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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 814 Session of  
2017

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INTRODUCED BY EICHELBERGER, HUTCHINSON, SCARNATI, RAFFERTY,  
FOLMER, STEFANO, ALLOWAY, BAKER, BOSCOLA, AUMENT, BLAKE,  
WARD, REGAN, MARTIN, LAUGHLIN, KILLION AND WHITE,  
AUGUST 28, 2017

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, AUGUST 28, 2017

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AN ACT

1 Amending Title 5 (Athletics and Sports) of the Pennsylvania  
2 Consolidated Statutes, providing for outdoor recreation; and  
3 making a related repeal.

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

6 Section 1. Title 5 of the Pennsylvania Consolidated Statutes  
7 is amended by adding a part to read:

8 PART III

9 OUTDOOR RECREATION

10 Chapter

11 41. General Provisions (Reserved)

12 43. Recreational Use of Private Land

13 CHAPTER 41

14 GENERAL PROVISIONS

15 (Reserved)

16 CHAPTER 43

17 RECREATIONAL USE OF PRIVATE LAND

1 Sec.

2 4301. Purpose.

3 4302. Definitions.

4 4303. Duty of care.

5 4304. Owner liability.

6 4305. Applicability.

7 4306. Liability not limited.

8 4307. Construction.

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10 § 4301. Purpose.

11 Recognizing the importance of tourism and recreation to this  
12 Commonwealth and the inability of public land to support all  
13 recreation uses, the purpose of this chapter is to encourage  
14 private owners of land to make their land and water areas  
15 available to the public for recreational purposes by limiting  
16 their liability to:

17 (1) recreational users; and

18 (2) persons or property based on:

19 (i) acts of omission by landowners; or

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

21 § 4302. Definitions.

22 The following words and phrases when used in this chapter  
23 shall have the meanings given to them in this section unless the  
24 context clearly indicates otherwise:

25 "Charge." The admission price or fee asked in return for  
26 invitation or permission to enter or go upon the land. The term  
27 does not include in-kind contributions or contributions made to  
28 an owner of real property that are voluntary in nature and for  
29 the purpose of conserving the land.

30 "Land." Land, roads, water, watercourses, private ways and

1 buildings, amenities, structures, boating access and launch  
2 ramps, bridges, fishing piers, boat docks, ramps, paths, paved  
3 or unpaved trails, hunting blinds and areas providing access to  
4 or parking for lands and waters, including, but not limited to,  
5 access ramps, trails or piers for use by recreational users with  
6 disabilities, and machinery or equipment when attached to the  
7 realty.

8 "Owner." The possessor of a fee interest, a tenant, lessee,  
9 occupant or person in lawful control of the premises.

10 "Recreational purpose." An activity undertaken or viewed for  
11 exercise, sport, education, recreation, relaxation or pleasure.  
12 The term includes, but is not limited to, any of the following,  
13 or any combination of the following:

14 (1) hunting;

15 (2) fishing;

16 (3) swimming;

17 (4) boating;

18 (5) recreational noncommercial aircraft operations or  
19 recreational noncommercial ultralight operations on private  
20 airstrips;

21 (6) camping;

22 (7) picnicking;

23 (8) hiking;

24 (9) pleasure driving;

25 (10) snowmobiling;

26 (11) all-terrain vehicle and motorcycle riding;

27 (12) nature study;

28 (13) water skiing;

29 (14) water sports;

30 (15) bicycling;

- 1           (16) climbing;  
2           (17) jogging and running;  
3           (18) playing soccer or other sports which require a  
4           playing field;  
5           (19) cave exploration; and  
6           (20) viewing or enjoying historical, archaeological,  
7           scenic or scientific sites.

8           "Recreational user." A person who enters or uses land for a  
9           recreational purpose.

10   § 4303. Duty of care.

11           Except as specifically recognized or provided in section 4306  
12           (relating to liability not limited), an owner of land owes no  
13           duty of care to keep the premises safe for entry or use by  
14           recreational users, or to give any warning of a dangerous  
15           condition, use, structure or activity on the premises to  
16           recreational users.

