WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1993

ENROLLED

SENATE BILL NO. 576

(By Senator alston, et al)

PASSED April 8, 1993
In Effect 90 days from Passage
ENROLLED

Senate Bill No. 576

(By Senators Wooton, Felton, Plymale, Minard, Anderson, Dittmar and Yoder)

[Passed April 8, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, three, five and six, article twenty-five, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section seven, all relating to limiting the liability of landowners; permitting landowners to collect money for the annual use of land without incurring liability for other than willful or malicious failure to guard or warn against a dangerous or hazardous condition, use, structure or activity; defining terms; limiting the liability of landowners who allow their property to be used for military training purposes; and providing for certain insurance policy requirements.

Be it enacted by the Legislature of West Virginia:

That sections one, three, five and six, article twenty-five, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section seven, all to read as follows:
ARTICLE 25. LIMITING LIABILITY OF LANDOWNERS.

§19-25-1. Purpose.

The purpose of this article is to encourage owners of land to make available to the public land and water areas for military training or recreational or wildlife propagation purposes by limiting their liability toward persons entering thereon and toward persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

§19-25-3. Limiting duty of landowner who leases land to state, counties, municipalities or agencies.

Unless otherwise agreed in writing, an owner of land leased to the state or any agency thereof, or any county or municipality or agency thereof, for military training or recreational or wildlife propagation purposes owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon the land of any dangerous or hazardous conditions, uses, structures or activities thereon. An owner who leases land to the state or any agency thereof, or any county or municipality or agency thereof, for military training or recreational or wildlife propagation purposes shall not by giving a lease: (a) Extend any assurance to any person using the land that the premises are safe for any purpose; or (b) confer upon those persons the legal status of an invitee or licensee to whom a duty of care is owed; or (c) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a person who enters upon the leased land. The provisions of this section apply whether the person entering upon the leased land is an invitee, licensee, trespasser or otherwise.


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

(1) "Charge" means:

(A) For purposes of limiting liability for recreational
or wildlife propagation purposes set forth in section 
two of this article, 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, expe-
rience or occasion but not including an amount of 
money not to exceed fifty dollars a year for an 
individual for the annual use of land;

(B) For purposes of limiting liability for military 
training set forth in section six of this article, the 
amount of money asked in return for an invitation to 
enter or go upon the land;

(2) "Land" includes, but shall not be limited to, 
roads, water, watercourses, private ways and build-
ings, structures and machinery or equipment thereon 
when attached to the realty;

(3) "Owner" includes, but shall not be limited to, 
tenant, lessee, occupant or person in control of the 
premises;

(4) "Recreational purposes" includes, but shall not 
be limited to, any one or any combination of the 
following noncommercial recreational purposes: Hunt-
ing, fishing, swimming, boating, camping, picnicking, 
hiking, pleasure driving, motorcycle or all-terrain
vehicle riding, nature study, water skiing, winter 
sports and visiting, viewing or enjoying historical, 
archaeological, scenic or scientific sites, or otherwise 
using land for purposes of the user;

(5) "Wildlife propagation purposes" applies to and 
includes all ponds, sediment control structures, per-
manent water impoundments or any other similar or 
like structure created or constructed as a result of or 
in connection with surface mining activities, as gov-
erned by article three, chapter twenty-two-a of this 
code, or from the use of surface in the conduct of 
underground coal mining as governed by articles one, 
two and three of said chapter, and rules promulgated 
thereunder, which ponds, structures or impoundments 
are hereafter designated and certified in writing by 
the director of the department of natural resources
and the owner to be necessary and vital to the growth and propagation of wildlife, animals, birds and fish or other forms of aquatic life, and finds and determines that the premises has 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 shall not be removed without the joint consent of the director and the owner; and

(6) "Military 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 or a person on active duty in the armed forces of the United States, acting in that capacity.


1 Notwithstanding the provisions of section four of this article to the contrary, an owner of land owes no duty of care to keep the premises safe for entry or use by others for military training purposes, regardless of whether any charge is made therefore, or to give any warning of a dangerous or hazardous condition, use, structure or activity on the premises to persons entering for those purposes.

9 Notwithstanding the provisions of section four of this article to the contrary, an owner of land who either directly or indirectly invites or permits, either with or without charge, any person to use the property for military training purposes does not thereby: (a) Extend any assurance that the premises are safe for any purpose; or (b) confer upon those persons the legal status of an invitee or licensee to whom a duty of care is owed; or (c) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of those persons.

1 Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any owner of lands covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the use of such insured’s land for recreational, wildlife propagation or military purposes, unless such provision or endorsement is rejected in writing by the named uninsured.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 19th day of April, 1993.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/16/23
Time 9:35 AM