

1 enter or go upon the land, including a one-time fee for a
2 particular event, amusement, occurrence, adventure, incident,
3 experience or occasion which may not exceed \$50 a year per
4 recreational participant: *Provided*, That the monetary cap on
5 charges imposed pursuant to this article ~~does~~ may not apply to the
6 provisions of article fourteen, chapter twenty of this code
7 pertaining to the Hatfield-McCoy regional recreational authority or
8 activities sponsored on the Hatfield-McCoy recreation area;

9 (B) For purposes of limiting liability for military,
10 law-enforcement or homeland-defense training set forth in section
11 six of this article, the amount of money asked in return for an
12 invitation to enter or go upon the land;

13 (2) "Land" includes, but ~~shall not be~~ is not limited to,
14 roads, water, watercourses, private ways and buildings, structures
15 and machinery or equipment ~~thereon~~ when attached to the ~~realty~~ real
16 property;

17 (3) "Noncommercial recreational activity" ~~shall~~ does not
18 include any activity for which there is any charge which exceeds
19 \$50 per year per participant;

20 (4) "Owner" includes, but ~~shall not be~~ is not limited to, a
21 tenant, lessee, occupant or person in control of the premises;

22 (5) "Recreational purposes" includes, but ~~shall not be~~ is not
23 limited to, any one or any combination of the following
24 noncommercial recreational activities: hunting, fishing, swimming,

1 boating, camping, picnicking, hiking, pleasure driving, motorcycle
2 or all-terrain vehicle riding, bicycling, horseback riding,
3 spelunking, nature study, water skiing, winter sports and visiting,
4 viewing or enjoying historical, archaeological, scenic or
5 scientific sites, aircraft or ultralight operations on private
6 airstrips or farms or otherwise using land for purposes of the
7 user;

8 (6) "Wildlife propagation purposes" applies to and includes
9 all ponds, sediment control structures, permanent water
10 impoundments or any other similar ~~or like~~ structure created ~~or~~
11 ~~constructed as a result of or~~ in connection with surface mining
12 activities as governed by article three, chapter twenty-two of this
13 code or from the use of surface in the conduct of underground coal
14 mining as governed by ~~said~~ that article and any legislative rules
15 ~~promulgated thereunder~~ implemented because of the article, which
16 ponds, structures or impoundments are ~~hereafter~~ designated and
17 certified in writing by the Director of the Division of
18 Environmental Protection and the owner to be necessary and vital to
19 the growth and propagation of wildlife, animals, birds and fish or
20 other forms of aquatic life and finds and determines that the
21 premises have the potential of being actually used by the wildlife
22 for those purposes and that the premises are no longer used or
23 necessary for mining reclamation purposes. The certification shall
24 be in form satisfactory to the director and shall provide that the

1 designated ponds, structures or impoundments ~~shall~~ may not be
2 removed without the joint consent of the director and the owner;
3 and

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

NOTE: The purpose of this bill is to add noncommercial recreational aircraft operations on private airstrips or farms to the definition of recreational activities for purposes of limiting landowner liability. This bill is the same as House Bill 4216.

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