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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1908 Session of  
2007

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INTRODUCED BY ROHRER, BENNINGHOFF, BARRAR, CAPPELLI, CAUSER,  
CLYMER, CREIGHTON, CUTLER, DENLINGER, EVERETT, FAIRCHILD,  
GODSHALL, GOODMAN, HERSHEY, HESS, HORNAMAN, HUTCHINSON,  
MAHONEY, MANTZ, MENSCH, PEIFER, PICKETT, RAPP, REED,  
REICHLEY, ROAE, SAYLOR, SCHRODER, SIPTROTH, SONNEY, STERN,  
SURRA AND SWANGER, OCTOBER 15, 2007

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REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,  
OCTOBER 15, 2007

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AN ACT

1 Amending the act of February 2, 1965 (P.L.1860, No.586),  
2 entitled "An act encouraging landowners to make land and  
3 water areas available to the public for recreational purposes  
4 by limiting liability in connection therewith, and repealing  
5 certain acts," further providing for liability for landowners  
6 to recreational users; and providing for attorney fees and  
7 court costs.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Section 1 of the act of February 2, 1965  
11 (P.L.1860, No.586), entitled "An act encouraging landowners to  
12 make land and water areas available to the public for  
13 recreational purposes by limiting liability in connection  
14 therewith, and repealing certain acts," is amended to read:

15 Section 1. The purpose of this act is to encourage owners of  
16 land to make land and water areas available to the public for  
17 recreational purposes by limiting their liability toward  
18 [persons entering thereon for such purposes.];

1     (1) recreational users; and

2     (2) persons or property, wherever located, based on:

3     (i) acts of omission by landowners; or

4     (ii) acts or acts of omission by recreational users.

5     Section 2. Section 2 of the act, amended March 26, 1992

6     (P.L.27, No.10), is amended to read:

7     Section 2. As used in this act:

8     (1) "Land" means land, roads, water, watercourses, private  
9     ways and buildings, amenities, structures, boating access and  
10    launch ramps, bridges, fishing piers, boat docks, ramps, paths,  
11    paved or unpaved trails, hunting blinds, and areas providing  
12    access to, or parking for, lands and waters, including, but not  
13    limited to, access ramps, trails or piers for use by persons  
14    with disabilities, and machinery or equipment when attached to  
15    the realty. The term applies to such areas and physical objects  
16    whether they are in an unimproved condition or a condition  
17    improved by manmade effort, whether they are large or small in  
18    size and whether they are located in a rural or an urban area.

19    (2) "Owner" means the possessor of a fee interest, a tenant,  
20    lessee, occupant or person in control of the premises.

21    (3) "Recreational purpose" means any activity undertaken or  
22    viewed for exercise, sport, education, recreation, relaxation or  
23    pleasure and includes, but is not limited to, any of the  
24    following, or any combination thereof: hunting, fishing,  
25    swimming, boating, camping, picnicking, hiking, pleasure  
26    driving, snowmobiling, all-terrain vehicle and motorcycle  
27    riding, nature study, water skiing, water sports, cave  
28    exploration and viewing or enjoying historical, archaeological,  
29    scenic, or scientific sites.

30    (4) "Charge" means the admission price or fee asked in

1 return for invitation or permission to enter or go upon the  
2 land. The term shall not include in-kind contributions or  
3 contributions made to an owner of real property which are de  
4 minimis and given in consideration for making the real property  
5 available for recreation purposes.

6 (5) "Recreational user" means any person who enters or uses  
7 land for a recreational purpose.

8 (6) "Willful or malicious" means, in reference to an owner  
9 of real property, an actual or deliberate intention by the owner  
10 to cause harm or which, if not intentional, shows an utter  
11 indifference to or conscious disregard for the safety of others.

12 Section 3. Sections 3, 4, 6 and 7 of the act are amended to  
13 read:

14 Section 3. Except as specifically recognized or provided in  
15 section 6 of this act, an owner of land owes no duty of care to  
16 keep the premises safe for entry or use by [others for  
17 recreational purposes] recreational users, or to give any  
18 warning of a dangerous condition, use, structure, or activity on  
19 such premises to [persons entering for such purposes]  
20 recreational users.

21 Section 4. Except as specifically recognized by or provided  
22 in section 6 of this act, an owner of land who either directly  
23 or indirectly invites or permits without charge any [person]  
24 recreational user to use such property [for recreational  
25 purposes] does not thereby:

26 (1) Extend any assurance that the premises are safe for any  
27 purpose.

28 (2) Confer upon such [person] recreational user the legal  
29 status of an invitee or licensee to whom a duty of care is owed.

30 (3) Assume responsibility for or incur liability for any

1 injury to persons or property, wherever such persons or property  
2 are located, caused by an act or an act of omission of [such  
3 persons] a recreational user or an act of omission of a  
4 landowner.

5 Section 6. Nothing in this act limits in any way any  
6 liability which otherwise exists:

7 (1) For wilful or malicious failure to guard or warn against  
8 a dangerous condition, use, structure, or activity.

9 (2) For injury suffered in any case where the owner of land  
10 charges the [person or persons] recreational user or users who  
11 enter or go on the land [for the recreational use thereof],  
12 except that in the case of land leased to the State or a  
13 subdivision thereof, any consideration received by the owner for  
14 such lease shall not be deemed a charge within the meaning of  
15 its section.

16 Section 7. Nothing in this act shall be construed to:

17 (1) Create a duty of care or ground of liability for injury  
18 to persons or property.

19 (2) Relieve any [person using the land of another for  
20 recreational purposes] recreational user from any obligation  
21 which he may have in the absence of this act to exercise care in  
22 his use of such land and in his activities thereon, or from the  
23 legal consequences of failure to employ such care.

24 Section 4. The act is amended by adding a section to read:

25 Section 7.1. The court shall award attorney fees and direct  
26 legal costs to an owner, lessee, manager, holder of an easement  
27 or occupant of real property who is found not to be liable for  
28 the injury to a person or property pursuant to this act.

29 Section 5. This act shall take effect in 60 days.