

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 544 Session of 2015

INTRODUCED BY MOUL, MILLARD, GREINER, GODSHALL, JAMES, KAUFFMAN, RAPP, A. HARRIS, SANKEY, BENNINGHOFF, M. K. KELLER, TALLMAN, BLOOM, HEFFLEY, HICKERNELL, GOODMAN, GABLER, TOPPER, MACKENZIE, HELM, BAKER, SAYLOR, MURT, PHILLIPS-HILL, DIAMOND, FEE, MASSER, CUTLER, HAHN, REGAN, SONNEY, EVERETT, BOBACK, RADER, DUSH AND MICCARELLI, MARCH 23, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 22, 2016

AN ACT

1 Amending the act of ~~February 2, 1965 (P.L.1860, No.586)~~ FEBRUARY <--
2 2, 1966 (1965 P.L.1860, NO.586), entitled "An act encouraging
3 landowners to make land and water areas available to the
4 public for recreational purposes by limiting liability in
5 connection therewith, and repealing certain acts," further
6 providing for liability for landowners to recreational users;
7 and providing for attorney fees and court costs.

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

10 Section 1. Section 1 of the act of ~~February 2, 1965~~ <--
11 ~~(P.L.1860, No.586)~~ FEBRUARY 2, 1966 (1965 P.L.1860, NO.586), <--
12 entitled "An act encouraging landowners to make land and water
13 areas available to the public for recreational purposes by
14 limiting liability in connection therewith, and repealing
15 certain acts," amended June 30, 2007 (P.L.42, No.11), is amended
16 to read:

17 Section 1. The purpose of this act is to encourage owners of
18 land to make land and water areas available to the public for

1 recreational purposes by limiting their liability[.] to:

2 (1) recreational users; and

3 (2) persons or property, ~~wherever located,~~ based on: <--

4 (i) acts of omission by landowners; or

5 (ii) acts or acts of omission by recreational users.

6 Section 2. Section 2 of the act, amended July 7, 2011

7 (P.L.254, No.47), is amended to read:

8 Section 2. As used in this act:

9 (1) "Land" means land, roads, water, watercourses, private

10 ways and buildings, amenities, structures, boating access and

11 launch ramps, bridges, fishing piers, boat docks, ramps, paths,

12 paved or unpaved trails, hunting blinds and areas providing

13 access to, or parking for, lands and waters, including, but not

14 limited to, access ramps, trails or piers for use by ~~persons~~ <--

15 RECREATIONAL USERS with disabilities, and machinery or equipment <--

16 when attached to the realty. The term applies to those areas and <--

17 physical objects whether they are in an unimproved condition or

18 a condition improved by manmade effort, whether they are large

19 or small in size and whether they are located in a rural or an

20 urban area.

21 (2) "Owner" means the possessor of a fee interest, a tenant,

22 lessee, occupant or person in control of the premises.

23 (3) "Recreational purpose" means any activity undertaken or

24 viewed for exercise, sport, education, recreation, relaxation or

25 pleasure and includes, but is not limited to, any of the

26 following, or any combination thereof: hunting, fishing,

27 swimming, boating, recreational noncommercial aircraft

28 operations or recreational noncommercial ultralight operations

29 on private airstrips, camping, picnicking, hiking, pleasure

30 driving, snowmobiling, all-terrain vehicle and motorcycle

1 riding, nature study, water skiing, water sports, cave
2 exploration and viewing or enjoying historical, archaeological,
3 scenic, or scientific sites.

4 (4) "Charge" means the admission price or fee asked in
5 return for invitation or permission to enter or go upon the
6 land. The term does not include in-kind contributions or
7 contributions made to an owner of real property that are de <--
8 minimis and given in consideration for making the real property
9 available for recreation purposes VOLUNTARY IN NATURE AND FOR <--
10 THE PURPOSE OF CONSERVING THE LAND.

11 (5) "Recreational user" means a person who enters or uses
12 land for a recreational purpose.

13 ~~(6) "Willful or malicious" means, in reference to an owner~~ <--
14 ~~of real property, an actual or deliberate intention by the owner~~
15 ~~to cause harm or which, if not intentional, shows an utter~~
16 ~~indifference to or conscious disregard for the safety of others.~~

17 Section 3. Section 3 of the act is amended to read:

18 Section 3. Except as specifically recognized or provided in
19 section 6 of this act, an owner of land owes no duty of care to
20 keep the premises safe for entry or use by [others for
21 recreational purposes] recreational users, or to give any
22 warning of a dangerous condition, use, structure, or activity on
23 such premises to [persons entering for such purposes]
24 recreational users.

25 Section 4. Section 4 of the act, amended June 30, 2007
26 (P.L.42, No.11), is amended to read:

27 Section 4. Except as specifically recognized by or provided
28 in section 6 of this act, an owner of land who either directly
29 or indirectly invites or permits without charge any [person]
30 recreational user to use such property [for recreational

1 purposes] does not thereby:

2 (1) Extend any assurance that the premises are safe for any
3 purpose.

4 (2) Confer upon such [person] recreational user the legal
5 status of an invitee or licensee to whom a duty of care is owed.

6 (3) Assume responsibility for or incur liability for any
7 injury to persons or property caused by an act of omission of
8 [such persons] a recreational user or landowner.

9 (4) Assume responsibility for or incur liability for any
10 injury to persons or property, wherever such persons or property
11 are located, caused while hunting as defined in 34 Pa.C.S. § 102
12 (relating to definitions).

13 Section 5. Sections 6 and 7 of the act are amended to read:

14 Section 6. Nothing in this act limits in any way any
15 liability which otherwise exists:

16 (1) For wilful or malicious failure to guard or warn against
17 a dangerous condition, use, structure, or activity.

18 (2) For injury suffered in any case where the owner of land
19 charges the [person or persons] recreational user or users who
20 enter or go on the land [for the recreational use thereof],
21 except that in the case of land leased to the State or a
22 subdivision thereof, any consideration received by the owner for
23 such lease shall not be deemed a charge within the meaning of
24 its section.

25 Section 7. Nothing in this act shall be construed to:

26 (1) Create a duty of care or ground of liability for injury
27 to persons or property.

28 (2) Relieve any [person using the land of another for
29 recreational purposes] recreational user from any obligation
30 which he may have in the absence of this act to exercise care in

1 his use of such land and in his activities thereon, or from the
2 legal consequences of failure to employ such care.

3 Section 6. The act is amended by adding a section to read:

4 Section 7.1. The court shall award attorney fees and direct
5 legal costs to an owner, lessee, manager, holder of an easement
6 or occupant of real property who is found not to be liable for
7 the injury to a person or property pursuant to this act.

8 Section 7. This act shall take effect in 60 days.