

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1567

Session of  
1989

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MAY 30, 1989

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AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 20, 1990

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## 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;~~  
4 ~~establishing a recreational trespass enforcement procedure;~~  
5 ~~and making repeals.~~

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6 REENACTING AND AMENDING THE ACT OF FEBRUARY 2, 1966 (1965 <—

7 P.L.1860, NO.586), ENTITLED "AN ACT ENCOURAGING LANDOWNERS TO

8 MAKE LAND AND WATER AREAS AVAILABLE TO THE PUBLIC FOR

9 RECREATIONAL PURPOSES BY LIMITING LIABILITY IN CONNECTION

10 THEREWITH, AND REPEALING CERTAIN ACTS," FURTHER PROVIDING FOR

11 THE LIABILITY OF A LANDOWNER AND FOR THE DUTY OF A LANDOWNER;

12 PROVIDING FOR RECREATIONAL TRESPASS; PROVIDING FOR DAMAGES

13 FOR RECREATIONAL TRESPASS; AND IMPOSING PENALTIES.

14 The General Assembly of the Commonwealth of Pennsylvania

15 hereby enacts as follows:

16 ~~Section 1. Short title.~~ <—

17 ~~This act shall be known and may be cited as the Private Lands~~

18 ~~and Public Recreation Act.~~

19 ~~Section 2. Definitions.~~

20 ~~The following words and phrases when used in this act shall~~

21 ~~have the meanings given to them in this section unless the~~

22 ~~context clearly indicates otherwise:~~

23 ~~"Charge." An admission fee for permission to go upon the~~

24 ~~land. The term does not include the sharing of game, fish or~~

25 ~~other products of recreational use; benefits to or arising from~~

26 ~~the recreational use; contributions in kind, services or cash~~

27 ~~made to the sound conservation of the land; amounts paid as~~

28 ~~fees, rents or purchase money or amounts otherwise paid to or~~

29 ~~received by any governmental agency; or sums paid by private~~

30 ~~individuals or associations where the aggregate of such sums for~~

1 ~~comparable purposes does not exceed \$1,000 per calendar year.~~

2 ~~"Land." All real property, land and water and all~~  
3 ~~structures, fixtures, equipment and machinery thereon.~~

4 ~~"Owner." An individual, legal entity or governmental agency~~  
5 ~~that has any ownership or security interest whatever or lease or~~  
6 ~~right of possession in land.~~

7 ~~"Recreational trespass." Remaining on land for a~~  
8 ~~recreational use after being asked to leave by the owner, or the~~  
9 ~~entry on land for a recreational use without the express or~~  
10 ~~implied consent of the owner.~~

11 ~~"Recreational use." An activity undertaken for exercise,~~  
12 ~~education, relaxation or pleasure on land owned by another.~~

13 ~~Section 3. Duty.~~

14 ~~Except as provided in this act, an owner of land owes no duty~~  
15 ~~of care to anyone to keep his land safe for recreational use or~~  
16 ~~to give any general or specific warning respecting any natural~~  
17 ~~or artificial condition, structure, personal property or~~  
18 ~~activity thereon.~~

19 ~~Section 4. Liability limited.~~

20 ~~Except as provided in this act, an owner of land who directly~~  
21 ~~or indirectly invites or permits any person to enter his land~~  
22 ~~for recreational use, without charge, whether or not the land is~~  
23 ~~posted, does not thereby:~~

24 ~~(1) Extend any assurance that the premises are safe for~~  
25 ~~any purpose.~~

26 ~~(2) Confer upon such person the status of an invitee or~~  
27 ~~any other status requiring of the owner a duty of special or~~  
28 ~~reasonable care.~~

29 ~~(3) Assume responsibility for or incur liability for any~~  
30 ~~injury to such person or property caused by any natural or~~

~~artificial condition, structure or personal property on the premises.~~

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

~~Section 5. Liability retained.~~

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

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

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

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

~~Section 6. Recreational trespass defined.~~

~~It shall be prima facie evidence that a person is on land for a recreational use if that person is on the land of another without other explanation. The absence of posting shall not by itself be sufficient to imply consent, but consent may be implied if land is not posted and there are other indications of consent, such as continuous and notorious acquiescence in public recreational use of a similar kind. It shall be the obligation of the recreational user to establish implied consent as an affirmative defense. Consent shall not be implied if the land is~~

~~posted. For land to be posted, notice prohibiting all or special kinds of trespass must be conspicuously placed so as to afford reasonable opportunity for a conscientious person to detect it. Proper posting may be established by evidence commensurate with the circumstances. However, in any case, proof that posters are placed at least once every 400 feet around the perimeter of the land in question, or at least once for every 20 acres of land in question, shall constitute prima facie evidence that such land is conspicuously posted; and proof that such notice has been duly posted in a form likely to withstand the elements within six months prior to the entry complained of shall constitute prima facie evidence of posting.~~

