

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 578 Session of
1989

INTRODUCED BY WENGER, BELL, BAKER AND LOEPER, FEBRUARY 21, 1989

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 21, 1989

AN ACT

1 Designating the Lower Brandywine in Chester and Delaware
2 Counties as a component of the Pennsylvania Scenic Rivers
3 System; requiring cooperation and coordination by State
4 agencies in implementing the purposes of the Pennsylvania
5 Scenic Rivers Act; limiting liability; and authorizing the
6 expenditure of moneys to further the purposes of this act.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the Lower
11 Brandywine Scenic Rivers Act.

12 Section 2. Legislative findings and purposes.

13 The department has, in accordance with the act of December 5,
14 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers
15 Act, fulfilled its obligations and responsibilities prerequisite
16 to the designation of the Lower Brandywine and certain segments
17 of its tributaries as a component of the Pennsylvania Scenic
18 Rivers System. The designation of this component is for the
19 purposes of protecting its free and unimpounded flow and of
20 conserving and protecting its pastoral and scenic qualities and

1 historic characteristics in accordance with the policy and
2 provisions of the Pennsylvania Scenic Rivers Act.

3 Section 3. Definitions.

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

7 "Department." The Department of Environmental Resources of
8 the Commonwealth.

9 Section 4. Designation and classification.

10 (a) Designation.--The main stem and the East and West
11 Branches of the Brandywine in Chester and Delaware Counties plus
12 Pocopson Creek, Valley Creek, Broad Run, Buck Run, Doe Run and
13 two unnamed tributaries in Newlin Township and related adjacent
14 land area as it extends from the Delaware State line to south of
15 Coatesville and Downingtown are designated a component of the
16 Pennsylvania Scenic Rivers System under the act of December 5,
17 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers
18 Act. The boundaries and termini of the component have been
19 defined by the department and are shown on the five maps
20 entitled "Lower Brandywine Scenic Rivers Project," which are on
21 file and available for public inspection in the Division of Land
22 Records of the Pennsylvania Historical and Museum Commission.

23 (b) Classification.--Segments of the component are
24 classified as follows:

25 (1) Brandywine main stem - Pennsylvania-Delaware line,
26 including the 1.1 mile horseshoe bend at the Pennsylvania-
27 Delaware line in Birmingham Township, Chester County, to
28 confluence with the East and West Branches above Lenape - 9.7
29 miles - Pastoral.

30 (2) Pocopson Creek - Confluence with main stem

Brandywine to State Route 842 - 6.5 miles - Pastoral.

(3) East Branch, Brandywine - Confluence with main stem and West Branch to Penn Central overpass - 7.4 miles - Pastoral.

(4) Valley Creek - Confluence with East Branch to Penn Central overpass - 2.8 miles - Pastoral.

(5) West Branch, Brandywine - Confluence with main stem to Wawaset Bridge - 0.75 miles - Pastoral.

(6) West Branch, Brandywine - Wawaset Bridge to a point 1600 feet downstream of Modena Borough Boundary, including 1.8 miles of Green Valley Stream and 2.2 miles of an unnamed Newlin Township Tributary from Glenhall to Cannery - 16.25 miles - Scenic.

(7) Broad Run - Confluence with West Branch Brandywine to Beacon Hill Road - 4.85 miles - Pastoral.

(8) Buck Run - Confluence with West Branch Brandywine to 1.4 miles upstream of Log Cabin Road Crossing - 11.0 miles - Pastoral.

(9) Doe Run - Confluence with Buck Run to Fernwood Road - 6.6 miles - Pastoral.

Section 5. Management responsibilities.

The department shall exercise administrative responsibilities in implementing the "State Agency Management Guidelines for the Lower Brandywine and Selected Tributaries in Pennsylvania," within the designated component, as outlined in the text of the "Lower Brandywine Scenic Rivers Evaluation and Management Study" conducted by the department under the act of December 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act. The "Recommended Local Management Guidelines" included in the "Lower Brandywine Scenic Rivers Evaluation and Management Study"

1 are recommended and voluntary for local governments, landowners
2 and interested organizations in recognizing the value of the
3 Lower Brandywine and selected tributaries. The Pennsylvania Fish
4 Commission shall exercise enforcement of its fishing and boating
5 regulations and laws within the designated component.

6 Section 6. Special consideration.

7 The department, in cooperation with local governments, shall
8 establish an implementation team, composed of, but not limited
9 to, landowners, local governments and conservation
10 organizations, to act as a local advocate for implementation of
11 this act. The department shall assist the implementation team in
12 carrying out recommendations of the Management Plan, including
13 the conduct of an access study, development of an agency contact
14 list and implementation of other management strategies included
15 in the "Lower Brandywine Scenic Rivers Evaluation and Management
16 Study."

17 Section 7. Cooperation and coordination.

18 State agencies are authorized to seek the help of and enter
19 into agreements with the Federal Government and its agencies and
20 commissions, local governments and concerned private persons and
21 organizations with the view of fostering cooperation and
22 coordination to further the purpose of this act. To this end,
23 the department shall also seek the cooperation of the Delaware
24 River Basin Commission. State agencies, boards and commissions
25 shall cooperate and coordinate their activities with the
26 department in relation to the Lower Brandywine component in
27 order to further the purpose of this act.

28 Section 8. Limitation of liability.

29 The provisions of the act of February 2, 1966 (1965 P.L.1860,
30 No.586), entitled "An act encouraging landowners to make land

1 and water areas available to the public for recreational
2 purposes by limiting liability in connection therewith, and
3 repealing certain acts," limiting the liability of owners of
4 land and water areas who make them available to the public for
5 recreational purposes without charge, shall be applicable to
6 owners of land and water areas within the Lower Brandywine
7 component.

8 Section 9. Zoning powers.

9 Nothing in this act shall be construed as granting new zoning
10 powers to the Commonwealth or municipalities.

11 Section 10. Repairs and construction.

12 (a) Road repairs.--Where township road repairs are needed,
13 construction activities should be carried out within the
14 existing rights-of-way to maintain vegetation and scenic
15 qualities.

16 (b) Construction.--Construction, reconstruction, repair or
17 alterations due to safety or capacity considerations shall be
18 consistent with safe highway geometric design and in accordance
19 with the "Guidelines to Improve the Aesthetic Quality of Roads
20 in Pennsylvania," dated June 1978, prepared jointly by the
21 Department of Transportation and the department.

22 Section 11. Expenditure of funds.

23 The department is authorized to expend money, when available,
24 for all of the following:

25 (1) Technical assistance for implementation of and
26 planning under the "Lower Brandywine Scenic Rivers Evaluation
27 and Management Study" conducted by the department under the
28 act of December 5, 1972 (P.L.1277, No.283), known as the
29 Pennsylvania Scenic Rivers Act.

30 (2) Assistance in the education of the general public

1 regarding the scenic rivers designation and appropriate
2 conservation measures.
3 Section 12. Effective date.
4 This act shall take effect immediately.