

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

House Bill 2809

BY DELEGATES SHOTT, CAPITO, MANDT, PAYNTER,

ELLINGTON, PORTERFIELD AND EVANS

[Introduced February 1, 2019; Referred to the

Committee on the Judiciary.]

1 A BILL to amend and reenact §20-14-8 of the Code of West Virginia, 1931, as amended, relating
2 to prohibited acts and penalties in the Hatfield-McCoy Recreation Area; increasing fines
3 for persons who do not remain within and on a designated and marked trail within the
4 Hatfield-McCoy Recreation Area; and increasing fines for persons who do not remain
5 within and on a designated and marked trail within the Hatfield-McCoy Recreation Area
6 and cause property damage to a landowner's property outside the designated and marked
7 trails or interfere with a landowner's or lawful possessor's use of property outside the
8 designated and marked trails within the Hatfield-McCoy Recreation Area.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14. HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY.

§20-14-8. Prohibited acts, penalty.

1 (a) A person may not enter or remain upon the Hatfield-McCoy Recreation Area without a
2 valid, nontransferable user permit issued by the authority and properly displayed, except properly
3 identified landowners or leaseholders or their officers, employees, or agents while on the land
4 that the person owns or leases for purposes related to the ownership or lease of the land and not
5 for recreational purposes;

6 (b) A person may not consume or possess any alcoholic liquor, nonintoxicating beer,
7 nonintoxicating craft beer, or wine at any time or any location within the Hatfield-McCoy
8 Recreation Area.

9 (c) The operator and all passengers of a motor vehicle within the Hatfield-McCoy
10 Recreation Area shall wear size-appropriate protective helmets at all times. All operators and
11 passengers shall wear helmets that meet the current performance specifications established by
12 the American National Standards Institute Standard, z 90.1, the United States Department of
13 Transportation Federal Motor Vehicle Safety Standard no. 218 or Snell Memorial Foundation
14 Safety Standards for protective headgear for vehicle users.

15 (d) Each trail user shall obey all traffic laws, traffic-control devices, and signs within the
16 Hatfield-McCoy Recreation Area, including those which restrict trails to certain types of motor
17 vehicles, motorcycles, or those equipped with roll cages.

18 (e) Each trail user shall at all times remain within and on a designated and marked trail
19 while within the Hatfield-McCoy Recreation Area.

20 (f) A person may not be on any trail within the Hatfield-McCoy Recreation Area at any time
21 from one-half hour after sunset until one-half hour before sunrise, except in an emergency.

22 (g) Every person within the Hatfield-McCoy Recreation Area who is under 16 years of age
23 shall at all times be under the immediate supervision of, and within sight of, a person who is at
24 least 18 years of age and who either is a parent or guardian of the youth or has the express
25 permission of a parent or guardian to supervise the youth. No parent, guardian, or supervising
26 adult may allow a child under the age of 16 years to leave that person's sight and supervision
27 within the Hatfield-McCoy Recreation Area.

28 (h) A person may not ignite or maintain any fire within the Hatfield-McCoy Recreation Area
29 except at a clearly marked location at a trailhead center.

30 (i) A person within the Hatfield-McCoy Recreation Area may not operate a motor vehicle
31 in any competition or exhibition of speed, acceleration, racing, test of physical endurance, or
32 climbing ability unless in an event sanctioned by the authority.

33 (j) Every person operating a motor vehicle within the Hatfield-McCoy Recreation Area is
34 subject to all of the duties applicable to the driver of a motor vehicle by the provisions of §17C-1-
35 1 *et seq.* of this code except where inconsistent with the provisions of this article and except as
36 to those provisions of §17C-1-1 *et seq.* of this code which by their nature can have no application
37 and may not operate a motor vehicle in violation of those duties.

38 (k) A person may not possess a glass container while riding on a motor vehicle within the
39 Hatfield-McCoy Recreation Area.

40 (l) A person may not operate or ride in a utility terrain vehicle, as defined in §17F-1-1 *et*
41 *seq.* of this code, or any other motor vehicle with bench or bucket seating and a steering wheel
42 for control unless equipped with seat belts meeting at a minimum federal motor vehicle safety
43 standard and properly worn by the driver and all passengers.

44 (m) (1) No child under the age of six years may be allowed on any trail within the Hatfield-
45 McCoy Recreation Area; and

46 (2) No child under the age of eight years who is required to be placed in a child passenger
47 safety device system meeting applicable federal motor vehicle safety standards pursuant to §17C-
48 15-46 of this code while occupying a motor vehicle may be allowed on any trail within the Hatfield-
49 McCoy Recreation Area; and

50 (3) All persons operating or riding upon an ATV, UTV, or motorcycle as defined in §20-15-
51 1 *et seq.* of this code shall follow the manufacturer's recommendations for that vehicle relating to
52 age and size limitations for operators and passengers.

53 (n) (1) A person who violates any provision of this section, except for subsection (e), is
54 guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

55 (2) A person who violates subsection (e) of this section is guilty of a misdemeanor and,
56 upon conviction thereof, shall be fined not less than \$1,000: *Provided*, That in the event the
57 person's violation of subsection (e) of this section causes damage to a landowner's property
58 outside of the designated and marked trail within the Hatfield-McCoy Recreation Area or interferes
59 with a landowner's or lawful possessor's use of the property outside of the designated and marked
60 trail within the Hatfield-McCoy Recreation Area, the person is guilty of a misdemeanor and, upon
61 conviction thereof, shall be fined not less than \$2,000.

62 (3) Prosecution or conviction for the ~~misdemeanor~~ misdemeanors described in this
63 subsection may not prevent or disqualify any other civil or criminal remedies for the conduct
64 prohibited by this section.

NOTE: The purpose of this bill is to establish penalties for failing to remain within and on a designated and marked trail within the Hatfield-McCoy Recreation Area.

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