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## States' Unmanned Aerial Vehicle Laws: *West Virginia*



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# A National Agricultural Law Center Research Publication

## States' Unmanned Aerial Vehicle Laws: West Virginia

**WV ST § 20-5-2**  
**WV ST § 61-16-1**  
**WV ST § 15-12-2**

*Current through November 23, 2022*

### **WV ST § 20-5-2 Powers of the Director with Respect to the Section of Parks and Recreation**

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

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

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

(2) Acquire property for the state in the name of the Division of Natural Resources by purchase, lease or agreement; retain, employ and contract with legal advisors and consultants; or accept or reject for the state, in the name of the division, gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, and any interest in the property, including lands and waters, for state park or recreational areas for the purpose of providing public recreation: Provided, That the provisions of section § 20-1-20 et seq. of this code are specifically made applicable to any acquisitions of land: Provided, however, That any sale, exchange or transfer of property for the purposes of completing land acquisitions or providing improved recreational opportunities to the citizens of the state is subject to the procedures of § 5a-10-1 et. seq. of this code: Provided further, That no sale of any park or recreational area property, including lands and waters, used for purposes of providing public recreation on the effective date of this article and no privatization of any park may occur without statutory authority;



- (3) Approve and direct the use of all revenue derived from the operation of the state parks and public recreation system for the operation, maintenance and improvement of the system, individual projects of the system or for the retirement of park development revenue bonds: Provided, That all revenues derived from the operation of the state parks and public recreation system shall be invested by the Treasurer and all proceeds from investment earnings shall accrue for the exclusive use for the operation, maintenance, and improvement of the system, individual projects of the system or for the retirement of park development revenue bonds;
- (4) Effectively promote and market the state's parks, state forests, state recreation areas and wildlife recreational resources by approving the use of no less than 20 percent of the:
- (A) Funds appropriated for purposes of advertising and marketing expenses related to the promotion and development of tourism, pursuant to § 29-22-18 (j) of this code; and
  - (B) Funds authorized for expenditure from the Tourism Promotion Fund for purposes of direct advertising, pursuant to § 5B-2-12 and § 29-22A-10 of this code;
- (5) Issue park development revenue bonds as provided in this article;
- (6) Provide for the construction and operation of cabins, lodges, resorts, restaurants and other developed recreational service facilities, subject to the provisions of § 20-5-15 and § 20-1-20 of this code;
- (7) The director may sell timber that has been severed in a state park incidental to the construction of park facilities or related infrastructure where the construction is authorized by the Legislature in accordance with § 20-1-20 of this code, and the sale of the timber is otherwise in the best interest of park development, without regard to proceeds derived from the sale of timber. The gross proceeds derived from the sale of timber shall be deposited into the operating budget of the park from which the timber was harvested;
- (8) Propose rules for legislative approval in accordance with the provisions of § 29A-3-1 et seq. of this code to control the uses of parks: Provided, That the director may not permit public hunting, except as otherwise provided in this section, the exploitation of minerals or the harvesting of timber for commercial purposes in any state park;
- (9) Exempt designated state parks from the requirement that all payments must be deposited in a bank within 24 hours for amounts less than \$500 notwithstanding any other provision of this code to the contrary: Provided, That such designated parks shall make a deposit in any amount no less than every seven working days;
- (10) Waive the use fee normally charged to an individual or group for one day's use of a picnic shelter or one week's use of a cabin in a state recreation area when the individual or group donates the materials and labor for the construction of the picnic shelter or cabin: Provided, That the individual or group was authorized by the director to construct the picnic shelter or cabin and that it was constructed in accordance with the authorization



granted and the standards and requirements of the division pertaining to the construction. The individual or group to whom the waiver is granted may use the picnic shelter for one reserved day or the cabin for one reserved week during each calendar year until the amount of the donation equals the amount of the loss of revenue from the waiver or until the individual dies or the group ceases to exist, whichever first occurs. The waiver is not transferable. The director shall permit free use of picnic shelters or cabins to individuals or groups who have contributed materials and labor for construction of picnic shelters or cabins prior to the effective date of this section. The director shall propose a legislative rule for legislative approval in accordance with § 29A-3-1 et seq. of this code governing the free use of picnic shelters or cabins provided in this section, the eligibility for free use, the determination of the value of the donations of labor and materials, the appropriate definitions of a group and the maximum time limit for the use;