~~Section 7. Prohibited acts.~~

~~The following acts are prohibited:~~

~~(1) Recreational trespass.~~

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

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

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

~~Section 8. Penalty.~~

~~In addition to other penalties and remedies that may be applicable, the penalty for violation of section 7 shall consist of a civil forfeiture of not more than \$100 plus costs and taxes that may be applicable. A violation of each paragraph of section 7 shall be a separate offense. The maximum penalty permitted~~

1 ~~hereunder shall be levied if the defendant fails either to pay~~  
2 ~~or honor any deposit specified in a citation or to appear to~~  
3 ~~contest a citation at the date, time and place specified in the~~  
4 ~~citation.~~

5 ~~Section 9. Enforcement procedure.~~

6 ~~Any local or State law enforcement officer may issue a~~  
7 ~~citation to a person believed with probable cause to have~~  
8 ~~violated section 7. The following procedures with respect~~  
9 ~~thereto shall apply:~~

10 ~~(1) The citation shall provide for the following:~~

11 ~~(i) The name and address and hunting or fishing or~~  
12 ~~other recreational activity license number, if any, and~~  
13 ~~the date of birth of the alleged violator.~~

14 ~~(ii) The name of the issuing law enforcement officer~~  
15 ~~and the name and address of his department.~~

16 ~~(iii) The violations alleged to have been committed~~  
17 ~~by the defendant, with specific reference to the~~  
18 ~~paragraphs of section 7 involved and a brief description~~  
19 ~~of the activities alleged to be in violation.~~

20 ~~(iv) The amount of the penalty or forfeiture payable~~  
21 ~~under section 8, together with costs and taxes that may~~  
22 ~~be applicable.~~

23 ~~(v) A date, time and place for the defendant to~~  
24 ~~appear in court and notice to appear.~~

25 ~~(vi) Provisions for a deposit and stipulation by the~~  
26 ~~defendant in lieu of a court appearance.~~

27 ~~(vii) Notice that if the defendant makes a deposit~~  
28 ~~and signs the stipulation, or makes a deposit and fails~~  
29 ~~to appear in court at the time specified in the citation,~~  
30 ~~the defendant will be deemed to have tendered a plea of~~

1       ~~no contest and submitted to a forfeiture in the amount of~~  
2       ~~the deposit.~~

3           ~~(viii) Notice that if the defendant neither makes a~~  
4       ~~deposit nor appears in court at the time fixed in the~~  
5       ~~citation, the court may issue a summons or an arrest~~  
6       ~~warrant.~~

7           ~~(ix) Any other pertinent information.~~

8       ~~(2) (i) If a person is cited, such person may deposit,~~  
9       ~~any time up to the date specified in the citation for~~  
10      ~~court appearance, the amount of money the enforcing~~  
11      ~~officer directs by mailing such deposit and a copy of the~~  
12      ~~citation to the office of the clerk of courts in the~~  
13      ~~county where the offense occurred, or by going to the~~  
14      ~~office of the clerk of courts.~~

15           ~~(ii) The person receiving the deposit shall prepare~~  
16      ~~a receipt showing the purpose for which the deposit is~~  
17      ~~made, stating that the defendant may inquire at the~~  
18      ~~office of the clerk of courts regarding the disposition~~  
19      ~~of the deposit and notifying the defendant that if he~~  
20      ~~fails to appear in court at the time fixed in the~~  
21      ~~citation, he will be deemed to have tendered a plea of no~~  
22      ~~contest and submitted to a forfeiture not to exceed the~~  
23      ~~amount of the deposit which the court may accept. The~~  
24      ~~receipt shall be delivered to the defendant in person or~~  
25      ~~by mail. If the defendant pays by check, such check shall~~  
26      ~~be considered a receipt.~~

27           ~~(iii) The amount of the deposit shall be determined~~  
28      ~~in accordance with a deposit schedule which the judges of~~  
29      ~~each county respectively shall establish. The judges may,~~  
30      ~~from time to time, revise the schedule. In addition to~~

~~the basic amount determined according to the schedule,  
the deposit shall include court costs and taxes if  
applicable.~~

~~(3) (i) If a person is cited, such person may make a  
deposit and stipulation of no contest and submit them in  
the same manner as the deposit in paragraph (2). Such  
deposit and stipulation of no contest may be made at any  
time prior to the court appearance date. By signing the  
stipulation, the defendant is deemed to have tendered a  
plea of no contest and submitted to a forfeiture plus  
costs not to exceed the amount of the deposit. The  
procedures respecting such deposit shall be as described  
in paragraph (2).~~

