

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 544 Session of 2017

INTRODUCED BY MOUL, GREINER, PICKETT, KAUFFMAN, TOPPER, MACKENZIE, SAYLOR, JAMES, MILLARD, BOBACK, EVERETT, TALLMAN, WARD, MENTZER, A. HARRIS, ZIMMERMAN, HICKERNELL, GOODMAN, GILLEN, ORTITAY, GABLER, HEFFLEY AND CAUSER, MARCH 1, 2017

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 29, 2017

AN ACT

1 Amending the act of February 2, 1966 (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. Sections 1, 2, 3, 4, 6 and 7 of the act of
11 February 2, 1966 (1965 P.L.1860, No.586), entitled "An act
12 encouraging landowners to make land and water areas available to
13 the public for recreational purposes by limiting liability in
14 connection therewith, and repealing certain acts," are amended
15 to read:

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

19 (1) recreational users; and

1 (2) persons or property based on:

2 (i) acts of omission by landowners; or

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

4 Section 2. As used in this act:

5 (1) "Land" means land, roads, water, watercourses, private
6 ways and buildings, amenities, structures, boating access and
7 launch ramps, bridges, fishing piers, boat docks, ramps, paths,
8 paved or unpaved trails, hunting blinds and areas providing
9 access to, or parking for, lands and waters, including, but not
10 limited to, access ramps, trails or piers for use by
11 recreational users with disabilities, and machinery or equipment
12 when attached to the realty.

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

15 (3) "Recreational purpose" means any activity undertaken or
16 viewed for exercise, sport, education, recreation, relaxation or
17 pleasure and includes, but is not limited to, any of the
18 following, or any combination thereof: hunting, fishing,
19 swimming, boating, recreational noncommercial aircraft
20 operations or recreational noncommercial ultralight operations
21 on private airstrips, camping, picnicking, hiking, pleasure
22 driving, snowmobiling, all-terrain vehicle and motorcycle
23 riding, nature study, water skiing, water sports, cave
24 exploration [and], viewing or enjoying historical, <--
25 archaeological, scenic, or scientific sites[.] AND CREATION, <--
26 MAPPING OR MAINTENANCE OF TRAILS TO WHICH AN OWNER HAS GRANTED
27 PUBLIC ACCESS.

28 (4) "Charge" means the admission price or fee asked in
29 return for invitation or permission to enter or go upon the
30 land. The term does not include in-kind contributions or

1 contributions made to an owner of real property that are
2 voluntary in nature and for the purpose of conserving the land.

3 (5) "Recreational user" means a person who enters or uses
4 land for a recreational purpose.

5 Section 3. Except as specifically recognized or provided in
6 section 6 of this act, an owner of land owes no duty of care to
7 keep the premises safe for entry or use by [others for
8 recreational purposes] recreational users, or to give any
9 warning of a dangerous condition, use, structure, or activity on
10 such premises to [persons entering for such purposes]
11 recreational users.

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

17 (1) Extend any assurance that the premises are safe for any
18 purpose.

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

21 (3) Assume responsibility for or incur liability for any
22 injury to persons or property caused by an act of omission of
23 [such persons] a recreational user or landowner.

24 (4) Assume responsibility for or incur liability for any
25 injury to persons or property, wherever such persons or property
26 are located, caused while hunting as defined in 34 Pa.C.S. § 102
27 (relating to definitions).

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

30 (1) For wilful or malicious failure to guard or warn against

1 a dangerous condition, use, structure, or activity.

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

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

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

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

17 ~~Section 2. The act is amended by adding a section to read: <--~~

18 ~~Section 7.1. The court shall award attorney fees and direct~~
19 ~~legal costs to an owner, lessee, manager, holder of an easement~~
20 ~~or occupant of real property who is not found liable for the~~
21 ~~injury to a person or property pursuant to this act.~~

22 Section 3 2. This act shall take effect in 60 days. <--