operator's ability to learn vehicle control.

8 (c) "Lessee" means any qualified person or organization with the necessary licenses and  
9 liability insurance meeting the motorsports facility lease requirements.

10 (d) "Participant" means any person/s or organization using the service of a motorsports  
11 facility as a vehicle operator and vehicle passengers, whether a vehicle is either owned by the  
12 motorsports facility or of participant personal ownership.

**§20-17B**                      **4.**                      **Duties**                      **of**                      **motorsports.**

1 Motorsports shall:

2 (a) Provide facilities, equipment, and services conforming to safety and other requirements  
3 established by the motorsports facility.

4 (b) Provide facilities, equipment, and services as advertised or as agreed upon by the  
5 motorsports facility and the participant or lessee.

6 (c) Maintain all equipment and vehicles used in the business in such condition that the  
7 equipment and vehicles are safe to operate or use as intended.

**§20-17B**                      **5.**                      **Duties**                      **of**                      **participants.**

1 (a) All participants of motorsports shall:

2 (1) Comply with any requirements established by law, including those which defines those  
3 acts prohibited by operators of all motorized vehicles;

4 (2) Comply with the rules or regulations established for use of the motorsports facility;

5 (3) Wear all safety equipment as recommended by the motorsports facility or lessee;

6 (4) Obey all rules or instructions announced by the motorsports facility or lessee regarding  
7 safe operation of the vehicle or motorcycle he or she is operating; and

8 (b) Each participant and vehicle operator has the sole responsibility for:

9           (1) Recognizing that motorsports as a sport is hazardous to participants, regardless of all  
10 feasible safety measures which can be taken and that each participant expressly assumes the risk  
11 of and legal responsibility for any injury, loss or damage to person or property which results from  
12 participation in the motorsports sport, including but not limited to, any injury, loss or damage  
13 caused by the following: variations in terrain including elevation changes, turns in the racetrack,  
14 collisions with restraining walls, tires walls, other vehicles or any property provided by the  
15 motorsports facility.

16           (2) Knowing the range of his or her ability to negotiate the course of the facility.

17           (3) Operating the vehicle or motorcycle within the limits of the participants own ability.

18           (4) Heeding all posted warnings.

19           (5) Operating only within the designated area as outlined by the motorsports facility or  
20 lessee; and

21           (6) Refraining from acting in a manner which a reasonable person would believe to be  
22 likely to cause or contribute to the injury of any person.

23           (c) If a vehicle operator or vehicle operators, while operating a motorized vehicle or  
24 motorcycle at the motorsports facility, collides with another vehicle, motorcycle, person or  
25 stationery object resulting in damage or injury, the responsibility for the collision shall be solely that  
26 of the vehicle operator or vehicle operators involved and not that of the motorsports facility.

NOTE: The purpose of this bill is to create the Motorsports Responsibility Act.

Strikethroughs indicate language that would be stricken from a heading, or the present law and underscoring indicates new language that would be added.

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