
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1347

Session of
1985

INTRODUCED BY RUDY, LETTERMAN, HERSHEY, KUKOVICH, TIGUE, BUSH,
MORRIS, SCHEETZ, COHEN, NOYE, D. R. WRIGHT, JOHNSON,
AFFLERBACH, BUNT, FOX, BELFANTI, HALUSKA, FARGO, TRELLO,
RYBAK, MERRY, MICHLOVIC, CHADWICK, O'DONNELL, SIRIANNI,
WOZNIAK, TRUMAN, PRATT AND DISTLER, JUNE 3, 1985

REFERRED TO COMMITTEE ON GAME AND FISHERIES, JUNE 3, 1985

AN ACT

1 Encouraging landowners to make their land and water resources
2 available to public recreation by limiting a landowner's
3 liability for injuries to persons on his property; and
4 establishing a recreational trespass enforcement procedure.

5 TABLE OF CONTENTS

- 6 Section 1. Short title.
- 7 Section 2. Definitions.
- 8 Section 3. Duty.
- 9 Section 4. Liability limited.
- 10 Section 5. Liability retained.
- 11 Section 6. Recreational trespass defined.
- 12 Section 7. Prohibited acts.
- 13 Section 8. Penalty.
- 14 Section 9. Enforcement procedure.
- 15 Section 10. Restitution.
- 16 Section 11. Punitive damages.
- 17 Section 12. Arrest without a warrant.

1 Section 13. Repeat violations.

2 Section 14. Failure to pay.

3 Section 15. Effective date.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Private Lands
8 and Public Recreation Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Charge." An admission fee for permission to go upon the
14 land. The term does not include the sharing of game, fish or
15 other products of recreational use; benefits to or arising from
16 the recreational use; contributions in kind, services or cash
17 made to the sound conservation of the land; amounts paid as
18 fees, rents or purchase money or amounts otherwise paid to or
19 received by any governmental agency; or sums paid by private
20 individuals or associations where the aggregate of such sums for
21 comparable purposes does not exceed \$1,000 per calendar year.

22 "Land." All real property, land and water and all
23 structures, fixtures, equipment and machinery thereon.

24 "Owner." An individual, legal entity or governmental agency
25 that has any ownership or security interest whatever or lease or
26 right of possession in land.

27 "Recreational trespass." Remaining on land for a
28 recreational use after being asked to leave by the owner, or the
29 entry on land for a recreational use without the express or
30 implied consent of the owner.

1 "Recreational use." An activity undertaken for exercise,
2 education, relaxation or pleasure on land owned by another.

3 Section 3. Duty.

4 Except as provided in this act, an owner of land owes no duty
5 of care to anyone to keep his land safe for recreational use or
6 to give any general or specific warning respecting any natural
7 or artificial condition, structure, personal property or
8 activity thereon.

9 Section 4. Liability limited.

10 Except as provided in this act, an owner of land who directly
11 or indirectly invites or permits any person to enter his land
12 for recreational use, without charge, whether or not the land is
13 posted, does not thereby:

14 (1) Extend any assurance that the premises are safe for
15 any purpose.

16 (2) Confer upon such person the status of an invitee or
17 any other status requiring of the owner a duty of special or
18 reasonable care.

19 (3) Assume responsibility for or incur liability for any
20 injury to such person or property caused by any natural or
21 artificial condition, structure or personal property on the
22 premises.

23 (4) Assume responsibility for any damage or injury to
24 any other person or property caused by an act of omission of
25 such person.

26 Section 5. Liability retained.

27 Nothing in this act shall be construed to create liability,
28 but this act does not limit liability which would otherwise be
29 incurred by those who use the land of others, or by owners of
30 land for:

1 (1) Malicious, but not mere negligent, failure to guard
2 or warn against an ultrahazardous condition, structure,
3 personal property or activity actually known to such owners
4 to be dangerous.

5 (2) Injury suffered by a person who has paid a charge
6 for entry to the land.