17   § 4304. Owner liability.

18           Except as specifically recognized by or provided in section  
19           4306 (relating to liability not limited), an owner of land who  
20           either directly or indirectly invites or permits without charge  
21           a recreational user to use the property does not thereby:

22           (1) Extend any assurance that the premises are safe for  
23           any purpose.

24           (2) Confer upon the recreational user the legal status  
25           of an invitee or licensee to whom a duty of care is owed.

26           (3) Assume responsibility for or incur liability for any  
27           injury to persons or property caused by an act of omission of  
28           a recreational user or landowner.

29           (4) Assume responsibility for or incur liability for any  
30           injury to persons or property, wherever such persons or

1 property are located, caused while hunting as defined in 34  
2 Pa.C.S. § 102 (relating to definitions).

3 § 4305. Applicability.

4 Unless otherwise agreed in writing, the provisions of  
5 sections 4303 (relating to duty of care) and 4304 (relating to  
6 owner liability) shall be deemed applicable to the duties and  
7 liability of an owner of land leased to the State or any  
8 subdivision of the State for recreational purposes.

9 § 4306. Liability not limited.

10 Nothing in this chapter limits in any way any liability which  
11 otherwise exists:

12 (1) For willful or malicious failure to guard or warn  
13 against a dangerous condition, use, structure or activity.

14 (2) For injury suffered in any case where the owner of  
15 land charges the recreational user who enters or goes on the  
16 land, except that in the case of land leased to the State or  
17 a subdivision of the State, any consideration received by the  
18 owner for the lease shall not be deemed a charge.

19 § 4307. Construction.

20 Nothing in this chapter shall be construed to:

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

23 (2) Relieve a recreational user from an obligation which  
24 he may have in the absence of this chapter to exercise care  
25 in his or her use of the land and in his or her activities on  
26 the land, or from the legal consequences of failure to employ  
27 such care.

28 § 4308. Fees and costs.

29 The court shall award attorney fees and direct legal costs to  
30 a prevailing party, who is not found liable for the injury to a

1 person or property pursuant to this chapter, if the court finds  
2 that the action against the prevailing party was frivolous.

3 Section 2. Repeals are as follows:

4 (1) The General Assembly declares that the repeal under  
5 paragraph (2) is necessary to effectuate the addition of 5  
6 Pa.C.S. Ch. 43.

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

12 Section 3. The following shall apply:

13 (1) The addition of 5 Pa.C.S. Ch. 43 is a continuation  
14 of the act of February 2, 1966 (1965 P.L.1860, No.586),  
15 entitled "An act encouraging landowners to make land and  
16 water areas available to the public for recreational purposes  
17 by limiting liability in connection therewith, and repealing  
18 certain acts."

19 (2) Except as otherwise provided in 5 Pa.C.S. Ch. 43,  
20 all activities initiated under the act of February 2, 1966  
21 (1965 P.L.1860, No.586), entitled "An act encouraging  
22 landowners to make land and water areas available to the  
23 public for recreational purposes by limiting liability in  
24 connection therewith, and repealing certain acts," shall  
25 continue and remain in full force and effect and may be  
26 completed under 5 Pa.C.S. Ch. 43.

27 (3) Orders, regulations, rules and decisions which were  
28 made under the act of February 2, 1966 (1965 P.L.1860,  
29 No.586), entitled "An act encouraging landowners to make land  
30 and water areas available to the public for recreational

1 purposes by limiting liability in connection therewith, and  
2 repealing certain acts," and which are in effect on the  
3 effective date of section 1 of this act shall remain in full  
4 force and effect until revoked, vacated or modified under 5  
5 Pa.C.S. Ch. 43.

6 (4) Contracts, obligations and collective bargaining  
7 agreements entered into under the act of February 2, 1966  
8 (1965 P.L.1860, No.586), entitled "An act encouraging  
9 landowners to make land and water areas available to the  
10 public for recreational purposes by limiting liability in  
11 connection therewith, and repealing certain acts," are not  
12 affected nor impaired by the repeal of the act of February 2,  
13 1966 (1965 P.L.1860, No.586).

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