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

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

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

#### ~~Section 10.— Restitution.~~

~~A court to which any forfeiture or deposit is paid hereunder  
may apply all or part of that amount paid over to the owner of  
the land in question, if it concludes that justice would thereby  
be served, as recompense to such owner for damages or attorney  
fees or inconvenience suffered due to the violations of this act~~

~~that gave rise to the forfeiture or deposit. Such restitutionary payment shall not prejudice or affect any other civil action which such owner may have for such damages or inconvenience.~~

~~Section 11.— Punitive damages.~~

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

~~Section 12.— Arrest without a warrant.~~

~~(a) Authority to arrest.— Any local or State law enforcement officer may arrest a person without a warrant when the officer has probable cause to believe that the person is committing or has committed a violation of this act and:~~

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

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

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

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

~~Section 13.— Repeat violations.~~

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

~~Section 14.— Failure to pay.~~

~~The maximum penalty assessable for any violation of this act shall be multiplied ten times if the defendant has within three years prior to such violation failed either to pay or honor any~~

1 ~~deposit specified in a citation or to appear as specified to~~  
2 ~~contest a citation issued pursuant to this act.~~

3 ~~Section 15. Repeals.~~

4 ~~(a) Absolute. The act of February 2, 1966 (1965 P.L.1860,~~  
5 ~~No.586), entitled "An act encouraging landowners to make land~~  
6 ~~and water areas available to the public for recreational~~  
7 ~~purposes by limiting liability in connection therewith, and~~  
8 ~~repealing certain acts," is repealed.~~

9 ~~(b) Inconsistent. All other acts or parts of acts are~~  
10 ~~repealed insofar as they are inconsistent with this act.~~

11 ~~Section 16. Effective date.~~

12 ~~This act shall take effect in 90 days.~~

13 SECTION 1. THE TITLE AND SECTIONS 1, 2, 3, 4, 5, 6 AND 7 OF <—  
14 THE ACT OF FEBRUARY 2, 1966 (1965 P.L.1860, NO.586), ENTITLED  
15 "AN ACT ENCOURAGING LANDOWNERS TO MAKE LAND AND WATER AREAS  
16 AVAILABLE TO THE PUBLIC FOR RECREATIONAL PURPOSES BY LIMITING  
17 LIABILITY IN CONNECTION THEREWITH, AND REPEALING CERTAIN ACTS,"  
18 ARE REENACTED AND AMENDED TO READ:

19 AN ACT  
20 ENCOURAGING LANDOWNERS TO MAKE LAND AND WATER AREAS AVAILABLE TO  
21 THE PUBLIC FOR RECREATIONAL PURPOSES BY LIMITING LIABILITY IN  
22 CONNECTION THEREWITH[, ] PROVIDING FOR RECREATIONAL TRESPASS  
23 AND FOR DAMAGES AND PENALTIES FOR RECREATIONAL TRESPASS; AND  
24 REPEALING CERTAIN ACTS.

25 SECTION 1. THE PURPOSE OF THIS ACT IS TO ENCOURAGE OWNERS OF  
26 LAND TO MAKE LAND AND WATER AREAS AVAILABLE TO THE PUBLIC FOR  
27 RECREATIONAL PURPOSES BY LIMITING THEIR LIABILITY TOWARD PERSONS  
28 ENTERING THEREON FOR SUCH PURPOSES.

29 SECTION 2. AS USED IN THIS ACT:

30 [(1) "LAND" MEANS LAND, ROADS, WATER, WATERCOURSES, PRIVATE

1 WAYS AND BUILDINGS, STRUCTURES AND MACHINERY OR EQUIPMENT WHEN  
2 ATTACHED TO THE REALTY.

3 (2) "OWNER" MEANS THE POSSESSOR OF A FEE INTEREST, A TENANT,  
4 LESSEE, OCCUPANT OR PERSON IN CONTROL OF THE PREMISES.

5 (3) "RECREATIONAL PURPOSE" INCLUDES, BUT IS NOT LIMITED TO,  
6 ANY OF THE FOLLOWING, OR ANY COMBINATION THEREOF: HUNTING,  
7 FISHING, SWIMMING, BOATING, CAMPING, PICNICKING, HIKING,  
8 PLEASURE DRIVING, NATURE STUDY, WATER SKIING, WATER SPORTS AND  
9 VIEWING OR ENJOYING HISTORICAL, ARCHAEOLOGICAL, SCENIC, OR  
10 SCIENTIFIC SITES.

11 (4) "CHARGE" MEANS THE ADMISSION PRICE OR FEE ASKED IN  
12 RETURN FOR INVITATION OR PERMISSION TO ENTER OR GO UPON THE  
13 LAND.]

