

LEHIGH SCENIC RIVER ACT

Act of Apr. 5, 1982, P.L. 222, No. 71

Cl. 32

AN ACT

Designating a portion of the Lehigh River as a component of the Pennsylvania Scenic Rivers System in accordance with the Pennsylvania Scenic Rivers Act; providing for cooperation, limitation of liability and regulation of river recreational usage and authorizing the expenditure of moneys.

**Compiler's Note:** Section 302 of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that the functions of the Department of Community Affairs under Act 71 are transferred to the Pennsylvania Historical and Museum Commission.

**Compiler's Note:** Section 307(b) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Conservation and Natural Resources shall exercise the powers and duties previously vested in the Department of Environmental Resources by Act 71 of 1982.

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

Section 1. Short title.

This act shall be known and may be cited as the "Lehigh Scenic River Act."

Section 2. Legislative findings and purpose.

The Department of Environmental Resources has, in accordance with the act of December 5, 1972 (P.L.1277, No.283), known as the "Pennsylvania Scenic Rivers Act," fulfilled its obligations and responsibilities prerequisite to the designation of a portion of the Lehigh River as a component of the Pennsylvania Scenic Rivers System. The designation of this Lehigh Scenic River component by this act is with the view of conserving and enhancing its scenic quality and of promoting public recreational enjoyment, in accordance with the policy and provisions of the "Pennsylvania Scenic Rivers Act."

**Compiler's Note:** The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

### Section 3. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meaning given to them in this section:

"Carrying capacity." The level of use which a resource can support without causing a change, incapable of restoration by natural means, in the environment and without causing an unsafe condition for resource users.

### Section 4. Designation and classification.

(a) The 32-mile portion of the Lehigh River, including 13 tributary streams and related adjacent land areas, from the Francis E. Walter Dam, Luzerne County, to Jim Thorpe, Carbon County, is designated as a component of the Pennsylvania Scenic Rivers System under the Pennsylvania Scenic Rivers Act subject to the provisions of subsection (e). The boundaries of the component and of the classified segments have been defined by the Department of Environmental Resources and are shown on the map entitled "Lehigh Scenic River Study" which is on file and available for public inspection in the Bureau of Land Records, Department of Community Affairs of the Commonwealth of Pennsylvania.

(b) Segments of the component are classified as follows:

(1) Lehigh River--Francis E. Walter Dam to Bench Mark 548 at Bear Mountain, Jim Thorpe--32.80 river miles--scenic.

(2) Hays Creek--Lehigh River to Fourth Run--1.13 river miles--scenic.

(3) Sandy Run--Lehigh River to Old Railroad Grade Crossing--1.21 river miles--wild.

(4) Hickory Run--Lehigh River to Hickory Run Lake--3.90 river miles--scenic.

(5) Leslie Run--Lehigh River to Poor Man's Pond--1.32 river miles--scenic.

(6) Mud Run--Lehigh River to Panther Creek--6.24 river miles--scenic.

(7) Drakes Creek--Lehigh River to junction with unnamed tributary below Christmans--1.47 river miles--scenic.

(8) Stony Creek--Lehigh River to Yellow Run--3.06 river miles--wild.

(9) Black Creek--Lehigh River to Quakeke Creek--4.35 river miles--scenic.

(10) Bear Creek--Lehigh River to unnamed tributary below Bear Creek Dam 1400 feet elevation--3.00 river miles--wild.

(11) Little Bear Creek--Lehigh River to headwaters--1.04 river miles--wild.

(12) Glenn Onoko--Lehigh River to headwaters--.98 river mile--wild.

(13) Jeans Run--Lehigh River to headwaters to Nesquehoning Creek--2.72 river miles--wild.

(14) Nesquehoning Creek--Lehigh River to Jeans Run confluence--.73 river mile--scenic.

(c) If the Francis E. Walter Dam is modified to add water supply or hydroelectric facilities in accordance with the Delaware River Basin Comprehensive Plan as adopted by the Delaware River Basin Commission, the department is authorized to adjust the upstream limits of the designation of the Lehigh River as necessary to allow construction and operation of the facilities.

