

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

House Bill 3560

BY DELEGATE HOWELL

[Passed March 10, 2023; in effect ninety days from passage.]

FILED

2023 MAR 28 P 4:46

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SECRETARY OF STATE

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1 AN ACT to amend and reenact §19-25-5 of the Code of West Virginia, 1931, as amended, relating
2 to expanding the definitions of “land” and “recreational purposes” to include rock climbing,
3 rope related, and bouldering activities and to make certain technical corrections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 25. LIMITING LIABILITY OF LANDOWNERS.

§19-25-5. Definitions.

1 Unless the context used clearly requires a different meaning, as used in this article:

2 “Agricultural purposes” means the raising, cultivation, drying, harvesting, marketing,
3 production, or storage of agricultural products, including both crops and livestock, for sale or use
4 in agriculture or agricultural production, or the storage of machinery or equipment used in support
5 of agricultural production;

6 “Charge” means (A) For purposes of limiting liability for recreational or wildlife propagation
7 purposes set forth in §19-25-2 of this code, the amount of money asked in return for an invitation
8 to enter or go upon the land, including a one-time fee for a particular event, amusement,
9 occurrence, adventure, incident, experience, or occasion which may not exceed \$50 a year per
10 recreational participant: *Provided*, That the monetary cap on charges imposed pursuant to this
11 article does not apply to the provisions of §20-14-1 *et seq.* of this code pertaining to the Hatfield-
12 McCoy Regional Recreation Authority or activities sponsored on the Hatfield-McCoy regional
13 recreational authority; (B) For purposes of limiting liability for military, law enforcement, or
14 homeland-defense training set forth in §19-25-6 of this code, the amount of money asked in return
15 for an invitation to enter or go upon the land;

16 “Land” includes, but is not limited to, roads, water, watercourses, rocks, boulders, caves,
17 private ways, and buildings, structures, and machinery or equipment, when attached to the realty;

18 “Noncommercial recreational activity” does not include any activity for which there is any
19 charge which exceeds \$50 per year per participant;

20 “Owner includes, but is not limited to, a tenant, lessee, occupant, or person in control of
21 the premises;

22 “Recreational purposes” includes but is not limited to, any one or any combination of the
23 following noncommercial recreational activities: Hunting, fishing, swimming, boating, camping,
24 picnicking, hiking, rock climbing, bouldering, caving, rappelling, slacklining pleasure driving,
25 motorcycle or all-terrain vehicle riding, bicycling, horseback riding, spelunking, nature study, water
26 skiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or
27 scientific sites, aircraft or ultralight operations on private airstrips or farms or otherwise using land
28 for purposes of the user;

29 “Wildlife propagation purposes” applies to and includes all ponds, sediment control
30 structures, permanent water impoundments, or any other similar structure created in connection
31 with surface mining activities as governed by §22-3-1 *et seq.* of this code or from the use of
32 surface in the conduct of underground coal mining as governed by that article and any rules
33 promulgated because of the article, which ponds, structures, or impoundments are designated
34 and certified in writing by the director of the Division of Environmental Protection and the owner
35 to be necessary and vital to the growth and propagation of wildlife, animals, birds, fish, or other
36 forms of aquatic life and finds and determines that the premises have the potential of being
37 actually used by the wildlife for those purposes and that the premises are no longer used or
38 necessary for mining reclamation purposes. The certification shall be in form satisfactory to the
39 director and shall provide that the designated ponds, structures, or impoundments may not be
40 removed without the joint consent of the director and the owner; and

41 “Military, law enforcement, or homeland-defense training” includes, but is not limited to,
42 training, encampments, instruction, overflight by military aircraft, parachute drops of personnel or
43 equipment, or other use of land by a member of the Army National Guard or Air National Guard,
44 a member of a reserve unit of the armed forces of the United States, a person on active duty in
45 the armed forces of the United States, a state or federal law-enforcement officer, a federal agency
46 or service employee, a West Virginia military authority employee or a civilian contractor supporting
47 the military and/or government employees acting in that capacity.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.



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Clerk of the House of Delegates

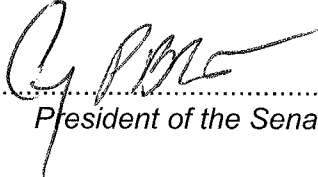

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Clerk of the Senate

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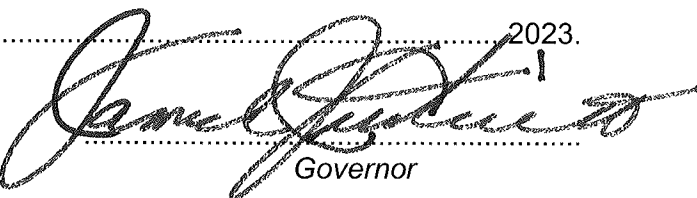
Originated in the House of Delegates.

In effect ninety days from passage.


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Speaker of the House of Delegates


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President of the Senate

The within is approved this the 28th
Day of March 2023.


.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2023

Time 2:52pm