14 "ACTUAL COST OF MAINTAINING THE LAND FOR RECREATIONAL USE"  
15 MEANS SUMS ACTUALLY EXPENDED BY AN OWNER TO MAINTAIN LAND FOR  
16 RECREATIONAL USE, INCLUDING, BUT NOT LIMITED TO, ERECTION AND  
17 MAINTENANCE OF WILDLIFE HABITAT, PAYMENT OF INSURANCE PREMIUMS,  
18 THE COST OF MAKING REPAIRS TO PERSONAL PROPERTY DAMAGED BY  
19 RECREATIONAL USERS, AND OTHER EXPENSES REASONABLY RELATED TO THE  
20 FOREGOING.

21 "CHARGE" MEANS AN ADMISSION FEE FOR PERMISSION TO GO UPON THE  
22 LAND. THE TERM DOES NOT INCLUDE THE SHARING OF GAME, FISH OR  
23 OTHER PRODUCTS OF RECREATIONAL USE; BENEFITS TO OR ARISING FROM  
24 THE RECREATIONAL USE; CONTRIBUTIONS IN KIND, SERVICES OR CASH  
25 MADE TO THE SOUND CONSERVATION OF THE LAND; AMOUNTS PAID AS  
26 FEES, RENTS OR PURCHASE MONEY OR AMOUNTS OTHERWISE PAID TO OR  
27 RECEIVED BY ANY GOVERNMENTAL AGENCY; OR SUMS PAID BY PRIVATE  
28 INDIVIDUALS OR ASSOCIATIONS WHERE THE AGGREGATE OF SUCH SUMS FOR  
29 COMPARABLE PURPOSES DOES NOT EXCEED THE ACTUAL COST OF  
30 MAINTAINING THE LAND FOR RECREATIONAL USE CALCULATED ON A

1 CALENDAR YEAR BASIS.

2 "LAND" MEANS ALL REAL PROPERTY, LAND AND WATER AND ALL  
3 STRUCTURES, FIXTURES, EQUIPMENT AND MACHINERY THEREON.

4 "MALICIOUS" MEANS INTENTIONAL AND WRONGFUL, WITH AN INTENT TO  
5 INFLICT INJURY.

6 "OWNER" MEANS AN INDIVIDUAL, LEGAL ENTITY OR GOVERNMENTAL  
7 AGENCY THAT HAS ANY OWNERSHIP OR SECURITY INTEREST WHATEVER OR  
8 LEASE OR RIGHT OF POSSESSION IN LAND.

9 "RECREATIONAL TRESPASS" MEANS REMAINING ON LAND FOR A  
10 RECREATIONAL USE AFTER BEING ASKED TO LEAVE BY THE OWNER, OR THE  
11 ENTRY ON LAND FOR A RECREATIONAL USE WITHOUT THE EXPRESS OR  
12 IMPLIED CONSENT OF THE OWNER.

13 "RECREATIONAL USE" MEANS AN ACTIVITY UNDERTAKEN FOR EXERCISE,  
14 EDUCATION, RELAXATION OR PLEASURE ON LAND OWNED BY ANOTHER.

15 SECTION 3. [EXCEPT AS SPECIFICALLY RECOGNIZED OR PROVIDED IN  
16 SECTION 6 OF THIS ACT, AN OWNER OF LAND OWES NO DUTY OF CARE TO  
17 KEEP THE PREMISES SAFE FOR ENTRY OR USE BY OTHERS FOR  
18 RECREATIONAL PURPOSES, OR TO GIVE ANY WARNING OF A DANGEROUS  
19 CONDITION, USE, STRUCTURE, OR ACTIVITY ON SUCH PREMISES TO  
20 PERSONS ENTERING FOR SUCH PURPOSES.] EXCEPT AS PROVIDED IN THIS  
21 ACT, AN OWNER OF LAND OWES NO DUTY OF CARE TO ANYONE TO KEEP HIS  
22 LAND SAFE FOR RECREATIONAL USE, TO INSPECT HIS LAND FOR ACTUAL  
23 OR POTENTIAL DANGEROUS CONDITIONS OR TO GIVE ANY GENERAL OR  
24 SPECIFIC WARNING RESPECTING ANY NATURAL OR ARTIFICIAL CONDITION,  
25 STRUCTURE, PERSONAL PROPERTY OR ACTIVITY THEREON.

26 SECTION 4. EXCEPT AS [SPECIFICALLY RECOGNIZED BY OR PROVIDED  
27 IN SECTION 6 OF] PROVIDED IN THIS ACT, AN OWNER OF LAND WHO  
28 EITHER DIRECTLY OR INDIRECTLY INVITES OR PERMITS WITHOUT CHARGE  
29 ANY PERSON TO [USE SUCH PROPERTY FOR RECREATIONAL PURPOSES]  
30 ENTER HIS PROPERTY FOR RECREATIONAL USE DOES NOT THEREBY:

(1) EXTEND ANY ASSURANCE THAT THE PREMISES ARE SAFE FOR ANY PURPOSE.