(d) Nothing in this act shall be construed to prohibit an electric line crossing within the designated segments of the Lehigh River provided the necessity therefor and environmental effects thereof have previously been reviewed and approved by the Pennsylvania Public Utility Commission and by the Department of Environmental Resources and that, if feasible, new or expanded electric line crossings are located adjacent to existing line crossings within the designated segments of the Lehigh River.

(e) The designation of the Lehigh Scenic River component by this act shall not include the following segments of land which have been determined to be a necessary corridor for highway transportation improvement or elimination of highway hazards, said segments to also be noted and shown on the map entitled "Lehigh Scenic River Study" which is on file and available for public inspection in the Bureau of Land Records, Department of Community Affairs of the Commonwealth of Pennsylvania:

(1) Carbon-Luzerne Counties:

(i) From the present intersection of L.R.408 and L.R.13018 westward, crossing the Lehigh River through the Lehigh River Gorge State Park, a 200 foot wide corridor symmetric to the existing centerline of L.R.408.

(ii) From the present intersection of L.R.408 and L.R.13018 northward along the centerline of L.R.408 for a distance of approximately .2 mile, a width of 150 feet from the centerline of the existing road, west.

(iii) From the present intersection of L.R.408 and L.R.13018 southward along L.R.13018 for a distance of .1 mile, a width of 150 feet from the centerline of the existing road, west.

(f) The right-of-way listed herein is required for construction purposes, and only as much of the above right-of-way as is necessary to maintain the transportation facilities will be retained, after construction is completed. The remainder will revert to the property owners.

(g) Any highway transportation improvement or elimination of highway hazards herein shall be in conformance with the "Guidelines to Improve the Aesthetic Quality of Roads in Pennsylvania," dated June 1978 and the design shall be mutually agreed upon by the Department of Environmental Resources and the Department of Transportation.

**Compiler's Note:** The Department of Community Affairs, referred to in this section, was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

**Compiler's Note:** The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 5. Cooperation and coordination.

All State agencies are authorized to seek the help of and enter into agreements with the Federal Government and its agencies and commissions, local governments and concerned private individuals and organizations with the view of fostering cooperation and coordination to further the purpose of this act. To this end, the Department of Environmental Resources shall also seek the cooperation of the Delaware River Basin Commission.

**Compiler's Note:** The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 6. Limitation of liability.

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

who make them available to the public for recreational purposes without charge shall be applicable to owners of land and water areas within the Lehigh Scenic River component, including such land and water areas in which the Commonwealth or any subdivision thereof has acquired any interest less than fee simple.

Section 7. Responsibilities of the Department of Environmental Resources.

The Department of Environmental Resources shall assume the role of lead State agency responsible for:

- (1) the coordination of State agency roles and responsibilities relating to State lands and water resources, recreation use and control, and the administration of recreation-related public services on State-owned facilities within the Lehigh Scenic River component;
- (2) coordinating and integrating the management objectives and policies of all related Commonwealth programs affecting the Lehigh Scenic River component;
- (3) acting as a point of contact for Lehigh Scenic River component residents and visitors;
- (4) implementing the recommendations regarding water resource management, land management, recreation use and facility development and administrative responsibilities as outlined within text of the study of the Lehigh River conducted by the Department of Environmental Resources under the "Pennsylvania Scenic Rivers Act" and known as the "Lehigh Scenic River Study"; and
- (5) defining and regulating the carrying capacity of the Lehigh River Gorge to minimize the impacts of overuse upon this resource.

**Compiler's Note:** The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 8. Special provisions.

Any Commonwealth acquisition of easements as applied to the State Wild and Scenic Rivers Program on the 13 named tributaries for purposes of protecting scenic values or providing public access on privately owned property shall require consent of the property owner. This provision shall not, however, in any way affect the acquisition of land for the proposed Lehigh River Gorge State Park.

Section 9. Expenditure of funds.

The Departments of Environmental Resources and Community Affairs are authorized to expend moneys when available for: technical assistance for implementation of and planning under the study of the Lehigh River conducted by the Department of Environmental Resources under the "Pennsylvania Scenic Rivers Act" and known as the "Lehigh Scenic River Study."

**Compiler's Note:** The Department of Community Affairs, referred to in this section, was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

**Compiler's Note:** The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 10. Effective date.

This act shall take effect immediately.