

Pennsylvania House of Representatives
Tourism and Recreational Development Committee
Informational Meeting on HB 544
Harrisburg, PA
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Good morning, Chairman Stern, Chairman Kirkland, and committee members. My name is Devin DeMario, and I am the Legislative Liaison for Pennsylvania Fish and Boat Commission. On behalf of our Board of Commissioners and Pennsylvania's anglers, boaters, and aquatic resources, thank you for the opportunity to express our support for House Bill 544.

In its most recent triennial audit of our agency, the Legislative Budget and Finance Committee (LBFC) repeated a finding from a similar audit done in 2008. In each case, the LBFC acknowledged the shortcomings of the Recreational Use of Land and Water Act (RULWA) and recommended that the General Assembly consider amending RULWA consistent with House Bill 544.

The LBFC did an excellent job of summarizing the issues behind the need for the fishing and boating related improvements to RULWA. The following text is taken directly from the LBFC's 2010 report entitled *A Performance Audit of the Pennsylvania Fish and Boat Commission*. The full report may be found at <http://lbfc.legis.state.pa.us/>.

The LBFC made the following observations in its analysis of our agency's efforts to improve public access to the Commonwealth's waters:

Pennsylvania has a long history of private landowners allowing the public access to stream-side lands for fishing. In fact, 83 percent of stocked trout waters are on private lands, as are 70 percent of wild trout waters, and 59 percent of Class A trout waters. Many prime fishing destinations in the Commonwealth, however, have become difficult or impossible to access due to landowners posting no trespassing signs on their properties.

Boaters and anglers are, therefore, increasingly experiencing difficulties in gaining access to areas where they can launch boats and/or fish. The establishment of private fishing clubs and private leases has restricted public fishing at locations that have previously been open to the public.

According to the PFBC, 47 percent of anglers responding to the 2008 Pennsylvania Trout Fishing Survey indicated that private land posting is a problem. . . .

The Recreational Use of Land and Water Act (RULWA), 68 P.S. §477-1 et seq., was enacted in 1966 to encourage land owners to make land and water areas available for public recreational purposes and limits a property owner's liability toward persons entering their property, providing the landowner opens his property free of charge to the public for recreational use, and makes no requirement that the landowner keep his property safe for recreational purposes or warn the public of any dangerous property conditions.⁴ While the definition of "land" under the RULWA specifically includes "buildings, structures and machinery or equipment when attached to the realty," Pennsylvania courts have held that RULWA coverage does not extend to certain situations concerning property that has been improved.

As noted in our 2008 report, the PFBC believes the protection afforded by the RULWA is a major factor leading many public and private landowners to permit free public hunting, fishing, boating, and other recreational uses of lands and waters. However, the PFBC still considers it unclear as to whether the legal protections of the RULWA apply to fishing and boating related improvements to realty such as access ramps and paths (including ramps for persons with disabilities), fishing and boating piers, boat launch ramps, docks, stream improvement projects, dams and impoundments, and parking lots, for example. The lack of legal clarity as to what fishing and boating related improvements to land are covered under the RULWA has reportedly discouraged some landowners, clubs, and organizations from going forward with proposed projects. (Pages 90-92)

⁴ A landowner can still be liable where he either charges a fee for the use of the land or acts willfully or maliciously in failing to guard or warn against a dangerous condition.

Building on this analysis, the LBFC offered the following recommendation,

The General Assembly should consider amending the RULWA . . . by clarifying and broadening the scope of legal protection afforded by the act to cover certain fishing and boating related improvements to land, which could include improvements such as boating access and launch ramps, fishing piers, boat docks, ramps, access to and parking for these areas, and hiking trails. (Page S-11).

House Bill 544 directly addresses the issues identified by your colleagues on the LBFC. The Pennsylvania Fish and Boat Commission agreed with the LBFC's recommendations, and we support House Bill 544 as a means to provide landowners further incentives to maintain those lands currently open to recreational fishing and boating and hopefully encourage additional landowners to allow public access to more miles of Pennsylvania waterways.

We appreciate Representative Moul's leadership in introducing the bill and thank the other co-sponsors of this important piece of legislation.

Thank you for the opportunity to offer the perspectives of our agency, the Commonwealth's 800,000+ licensed anglers, over 330,000 registered boaters, and Pennsylvania's 3.4 billion fishing and boating industry.