(2) CONFER UPON SUCH PERSON THE LEGAL STATUS OF AN INVITEE OR [LICENSEE TO WHOM A DUTY OF CARE IS OWED.] THE STATUS OF AN INVITEE OR ANY OTHER STATUS REQUIRING OF THE OWNER A DUTY OF SPECIAL OR REASONABLE CARE.

(3) ASSUME RESPONSIBILITY FOR OR INCUR LIABILITY FOR ANY INJURY TO SUCH PERSON OR PROPERTY CAUSED BY ANY NATURAL OR ARTIFICIAL CONDITION, STRUCTURE OR PERSONAL PROPERTY, INCLUDING DOMESTIC ANIMALS, ON THE PREMISES.

[(3)] (4) ASSUME RESPONSIBILITY FOR [OR INCUR LIABILITY FOR ANY INJURY TO] ANY DAMAGE OR INJURY TO OTHER PERSONS OR PROPERTY CAUSED BY AN ACT OF OMISSION OF SUCH PERSONS.

SECTION 5. UNLESS OTHERWISE AGREED IN WRITING, THE PROVISIONS OF SECTIONS 3 AND 4 OF THIS ACT SHALL BE DEEMED APPLICABLE TO THE DUTIES AND LIABILITY OF AN OWNER OF LAND LEASED TO THE STATE OR ANY SUBDIVISION THEREOF FOR RECREATIONAL PURPOSES.

SECTION 6. NOTHING IN THIS ACT LIMITS IN ANY WAY ANY LIABILITY WHICH OTHERWISE EXISTS:

(1) FOR [WILFUL OR] MALICIOUS FAILURE TO GUARD OR WARN AGAINST A DANGEROUS CONDITION, USE, STRUCTURE, OR ACTIVITY.

(2) FOR INJURY SUFFERED IN ANY CASE WHERE THE OWNER OF LAND CHARGES THE PERSON OR PERSONS WHO ENTER OR GO ON THE LAND FOR THE RECREATIONAL USE THEREOF, EXCEPT THAT IN THE CASE OF LAND LEASED TO THE STATE OR A SUBDIVISION THEREOF, ANY CONSIDERATION RECEIVED BY THE OWNER FOR SUCH LEASE SHALL NOT BE DEEMED A CHARGE WITHIN THE MEANING OF ITS SECTION.

(3) INJURY SUFFERED BY A CHILD OF NOT MORE THAN 12 YEARS OF AGE ON LAND IN AN URBAN OR RESIDENTIAL SETTING, IF LIABILITY

1 WOULD OTHERWISE BE IMPOSED UNDER THE DOCTRINE OF ATTRACTIVE  
2 NUISANCE.

3 SECTION 7. NOTHING IN THIS ACT SHALL BE CONSTRUED TO:

4 (1) CREATE A DUTY OF CARE OR GROUND OF LIABILITY FOR INJURY  
5 TO PERSONS OR PROPERTY.

6 (2) RELIEVE ANY PERSON USING THE LAND OF ANOTHER FOR  
7 RECREATIONAL PURPOSES FROM ANY OBLIGATION WHICH HE MAY HAVE IN  
8 THE ABSENCE OF THIS ACT TO EXERCISE CARE IN HIS USE OF SUCH LAND  
9 AND IN HIS ACTIVITIES THEREON, OR FROM THE LEGAL CONSEQUENCES OF  
10 FAILURE TO EMPLOY SUCH CARE.

11 SECTION 2. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

12 SECTION 7.1. IT SHALL BE PRIMA FACIE EVIDENCE THAT A PERSON  
13 IS ON LAND FOR A RECREATIONAL USE IF THAT PERSON IS ON THE LAND  
14 OF ANOTHER WITHOUT OTHER EXPLANATION. THE ABSENCE OF POSTING  
15 SHALL NOT BY ITSELF BE SUFFICIENT TO IMPLY CONSENT, BUT CONSENT  
16 MAY BE IMPLIED IF LAND IS NOT POSTED AND THERE ARE OTHER  
17 INDICATIONS OF CONSENT, SUCH AS CONTINUOUS AND NOTORIOUS  
18 ACQUIESCENCE IN PUBLIC RECREATIONAL USE OF A SIMILAR KIND. IT  
19 SHALL BE THE OBLIGATION OF THE RECREATIONAL USER TO ESTABLISH  
20 IMPLIED CONSENT AS AN AFFIRMATIVE DEFENSE. CONSENT SHALL NOT BE  
21 IMPLIED IF THE LAND IS POSTED. FOR LAND TO BE POSTED, NOTICE  
22 PROHIBITING ALL OR SPECIAL KINDS OF TRESPASS MUST BE  
23 CONSPICUOUSLY PLACED SO AS TO AFFORD REASONABLE OPPORTUNITY FOR  
24 A CONSCIENTIOUS PERSON TO DETECT IT. PROPER POSTING MAY BE  
25 ESTABLISHED BY EVIDENCE COMMENSURATE WITH THE CIRCUMSTANCES.  
26 HOWEVER, IN ANY CASE, PROOF THAT POSTERS ARE PLACED AT LEAST  
27 ONCE EVERY 400 FEET AROUND THE PERIMETER OF THE LAND IN  
28 QUESTION, OR AT LEAST ONCE FOR EVERY 20 ACRES OF LAND IN  
29 QUESTION, SHALL CONSTITUTE PRIMA FACIE EVIDENCE THAT SUCH LAND  
30 IS CONSPICUOUSLY POSTED; AND PROOF THAT SUCH NOTICE HAS BEEN