7 (3) Injury suffered by a child of not more than 12 years
8 of age on land in an urban or residential setting, if
9 liability would otherwise be imposed under the doctrine of
10 attractive nuisance.

11 Section 6. Recreational trespass defined.

12 It shall be prima facie evidence that a person is on land for
13 a recreational use if that person is on the land of another
14 without other explanation. The absence of posting shall not by
15 itself be sufficient to imply consent, but consent may be
16 implied if land is not posted and there are other indications of
17 consent, such as continuous and notorious acquiescence in public
18 recreational use of a similar kind. It shall be the obligation
19 of the recreational user to establish implied consent as an
20 affirmative defense. Consent shall not be implied if the land is
21 posted. For land to be posted, notice prohibiting all or special
22 kinds of trespass must be conspicuously placed so as to afford
23 reasonable opportunity for a conscientious person to detect it.
24 Proper posting may be established by evidence commensurate with
25 the circumstances. However, in any case, proof that posters are
26 placed at least once every 400 feet around the perimeter of the
27 land in question, or at least once for every 20 acres of land in
28 question, shall constitute prima facie evidence that such land
29 is conspicuously posted; and proof that such notice has been
30 duly posted in a form likely to withstand the elements within

1 six months prior to the entry complained of shall constitute
2 prima facie evidence of posting.

3 Section 7. Prohibited acts.

4 The following acts are prohibited:

5 (1) Recreational trespass.

6 (2) The destruction or removal of any property of the
7 owner or vandalism of any sort while engaged in recreational
8 use of the land of another.

9 (3) Littering while engaged in recreational use of the
10 land of another.

11 (4) Failure to leave any gates, doors, fences,
12 roadblocks and obstacles or signs in the condition in which
13 they were found, while engaged in the recreational use of the
14 land of another.

15 Section 8. Penalty.

16 In addition to other penalties and remedies that may be
17 applicable, the penalty for violation of section 7 shall consist
18 of a civil forfeiture of not more than \$100 plus costs and taxes
19 that may be applicable. A violation of each paragraph of section
20 7 shall be a separate offense. The maximum penalty permitted
21 hereunder shall be levied if the defendant fails either to pay
22 or honor any deposit specified in a citation or to appear to
23 contest a citation at the date, time and place specified in the
24 citation.

25 Section 9. Enforcement procedure.

26 Any local or State law enforcement officer may issue a
27 citation to a person believed with probable cause to have
28 violated section 7. The following procedures with respect
29 thereto shall apply:

30 (1) The citation shall provide for the following:

1 (i) The name and address and hunting or fishing or
2 other recreational activity license number, if any, and
3 the date of birth of the alleged violator.

4 (ii) The name of the issuing law enforcement officer
5 and the name and address of his department.

6 (iii) The violations alleged to have been committed
7 by the defendant, with specific reference to the
8 paragraphs of section 7 involved and a brief description
9 of the activities alleged to be in violation.

10 (iv) The amount of the penalty or forfeiture payable
11 under section 8, together with costs and taxes that may
12 be applicable.

13 (v) A date, time and place for the defendant to
14 appear in court and notice to appear.

15 (vi) Provisions for a deposit and stipulation by the
16 defendant in lieu of a court appearance.

17 (vii) Notice that if the defendant makes a deposit
18 and signs the stipulation, or makes a deposit and fails
19 to appear in court at the time specified in the citation,
20 the defendant will be deemed to have tendered a plea of
21 no contest and submitted to a forfeiture in the amount of
22 the deposit.

23 (viii) Notice that if the defendant neither makes a
24 deposit nor appears in court at the time fixed in the
25 citation, the court may issue a summons or an arrest
26 warrant.

27 (ix) Any other pertinent information.

28 (2) (i) If a person is cited, such person may deposit,
29 any time up to the date specified in the citation for
30 court appearance, the amount of money the enforcing

1 officer directs by mailing such deposit and a copy of the
2 citation to the office of the clerk of courts in the
3 county where the offense occurred, or by going to the
4 office of the clerk of courts.

