

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 867 Session of  
1989

INTRODUCED BY ARMSTRONG AND LEMMOND, APRIL 25, 1989

SENATOR FISHER, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED,  
JUNE 21, 1989

## AN ACT

1 Prohibiting certain conduct with respect to caves; prohibiting  
2 the sale of certain minerals; and imposing penalties.

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

5 SECTION 1. SHORT TITLE. <—

6 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE CAVE  
7 PROTECTION ACT.

8 Section 2. Legislative findings and policy. <—

9 The General Assembly finds that caves are uncommon geologic  
10 phenomena and that the minerals deposited therein may be rare  
11 and occur in unique forms of great beauty which are  
12 irreplaceable if destroyed. Also irreplaceable are the  
13 archeological resources in caves which are of great scientific  
14 and historic value. It is further found that the organisms which  
15 live in caves are unusual and of limited numbers; that many are  
16 rare and endangered species; and that caves are a natural  
17 conduit for groundwater flow and are highly subject to water

1 pollution, thus having far-reaching effects transcending man's  
2 property boundaries. It is therefore declared to be the policy  
3 of the General Assembly and the intent of this act to protect  
4 these unique natural and cultural resources.

5 Section 2 3. Definitions. <—

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

9 "Cave." Any naturally occurring void, cavity, recess or  
10 system of interconnecting passages beneath the surface of the  
11 earth or within a cliff or ledge, including, but not limited to,  
12 natural subsurface water and drainage systems, whether or not it  
13 has a natural entrance. The term does not include any mine,  
14 tunnel, aqueduct or other man-made excavation. The term  
15 includes, or is synonymous with, cavern, sinkhole, natural pit,  
16 grotto and rock shelter.

17 "Cave life." Any life form which normally occurs in, uses,  
18 visits or inhabits any cave or subterranean water system,  
19 excepting those animals and species covered by any of the game  
20 laws of this Commonwealth.

21 "Commercial cave." Any cave utilized by the owner for the  
22 purposes of exhibition to the general public ~~as a profit or~~ <—  
23 ~~nonprofit enterprise,~~ wherein a fee is collected for entry.

24 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF <—  
25 THE COMMONWEALTH AND ITS AUTHORIZED REPRESENTATIVES.

26 "Gate." Any structure or device located to limit or prohibit  
27 access or entry to any cave.

28 "Material." All or any part of any archeological,  
29 paleontological, biological or historical item or artifact,  
30 including, but not limited to, any petroglyph, pictograph,

1 basketry, human remains, tools, beads, pottery, projectile  
2 point, or remains of historical mining activity or any other  
3 occupation, found in a cave.

4 "Owner." A person who owns title to land where a cave is  
5 located, including a person who owns title to a leasehold estate  
6 in such land, and specifically including the Commonwealth and  
7 any of its agencies, departments, boards, bureaus, commissions  
8 or authorities, as well as counties, municipalities and other  
9 political subdivisions of the Commonwealth.

10 "Person." An individual, partnership, firm, association,  
11 trust, corporation or other legal entity.

12 "Sinkhole." A closed topographic depression or basin,  
13 generally draining underground, including, but not restricted  
14 to, a doline, uvala, blind valley or sink.

15 "Speleogen." The surrounding natural material or bedrock in  
16 which a cave is formed, including clastic sediments, walls,  
17 floors and ceiling and similar related structural and geological  
18 components.

19 "Speleothem." A natural mineral formation or deposit  
20 occurring in a cave. The term includes, or is synonymous with,  
21 stalagmite, stalactite, helectite, shield, anthodite, gypsum  
22 flower and needle, angel's hair, soda straw, drapery, bacon,  
23 cave pearl, popcorn (coral), rimstone dam, column, palette,  
24 flowstone and other similar mineral formations which occur in  
25 caves. Speleothems are commonly composed of calcite, epsomite,  
26 gypsum, aragonite, celestrite and other similar minerals.

27 SECTION 4. POWERS AND DUTIES OF DEPARTMENT.

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28 THE DEPARTMENT SHALL HAVE THE POWER AND ITS DUTY SHALL BE TO  
29 ENFORCE THE PROVISIONS OF THIS ACT.