1 DULY POSTED IN A FORM LIKELY TO WITHSTAND THE ELEMENTS WITHIN  
2 SIX MONTHS PRIOR TO THE ENTRY COMPLAINED OF SHALL CONSTITUTE  
3 PRIMA FACIE EVIDENCE OF POSTING.

4 SECTION 7.2. THE FOLLOWING ACTS ARE PROHIBITED:

5 (1) RECREATIONAL TRESPASS.

6 (2) THE DESTRUCTION OR REMOVAL OF ANY PROPERTY OF THE OWNER  
7 OR VANDALISM OF ANY SORT WHILE ENGAGED IN RECREATIONAL USE OF  
8 THE LAND OF ANOTHER.

9 (3) LITTERING WHILE ENGAGED IN RECREATIONAL USE OF THE LAND  
10 OF ANOTHER.

11 (4) FAILURE TO LEAVE ANY GATES, DOORS, FENCES, ROADBLOCKS  
12 AND OBSTACLES OR SIGNS IN THE CONDITION IN WHICH THEY WERE  
13 FOUND, WHILE ENGAGED IN THE RECREATIONAL USE OF THE LAND OF  
14 ANOTHER.

15 SECTION 7.3. IN ADDITION TO OTHER PENALTIES AND REMEDIES  
16 THAT MAY BE APPLICABLE, THE PENALTY FOR VIOLATION OF SECTION 7.2  
17 SHALL CONSIST OF A CIVIL FORFEITURE OF NOT MORE THAN \$100 PLUS  
18 COSTS AND TAXES THAT MAY BE APPLICABLE. A VIOLATION OF EACH  
19 PARAGRAPH OF SECTION 7.2 SHALL BE A SEPARATE OFFENSE. THE  
20 MAXIMUM PENALTY PERMITTED HEREUNDER SHALL BE LEVIED IF THE  
21 DEFENDANT FAILS EITHER TO PAY OR HONOR ANY DEPOSIT SPECIFIED IN  
22 A CITATION OR TO APPEAR TO CONTEST A CITATION AT THE DATE, TIME  
23 AND PLACE SPECIFIED IN THE CITATION. NOTHING IN THIS ACT SHALL  
24 BE CONSTRUED TO PRECLUDE A PROSECUTION UNDER 18 PA.C.S.  
25 (RELATING TO CRIMES AND OFFENSES).

26 SECTION 7.4. ANY LOCAL OR STATE LAW ENFORCEMENT OFFICER MAY  
27 ISSUE A CITATION TO A PERSON BELIEVED WITH PROBABLE CAUSE TO  
28 HAVE VIOLATED SECTION 7.2. THE FOLLOWING PROCEDURES WITH RESPECT  
29 THERE TO SHALL APPLY:

30 (1) THE CITATION SHALL PROVIDE FOR THE FOLLOWING:

1     (I) THE NAME AND ADDRESS AND HUNTING OR FISHING OR OTHER  
2 RECREATIONAL ACTIVITY LICENSE NUMBER, IF ANY, AND THE DATE OF  
3 BIRTH OF THE ALLEGED VIOLATOR.

4     (II) THE NAME OF THE ISSUING LAW ENFORCEMENT OFFICER AND THE  
5 NAME AND ADDRESS OF HIS DEPARTMENT.

6     (III) THE VIOLATIONS ALLEGED TO HAVE BEEN COMMITTED BY THE  
7 DEFENDANT, WITH SPECIFIC REFERENCE TO THE PARAGRAPHS OF SECTION  
8 7.2 INVOLVED AND A BRIEF DESCRIPTION OF THE ACTIVITIES ALLEGED  
9 TO BE IN VIOLATION.

10    (IV) THE AMOUNT OF THE PENALTY OR FORFEITURE PAYABLE UNDER  
11 SECTION 7.3, TOGETHER WITH COSTS AND TAXES THAT MAY BE  
12 APPLICABLE.