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

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

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

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

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

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



## WV ST § 61-16-1 Definitions

As used in this article:

- (1) “Aircraft” means any device now known or subsequently invented, used, or designed for flight in the air, including, but not limited to, unmanned aircraft vehicles or systems;
- (2) “Unmanned aircraft system” or “system” means an aircraft that is operated without direct human intervention from inside or on the aircraft and includes the crewmember, the associated support equipment, the control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft, including, but not limited to, drones;
- (3) “Unmanned aircraft system operator” or “operator” means a person exercising control over an unmanned aircraft system during flight.

## WV ST § 15-12-2 Registration

- (a) The provisions of this article apply both retroactively and prospectively.
- (b) Any person who has been convicted of an offense or an attempted offense or has been found not guilty by reason of mental illness, mental retardation, or addiction of an offense under any of the following provisions of this code or under a statutory provision of another state, the United States Code or the Uniform Code of Military Justice which requires proof of the same essential elements shall register as set forth in § 15-12-2(d) of this code and according to the internal management rules promulgated by the superintendent under authority of § 15-2-25 of this code:
  - (1) § 61-8A-1 et seq. of this code;
  - (2) § 61-8B-1 et seq. of this code, including the provisions of former § 61-8B-6 of this code, relating to the offense of sexual assault of a spouse, which was repealed by an act of the Legislature during the 2000 legislative session;
  - (3) § 61-8C-1 et seq. of this code;
  - (4) § 61-8D-5 and § 61-8D-6 of this code;
  - (5) § 61-2-14(a) of this code;
  - (6) § 61-8-6, § 61-8-7, § 61-8-12, and § 61-8-13 of this code;
  - (7) § 61-3C-14b of this code, as it relates to violations of those provisions of chapter 61 listed in this subsection; or
  - (8) § 61-14-2, § 61-14-5, and § 61-14-6 of this code: Provided, That as to § 61-14-2 of this code only those violations involving human trafficking for purposes of sexual servitude require registration pursuant to this subdivision.
- (c) Any person who has been convicted of a criminal offense where the sentencing judge made a written finding that the offense was sexually motivated shall also register as set forth in this article.
- (d) A person required to register under the provisions of this article shall register in person at the West Virginia State Police detachment responsible



for covering the county of his or her residence, and in doing so, provide or cooperate in providing, at a minimum, the following when registering:

- (1) The full name of the registrant, including any aliases, nicknames, or other names used by the registrant;
  - (2) The address where the registrant intends to reside or resides at the time of registration, the address of any habitable real property owned or leased by the registrant that he or she regularly visits: Provided, That a post office box may not be provided in lieu of a physical residential address, the name and address of the registrant's employer or place of occupation at the time of registration, the names and addresses of any anticipated future employers or places of occupation, the name and address of any school or training facility the registrant is attending at the time of registration and the names and addresses of any schools or training facilities the registrant expects to attend;
  - (3) The registrant's Social Security number;
  - (4) A full-face photograph of the registrant at the time of registration;
  - (5) A brief description of the crime or crimes for which the registrant was convicted;
  - (6) The registrant's fingerprints and palm prints;
  - (7) Information related to any motor vehicle, trailer, or motor home owned or regularly operated by a registrant, including vehicle make, model, color, and license plate number: Provided, That for the purposes of this article, the term "trailer" means travel trailer, fold-down camping trailer, and house trailer as those terms are defined in § 17A-1-1 of this code;
  - (8) Information relating to any Internet accounts the registrant has and the screen names, user names, or aliases the registrant uses on the Internet;
  - (9) Information related to any telephone or electronic paging device numbers that the registrant has or uses, including, but not limited to, residential, work, and mobile telephone numbers;
  - (10) A photocopy of a valid driver's license or government-issued identification card, including a tribal identification card;
  - (11) A photocopy of any passport and immigration documents;
  - (12) A photocopy of any professional licensing information that authorizes the registrant to engage in an occupation or carry out a trade or business; and
  - (13) Any identifying information, including make, model, serial number, and photograph, regarding any unmanned aerial vehicle owned or operated by a registrant.
- (e) (1) On the date that any person convicted or found not guilty by reason of mental illness, mental retardation, or addiction of any of the crimes listed in § 15-12-2(b) of this code, hereinafter referred to as a "qualifying offense", including those persons who are continuing under some post-conviction supervisory status, are released, granted probation or a suspended sentence, released on parole, probation, home detention, work release, conditional release or any other release from confinement, the Commissioner of Corrections, regional jail administrator, city official, or sheriff operating a jail or Secretary of the Department of Health and Human Resources





