WEST VIRGINIA CODE: §19-25-5

§19-25-5. Definitions.

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

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

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

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

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

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

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

“Wildlife propagation purposes” applies to and includes all ponds, sediment control structures, permanent water impoundments, or any other similar structure created in connection with surface mining activities as governed by §22-3-1 *et seq*. of this code or from the use of surface in the conduct of underground coal mining as governed by that article and

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any rules promulgated because of the article, which ponds, structures, or impoundments are designated and certified in writing by the director of the Division of Environmental Protection and the owner to be necessary and vital to the growth and propagation of wildlife, animals, birds, fish, or other forms of aquatic life and finds and determines that the premises have the potential of being actually used by the wildlife for those purposes and that the premises are no longer used or necessary for mining reclamation purposes. The certification shall be in form satisfactory to the director and shall provide that the designated ponds, structures, or impoundments may not be removed without the joint consent of the director and the owner; and

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

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