13    (V) A DATE, TIME AND PLACE FOR THE DEFENDANT TO APPEAR IN  
14 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 AND SIGNS  
18 THE STIPULATION, OR MAKES A DEPOSIT AND FAILS TO APPEAR IN COURT  
19 AT THE TIME SPECIFIED IN THE CITATION, THE DEFENDANT WILL BE  
20 DEEMED TO HAVE TENDERED A PLEA OF NO CONTEST AND SUBMITTED TO A  
21 FORFEITURE IN THE AMOUNT OF THE DEPOSIT.

22    (VIII) NOTICE THAT IF THE DEFENDANT NEITHER MAKES A DEPOSIT  
23 NOR APPEARS IN COURT AT THE TIME FIXED IN THE CITATION, THE  
24 COURT MAY ISSUE A SUMMONS OR AN ARREST WARRANT.

25    (IX) ANY OTHER PERTINENT INFORMATION.

26    (2) (I) IF A PERSON IS CITED, SUCH PERSON MAY DEPOSIT, ANY  
27 TIME UP TO THE DATE SPECIFIED IN THE CITATION FOR COURT  
28 APPEARANCE, THE AMOUNT OF MONEY THE ENFORCING OFFICER DIRECTS BY  
29 MAILING SUCH DEPOSIT AND A COPY OF THE CITATION TO THE OFFICE OF  
30 THE CLERK OF COURTS IN THE COUNTY WHERE THE OFFENSE OCCURRED, OR

1 BY GOING TO THE OFFICE OF THE CLERK OF COURTS.

2 (II) THE PERSON RECEIVING THE DEPOSIT SHALL PREPARE A  
3 RECEIPT SHOWING THE PURPOSE FOR WHICH THE DEPOSIT IS MADE,  
4 STATING THAT THE DEFENDANT MAY INQUIRE AT THE OFFICE OF THE  
5 CLERK OF COURTS REGARDING THE DISPOSITION OF THE DEPOSIT AND  
6 NOTIFYING THE DEFENDANT THAT IF HE FAILS TO APPEAR IN COURT AT  
7 THEE TIME FIXED IN THE CITATION, HE WILL BE DEEMED TO HAVE  
8 TENDERED A PLEA OF NO CONTEST AND SUBMITTED TO A FORFEITURE NOT  
9 TO EXCEED THE AMOUNT OF THE DEPOSIT WHICH THE COURT MAY ACCEPT.  
10 THE RECEIPT SHALL BE DELIVERED TO THE DEFENDANT IN PERSON OR BY  
11 MAIL. IF THE DEFENDANT PAYS BY CHECK, SUCH CHECK SHALL BE  
12 CONSIDERED A RECEIPT.

13 (III) THE AMOUNT OF THE DEPOSIT SHALL BE DETERMINED IN  
14 ACCORDANCE WITH A DEPOSIT SCHEDULE WHICH THE JUDGES OF EACH  
15 COUNTY RESPECTIVELY SHALL ESTABLISH. THE JUDGES MAY, FROM TIME  
16 TO TIME, REVISE THE SCHEDULE. IN ADDITION TO THE BASIC AMOUNT  
17 DETERMINED ACCORDING TO THE SCHEDULE, THE DEPOSIT SHALL INCLUDE  
18 COURT COSTS AND TAXES IF APPLICABLE.

19 (3) (I) IF A PERSON IS CITED, SUCH PERSON MAY MAKE A  
20 DEPOSIT AND STIPULATION OF NO CONTEST AND SUBMIT THEM IN THE  
21 SAME MANNER AS THE DEPOSIT IN PARAGRAPH (2). SUCH DEPOSIT AND  
22 STIPULATION OF NO CONTEST MAY BE MADE AT ANY TIME PRIOR TO THE  
23 COURT APPEARANCE DATE. BY SIGNING THE STIPULATION, THE DEFENDANT  
24 IS DEEMED TO HAVE TENDERED A PLEA OF NO CONTEST AND SUBMITTED TO  
25 A FORFEITURE PLUS COSTS NOT TO EXCEED THE AMOUNT OF THE DEPOSIT.  
26 THE PROCEDURES RESPECTING SUCH DEPOSIT SHALL BE AS DESCRIBED IN  
27 PARAGRAPH (2).

28 (II) THE DEFENDANT MAY, WITHIN TEN DAYS AFTER SIGNING THE  
29 STIPULATION OR AT THE TIME OF THE COURT APPEARANCE DATE, MOVE  
30 THE COURT FOR RELIEF FROM THE EFFECTS OF THE STIPULATION.

