
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1080 Session of
1989

INTRODUCED BY LETTERMAN, APRIL 10, 1989

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 10, 1989

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for the
3 liability of participants in recreational activities.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 7102 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 7102. Comparative negligence.

9 (a) General rule.--In all actions brought to recover damages
10 for negligence resulting in death or injury to person or
11 property, the fact that the plaintiff may have been guilty of
12 contributory negligence shall not bar a recovery by the
13 plaintiff or his legal representative where such negligence was
14 not greater than the causal negligence of the defendant or
15 defendants against whom recovery is sought, but any damages
16 sustained by the plaintiff shall be diminished in proportion to
17 the amount of negligence attributed to the plaintiff.

18 (b) Recovery against joint defendant; contribution.--Where

1 recovery is allowed against more than one defendant, each
2 defendant shall be liable for that proportion of the total
3 dollar amount awarded as damages in the ratio of the amount of
4 his causal negligence to the amount of causal negligence
5 attributed to all defendants against whom recovery is allowed.
6 The plaintiff may recover the full amount of the allowed
7 recovery from any defendant against whom the plaintiff is not
8 barred from recovery. Any defendant who is so compelled to pay
9 more than his percentage share may seek contribution.

10 (c) [Downhill skiing.--

11 (1) The General Assembly finds that the sport of
12 downhill skiing is practiced by a large number of citizens of
13 this Commonwealth and also attracts to this Commonwealth
14 large numbers of nonresidents significantly contributing to
15 the economy of this Commonwealth. It is recognized that as in
16 some other sports, there are inherent risks in the sport of
17 downhill skiing.

18 (2) The doctrine of voluntary assumption of risk as it
19 applies to downhill skiing injuries and damages is not
20 modified by subsections (a) and (b).

21 (d)] Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection:

24 "Defendant or defendants against whom recovery is sought."

25 Includes impleaded defendants.

26 "Plaintiff." Includes counterclaimants and cross-claimants.

27 Section 2. Title 42 is amended by adding a section to read:

28 § 7104. Recreational activity participant liability.

29 (a) Legislative intent.--The General Assembly intends, by
30 this section, to establish the responsibilities of participants

in recreational activities in order to decrease uncertainty regarding the legal responsibility for injuries that result from participation in recreational activities and thereby to help assure the continued availability in this Commonwealth of enterprises that offer recreational activities to the public.

(b) General rule.--A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities is responsible for doing all of the following:

(1) Acting within the limits of his ability.

(2) Heeding all warnings regarding participation in the recreational activity.

(3) Maintaining control of his person and the equipment, devices or animals the person is using while participating in the recreational activity.

(4) Refraining from acting in any manner that may cause or contribute to injury to himself or to other persons while participating in the recreational activity.

(c) Appreciation of risk.--A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities accepts the risks inherent in the recreational activity of which the ordinary prudent person is or should be aware.

(d) Negligence.--A violation of subsection (b) constitutes negligence. The comparative negligence provisions of section 7102 (relating to comparative negligence) shall apply to negligence under subsection (b).

(e) Downhill skiing.--

1 (1) The General Assembly finds that the sport of
2 downhill skiing is practiced by a large number of citizens of
3 this Commonwealth and also attracts to this Commonwealth
4 large numbers of nonresidents significantly contributing to
5 the economy of this Commonwealth. It is recognized that, as
6 in some other sports, there are inherent risks in the sport
7 of downhill skiing.

8 (2) The doctrine of voluntary assumption of risk as it
9 applies to downhill skiing injuries and damages is not
10 modified by section 7102.

11 (f) Definitions.--As used in this section, the following
12 words and phrases shall have the meanings given to them in this
13 subsection:

14 "Recreational activity." Any activity undertaken for the
15 purpose of exercise, relaxation or pleasure, including practice
16 or instruction in any such activity. Recreational activity
17 includes, but is not limited to, hunting, fishing, trapping,
18 camping, bowling, billiards, picnicking, exploring caves, nature
19 study, dancing, bicycling, horseback riding, horseshoe-pitching,
20 bird-watching, motorcycling, operating an all-terrain vehicle,
21 ballooning, curling, throwing darts, hang gliding, hiking,
22 tobogganing, sledding, sleigh riding, snowmobiling, skiing,
23 skating, participation in water sports, weight and fitness
24 training, sight-seeing, rock-climbing, cutting or removing wood,
25 climbing observation towers, animal training, harvesting the
26 products of nature and any other sport, game or educational
27 activity.

28 Section 3. This act shall apply to:

29 (1) Causes of action which accrue on or after the
30 effective date of section 7104 (relating to recreational

1 activity participant liability).

2 (2) Claims in which the negligent act or omission occurs
3 on or after the effective date of section 7104.

4 Section 4. This act shall take effect in 60 days.