who releases the person and any parole or probation officer who releases the person or supervises the person following the release shall obtain all information required by § 15-12-2(d) of this code prior to the release of the person, inform the person of his or her duty to register, and send written notice of the release of the person to the State Police within three business days of receiving the information. The notice must include the information required by § 15-12-2(d) of this code. Any person having a duty to register for a qualifying offense shall register upon conviction, unless that person is confined or incarcerated, in which case he or she shall register within three business days of release, transfer, or other change in disposition status. Any person currently registered who is incarcerated for any offense shall re-register within three business days of his or her release.

(2) Notwithstanding any provision of this article to the contrary, a court of this state shall, upon presiding over a criminal matter resulting in conviction or a finding of not guilty by reason of mental illness, mental retardation, or addiction of a qualifying offense, cause, within 72 hours of entry of the commitment or sentencing order, the transmittal to the sex offender registry for inclusion in the registry all information required for registration by a registrant as well as the following nonidentifying information regarding the victim or victims:

- (A) His or her sex;
- (B) His or her age at the time of the offense; and
- (C) The relationship between the victim and the perpetrator.

The provisions of this subdivision do not relieve a person required to register pursuant to this section from complying with any provision of this article.

(f) For any person determined to be a sexually violent predator, the notice required by § 15-12-2(d) of this code must also include:

- (1) Identifying factors, including physical characteristics;
- (2) History of the offense; and
- (3) Documentation of any treatment received for the mental abnormality or personality disorder.

(g) At the time the person is convicted or found not guilty by reason of mental illness, mental retardation, or addiction in a court of this state of the crimes set forth in § 15-12-2(b) of this code, the person shall sign in open court a statement acknowledging that he or she understands the requirements imposed by this article. The court shall inform the person so convicted of the requirements to register imposed by this article and shall further satisfy itself by interrogation of the defendant or his or her counsel that the defendant has received notice of the provisions of this article and that the defendant understands the provisions. The statement, when signed and witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of this article. Upon completion of the statement, the court shall provide a copy to the registry. Persons who have not signed a statement under the provisions of this subsection and who are subject to the registration requirements of this article must be informed of the



requirement by the State Police whenever the State Police obtain information that the person is subject to registration requirements.

(h) The State Police shall maintain a central registry of all persons who register under this article and shall release information only as provided in this article.

The information required to be made public by the State Police by § 15-12-5(b)(2) of this code is to be accessible through the Internet. Information relating to telephone or electronic paging device numbers a registrant has or uses may not be released through the Internet.

(i) For the purpose of this article, “sexually violent offense” means:

(1) Sexual assault in the first degree as set forth in § 61-8B-3 of this code, or of a similar provision in another state, federal, or military jurisdiction;

(2) Sexual assault in the second degree as set forth § 61-8B-4 of this code, or of a similar provision in another state, federal, or military jurisdiction;

(3) Sexual assault of a spouse as set forth in the former provisions of § 61-8B-6 of this code, which was repealed by an act of the Legislature during the 2000 legislative session, or of a similar provision in another state, federal, or military jurisdiction;

(4) Sexual abuse in the first degree as set forth in § 61-8B-7 of this code, or of a similar provision in another state, federal, or military jurisdiction;

(j) For purposes of this article, the term “sexually motivated” means that one of the purposes for which a person committed the crime was for any person’s sexual gratification.

(k) For purposes of this article, the term “sexually violent predator” means a person who has been convicted or found not guilty by reason of mental illness, mental retardation, or addiction of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(l) For purposes of this article, the term “mental abnormality” means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(m) For purposes of this article, the term “predatory act” means an act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(n) For the purposes of this article, the term “business days” means days exclusive of Saturdays, Sundays, and legal holidays as defined in § 2-2-1 of this code.