30 SECTION 5. POWERS AND DUTIES OF ENVIRONMENTAL QUALITY BOARD.

1 THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND ITS  
2 DUTY SHALL BE TO ADOPT ANY REGULATIONS NEEDED BY THE DEPARTMENT  
3 TO ACCOMPLISH THE PURPOSES AND TO CARRY OUT THE PROVISIONS OF  
4 THIS ACT.

5 Section ~~3~~ 6. Violations. <—

6 It shall be unlawful for any person, without the expressed  
7 written permission of the land owner, to:

8 (1) Willfully or knowingly break, break off, crack,  
9 carve upon, write, burn, mark upon, remove or in any manner  
10 destroy, disturb, mar or harm the surfaces of any cave or any  
11 natural material which may be found therein, whether attached  
12 or broken, including speleothems, speleogens and sedimentary  
13 deposits.

14 (2) Break, force, tamper with or otherwise disturb a  
15 lock, gate, door or other obstruction designed to control or  
16 prevent access to any cave, even though entrance thereto may  
17 not be gained.

18 (3) Remove, deface or tamper with a sign stating that a  
19 cave is posted or citing provisions of this act.

20 (4) Store, dump, litter, dispose of or otherwise place  
21 any refuse, garbage, dead animal, sewage or toxic substance  
22 harmful to cave life or humans in any cave or sinkhole.

23 (5) Burn within any cave or sinkhole any material which  
24 produces any smoke or gas which is harmful to any organism in  
25 the cave. This paragraph shall specifically exempt acetylene  
26 gas emissions created by carbide lamps used as a source of  
27 light by persons using the cave.

28 (6) Kill, injure, disturb or otherwise interfere with  
29 any cave life, including any cave roosting bat, or interfere  
30 with or obstruct the free movement of any cave life into or

1 out of any cave, or enter any cave with the intention of  
2 killing, injuring, disturbing or interfering with life forms  
3 therein, EXCEPT WHERE PUBLIC HEALTH MAY BE THREATENED. <—

4 (7) Remove, deface, tamper with or otherwise disturb any  
5 natural or cultural resources or material found within any  
6 cave.

7 (8) Disturb or alter in any way the natural condition of  
8 any cave.

9 Section 4 7. Sale of speleothems unlawful. <—

10 It is unlawful to sell or offer for sale any speleothems in  
11 this Commonwealth, or to export them for sale outside this  
12 Commonwealth.

13 Section 5 8. Penalties. <—

14 ~~A person who violates any provision of this act commits a~~ <—  
15 ~~misdemeanor of the third degree.~~

16 (A) SUMMARY OFFENSE.--A PERSON WHO VIOLATES ANY PROVISION OF <—  
17 THIS ACT COMMITS A SUMMARY OFFENSE PUNISHABLE BY A FINE OF NOT  
18 LESS THAN \$100 NOR MORE THAN \$1,000, AND, IN DEFAULT OF THE  
19 PAYMENT OF SUCH FINE, TO UNDERGO IMPRISONMENT FOR NOT MORE THAN  
20 30 DAYS.

21 (B) PUBLIC NUISANCE.--UNLAWFUL CONDUCT AS DESCRIBED BY  
22 SECTION 6 SHALL ALSO CONSTITUTE A PUBLIC NUISANCE.

23 SECTION 9. OTHER REMEDIES.

24 (A) JURISDICTION.--IN ADDITION TO ANY OTHER REMEDIES  
25 PROVIDED IN THIS ACT, UPON RELATION OF ANY DISTRICT ATTORNEY OF  
26 ANY COUNTY AFFECTED, OR UPON RELATION OF THE SOLICITOR OF ANY  
27 COUNTY OR MUNICIPALITY AFFECTED, AN ACTION IN EQUITY MAY BE  
28 BROUGHT IN A COURT OF COMPETENT JURISDICTION FOR AN INJUNCTION  
29 TO RESTRAIN ANY AND ALL VIOLATIONS OF THIS ACT OR TO RESTRAIN A  
30 PUBLIC NUISANCE.

1       (B) CONCURRENT REMEDIES.--THE PENALTIES PRESCRIBED BY THIS  
2 ACT SHALL BE DEEMED CONCURRENT, AND THE EXISTENCE OF OR EXERCISE  
3 OF ANY REMEDY SHALL NOT PREVENT THE DEPARTMENT FROM EXERCISING  
4 ANY OTHER REMEDY HEREUNDER, AT LAW OR IN EQUITY.

5 Section 6 10. Effective date.

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6       This act shall take effect in 60 days.