1       (4) THE CITATION ISSUED MAY SERVE AS THE INITIAL PLEADING  
2 AND, NOTWITHSTANDING ANY OTHER PROVISIONS OF THE STATUTES, SHALL  
3 BE DEEMED ADEQUATE PROCESS TO GIVE THE APPROPRIATE COURT  
4 JURISDICTION OVER THE DEFENDANT UPON THE FILING OF THE CITATION  
5 WITH SUCH COURT.

6       (5) THE PROCEDURES TO BE FOLLOWED BEFORE AND AT TRIAL AND  
7 THEREAFTER SHALL BE AS PRESCRIBED BY LAW.

8       SECTION 7.5. A COURT TO WHICH ANY FORFEITURE OR DEPOSIT IS  
9 PAID HEREUNDER MAY APPLY ALL OR PART OF THAT AMOUNT PAID OVER TO  
10 THE OWNER OF THE LAND IN QUESTION, IF IT CONCLUDES THAT JUSTICE  
11 WOULD THEREBY BE SERVED, AS RECOMPENSE TO SUCH OWNER FOR DAMAGES  
12 OR ATTORNEY FEES OR INCONVENIENCE SUFFERED DUE TO THE VIOLATIONS  
13 OF THIS ACT THAT GAVE RISE TO THE FORFEITURE OR DEPOSIT. SUCH  
14 RESTITUTIONARY PAYMENT SHALL NOT PREJUDICE OR AFFECT ANY OTHER  
15 CIVIL ACTION WHICH SUCH OWNER MAY HAVE FOR SUCH DAMAGES OR  
16 INCONVENIENCE.

17       SECTION 7.6. A VIOLATION OF SECTION 7.2 SHALL BE GROUNDS FOR  
18 A CIVIL ACTION IN TORT BY THE OWNER IN QUESTION. IT SHALL BE  
19 PROPER IN SUCH AN ACTION FOR REASONABLE PUNITIVE DAMAGES TO BE  
20 AWARDED.

21       SECTION 7.7. (A) ANY LOCAL OR STATE LAW ENFORCEMENT OFFICER  
22 MAY ARREST A PERSON WITHOUT A WARRANT WHEN THE OFFICER HAS  
23 PROBABLE CAUSE TO BELIEVE THAT THE PERSON IS COMMITTING OR HAS  
24 COMMITTED A VIOLATION OF THIS ACT AND:

25       (1) THE PERSON REFUSES TO ACCEPT A CITATION OR TO MAKE A  
26 DEPOSIT.

27       (2) THE PERSON REFUSES TO IDENTIFY HIMSELF SATISFACTORILY OR  
28 THE OFFICER HAS REASONABLE GROUNDS TO BELIEVE THAT THE PERSON IS  
29 SUPPLYING FALSE IDENTIFICATION.

30       (3) ARREST IS NECESSARY TO PREVENT IMMINENT BODILY HARM TO

1 THE ENFORCING OFFICER OR TO ANOTHER.

2 (B) IN ALL CASES THE OFFICER SHALL BRING THE PERSON ARRESTED  
3 BEFORE A JUDGE WITHOUT UNNECESSARY DELAY.

4 SECTION 7.8. THE MAXIMUM PENALTY ASSESSABLE FOR ANY  
5 VIOLATION OF THIS ACT SHALL BE DOUBLED IF THE DEFENDANT HAS  
6 WITHIN ONE YEAR PRIOR TO SUCH VIOLATION BEEN CONVICTED OF OR  
7 PLEADED GUILTY OR NO CONTEST TO A CHARGE OF ANY VIOLATION OF  
8 THIS ACT.

9 SECTION 7.9. THE MAXIMUM PENALTY ASSESSABLE FOR ANY  
10 VIOLATION OF THIS ACT SHALL BE MULTIPLIED TEN TIMES IF THE  
11 DEFENDANT HAS WITHIN THREE YEARS PRIOR TO SUCH VIOLATION FAILED  
12 EITHER TO PAY OR HONOR ANY DEPOSIT SPECIFIED IN A CITATION OR TO  
13 APPEAR AS SPECIFIED TO CONTEST A CITATION ISSUED PURSUANT TO  
14 THIS ACT.

15 SECTION 3. SECTIONS 8 AND 9 OF THE ACT ARE REENACTED TO  
16 READ:

17 SECTION 8. THE ACT OF SEPTEMBER 27, 1961 (P.L.1696),  
18 ENTITLED "AN ACT LIMITING THE LIABILITY OF LANDOWNERS OF  
19 AGRICULTURE LANDS OR WOODLANDS FOR PERSONAL INJURIES SUFFERED BY  
20 ANY PERSON WHILE HUNTING OR FISHING UPON THE LANDOWNER'S  
21 PROPERTY," IS REPEALED.

22 ALL OTHER ACTS OR PARTS OF ACTS ARE REPEALED IN SO FAR AS  
23 INCONSISTENT HEREWITH.

24 SECTION 9. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.

25 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.