

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Originating**

**House Bill 3560**

By Delegate Howell

[Originating in the Committee on Economic  
Development & Tourism; Reported on February 23,  
2023]



1 A BILL to amend and reenact §19-25-5 of the Code of West Virginia, 1931, as amended, relating to  
2 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 in  
4 agriculture or agricultural production, or the storage of machinery or equipment used in support of  
5 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 to  
8 enter or go upon the land, including a one-time fee for a particular event, amusement, occurrence,  
9 adventure, incident, experience, or occasion which may not exceed \$50 a year per recreational  
10 participant: *Provided*, That the monetary cap on charges imposed pursuant to this article does not  
11 apply to the provisions of §20-14-1 *et seq.* of this code pertaining to the Hatfield-McCoy Regional  
12 Recreation Authority or activities sponsored on the Hatfield-McCoy regional recreational authority;  
13 (B) For purposes of limiting liability for military, law enforcement, or homeland-defense training set  
14 forth in §19-25-6 of this code, the amount of money asked in return for an invitation to enter or go  
15 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 the  
21 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 surface  
32 in the conduct of underground coal mining as governed by that article and any rules promulgated  
33 because of the article, which ponds, structures, or impoundments are designated and certified in  
34 writing by the director of the Division of Environmental Protection and the owner to be necessary  
35 and vital to the growth and propagation of wildlife, animals, birds, ~~and~~ fish, or other forms of  
36 aquatic life and finds and determines that the premises have the potential of being actually used by  
37 the wildlife for those purposes and that the premises are no longer used or necessary for mining  
38 reclamation purposes. The certification shall be in form satisfactory to the director and shall  
39 provide that the designated ponds, structures, or impoundments may not be removed without the  
40 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, a  
44 member of a reserve unit of the armed forces of the United States, a person on active duty in the  
45 armed forces of the United States, a state or federal law-enforcement officer, a federal agency or

- 46 service employee, a West Virginia military authority employee or a civilian contractor supporting  
47 the military and/or government employees acting in that capacity.

NOTE: The purpose of this bill is to expand the definition of “land” and “recreational purposes” to include rock climbing and bouldering activities for purposes of limiting liability of landowners.

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