
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1490 Session of
1998

INTRODUCED BY TOMLINSON AND SLOCUM, JULY 10, 1998

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JULY 10, 1998

AN ACT

1 Amending the act of November 26, 1978 (P.L.1375, No.325),
2 entitled, as amended, "An act providing for the regulation
3 and safety of dams and reservoirs, water obstructions and
4 encroachments; consolidating and clarifying the programs of
5 the Department of Environmental Resources and Navigation
6 Commission for the Delaware River; establishing penalties and
7 repealing certain acts," abolishing annual charges for the
8 use of the Commonwealth's submerged lands; and making an
9 editorial change.

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

12 Section 1. The title and section 15 of the act of November
13 26, 1978 (P.L.1375, No.325), known as the Dam Safety and
14 Encroachments Act, amended October 23, 1979 (P.L.204, No.70),
15 are amended to read:

AN ACT

16
17 Providing for the regulation and safety of dams and reservoirs,
18 water obstructions and encroachments; consolidating and
19 clarifying the programs of the Department of Environmental
20 [Resources] Protection and Navigation Commission for the
21 Delaware River; establishing penalties; and repealing certain

1 acts.

2 Section 15. Projects affecting submerged lands of the
3 Commonwealth.

4 (a) No permit shall be granted pursuant to this act for any
5 project to occupy submerged lands of the Commonwealth [in any
6 navigable lake or river or stream declared a public highway,]
7 unless the applicant has obtained an easement, right-of-way,
8 license or lease pursuant to this act, or holds an estate or
9 interest in such submerged lands pursuant to other specific
10 authority from the General Assembly. Submerged lands of the
11 Commonwealth shall be the beds of lakes and watercourses that
12 have been declared navigable by acts of the General Assembly or
13 by a court of competent jurisdiction, or that are subject to the
14 ebb and flow of tides within the limits of such tidal effects,
15 or that have been declared navigable by the U.S. Army Corps of
16 Engineers pursuant to the River and Harbor Act of 1899 (30 Stat.
17 1148), and shall include reaches of watercourses extending
18 upstream from their mouths to a point where their watersheds are
19 less than 300 square miles in drainage area.

20 (b) [The] Except for projects which occupy more than 25
21 acres of submerged lands, the permit issued by the department
22 may[, with the approval of the Governor,] grant an easement,
23 right-of-way, license or lease to occupy submerged lands of the
24 Commonwealth in any navigable lake [or], river or stream
25 [declared a public highway,] for any dam, water obstruction or
26 encroachment which is constructed for the purpose of:

- 27 (1) improving navigation or public transportation;
28 (2) recreation, fishing or other public trust purposes;
29 (3) protecting public safety or the environment;
30 (4) providing water supply, energy production or waste

1 treatment;

2 (5) providing a public utility service by a government
3 agency or subdivision or public utility or electric
4 cooperative; or

5 (6) other activities which require access to water.

6 Such easement, right-of-way, lease or license shall provide for
7 the payment to the Commonwealth [of compensation] of a one-time
8 fee for the use of [its] Commonwealth-owned property in such
9 amount and shall be subject to such terms and conditions as the
10 department shall[, with the approval of the Governor,]

11 prescribe[.] consistent with regulations adopted by the
12 Environmental Quality Board. The department shall not impose any
13 annual charge or fee for an easement, right-of-way, lease or
14 license granted under this section. The one-time charge by the
15 department shall not exceed the amount of the annual charges
16 established in 25 Pa. Code § 105.35 (relating to charges for use
17 and occupation of submerged lands of this Commonwealth).

18 (c) The total area of land which [any such] a single and
19 complete project may occupy under one or more easements, rights-
20 of-way, licenses or leases granted by the department pursuant to
21 this section shall not exceed 25 acres, except with the approval
22 of the Governor. Easements, rights-of-way, licenses and leases
23 for areas exceeding 25 acres shall be issued separately from the
24 department permit.

25 (d) No easement, right-of-way, lease or license may be
26 granted under this section which may adversely affect navigation
27 or significantly impair the public's right in lands held in
28 trust by the Commonwealth.

29 (e) No title, easement, right-of-way or other interest in
30 submerged lands or other real estate of the Commonwealth may be

1 granted except as expressly provided by this section or other
2 specific authority from the General Assembly.

3 Section 2. The Department of Environmental Protection shall
4 not collect or impose any annual charges under 25 Pa. Code §
5 105.35 for the use of submerged lands that are subject to the
6 provisions of section 15 of the act after the effective date of
7 this act.

8 Section 3. This act shall take effect immediately.