5 (ii) The person receiving the deposit shall prepare
6 a receipt showing the purpose for which the deposit is
7 made, stating that the defendant may inquire at the
8 office of the clerk of courts regarding the disposition
9 of the deposit and notifying the defendant that if he
10 fails to appear in court at the time fixed in the
11 citation, he will be deemed to have tendered a plea of no
12 contest and submitted to a forfeiture not to exceed the
13 amount of the deposit which the court may accept. The
14 receipt shall be delivered to the defendant in person or
15 by mail. If the defendant pays by check, such check shall
16 be considered a receipt.

17 (iii) The amount of the deposit shall be determined
18 in accordance with a deposit schedule which the judges of
19 each county respectively shall establish. The judges may,
20 from time to time, revise the schedule. In addition to
21 the basic amount determined according to the schedule,
22 the deposit shall include court costs and taxes if
23 applicable.

24 (3) (i) If a person is cited, such person may make a
25 deposit and stipulation of no contest and submit them in
26 the same manner as the deposit in paragraph (2). Such
27 deposit and stipulation of no contest may be made at any
28 time prior to the court appearance date. By signing the
29 stipulation, the defendant is deemed to have tendered a
30 plea of no contest and submitted to a forfeiture plus

1 costs not to exceed the amount of the deposit. The
2 procedures respecting such deposit shall be as described
3 in paragraph (2).

4 (ii) The defendant may, within ten days after
5 signing the stipulation or at the time of the court
6 appearance date, move the court for relief from the
7 effects of the stipulation.

8 (4) The citation issued may serve as the initial
9 pleading and, notwithstanding any other provisions of the
10 statutes, shall be deemed adequate process to give the
11 appropriate court jurisdiction over the defendant upon the
12 filing of the citation with such court.

13 (5) The procedures to be followed before and at trial
14 and thereafter shall be as prescribed by law.

15 Section 10. Restitution.

16 A court to which any forfeiture or deposit is paid hereunder
17 may apply all or part of that amount paid over to the owner of
18 the land in question, if it concludes that justice would thereby
19 be served, as recompense to such owner for damages or attorney
20 fees or inconvenience suffered due to the violations of this act
21 that gave rise to the forfeiture or deposit. Such restitutionary
22 payment shall not prejudice or affect any other civil action
23 which such owner may have for such damages or inconvenience.

24 Section 11. Punitive damages.

25 A violation of section 7 shall be grounds for a civil action
26 in tort by the owner in question. It shall be proper in such an
27 action for reasonable punitive damages to be awarded.

28 Section 12. Arrest without a warrant.

29 (a) Authority to arrest.--Any local or State law enforcement
30 officer may arrest a person without a warrant when the officer

1 has probable cause to believe that the person is committing or
2 has committed a violation of this act and:

3 (1) The person refuses to accept a citation or to make a
4 deposit.

5 (2) The person refuses to identify himself
6 satisfactorily or the officer has reasonable grounds to
7 believe that the person is supplying false identification.

8 (3) Arrest is necessary to prevent imminent bodily harm
9 to the enforcing officer or to another.

10 (b) Arraignment.--In all cases the officer shall bring the
11 person arrested before a judge without unnecessary delay.

12 Section 13. Repeat violations.

13 The maximum penalty assessable for any violation of this act
14 shall be doubled if the defendant has within one year prior to
15 such violation been convicted of or pleaded guilty or no contest
16 to a charge of any violation of the act.

17 Section 14. Failure to pay.

18 The maximum penalty assessable for any violation of this act
19 shall be multiplied ten times if the defendant has within three
20 years prior to such violation failed either to pay or honor any
21 deposit specified in a citation or to appear as specified to
22 contest a citation issued pursuant to this act.

23 Section 15. Effective date.

24 This act shall take effect in 90 days.