

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 544** Session of
2017

INTRODUCED BY MOUL, GREINER, PICKETT, KAUFFMAN, TOPPER,
MACKENZIE, SAYLOR, JAMES, MILLARD, BOBACK, EVERETT, TALLMAN,
WARD, MENTZER, A. HARRIS, ZIMMERMAN, HICKERNELL, GOODMAN,
GILLEN, ORTITAY, GABLER, HEFFLEY, CAUSER, JOZWIAK AND BARBIN,
MARCH 1, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 16, 2018

AN ACT

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

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

9 Section 1. Sections 1, 2, 3, 4, 6 and 7 of the act of
10 February 2, 1966 (1965 P.L.1860, No.586), entitled "An act
11 encouraging landowners to make land and water areas available to
12 the public for recreational purposes by limiting liability in
13 connection therewith, and repealing certain acts," are amended
14 to read:

15 Section 1. The purpose of this act is to encourage owners of
16 land to make land and water areas available to the public for
17 recreational purposes by limiting their liability[.] to:

18 (1) recreational users; and

1 (2) persons or property based on:

2 (i) acts of omission by landowners; or

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

4 Section 2. As used in this act:

5 (1) "Land" means land, roads, water, watercourses, private
6 ways and buildings, amenities, structures, boating access and
7 launch ramps, bridges, fishing piers, boat docks, ramps, paths,
8 paved or unpaved trails, hunting blinds and areas providing <--
9 access to, or parking for, lands and waters, including, but not
10 limited to, access ramps, trails or piers for use by
11 recreational users with disabilities, and machinery or equipment
12 when attached to the realty. THE TERM SHALL ALSO INCLUDE AREAS <--
13 PROVIDING ACCESS TO, OR PARKING FOR, LANDS AND WATERS,
14 INCLUDING, BUT NOT LIMITED TO, ACCESS RAMPS, TRAILS OR PIERS FOR
15 USE BY RECREATIONAL USERS WITH DISABILITIES.

16 (2) "Owner" means the possessor of a fee interest, a tenant,
17 lessee, occupant or person in control of the premises.

18 (3) "Recreational purpose" means any activity undertaken or
19 viewed for exercise, sport, education, recreation, relaxation or
20 pleasure and includes, but is not limited to, any of the
21 following, or any combination thereof: hunting, fishing,
22 swimming, boating, recreational noncommercial aircraft
23 operations or recreational noncommercial ultralight operations
24 on private airstrips, camping, picnicking, hiking, pleasure
25 driving, snowmobiling, all-terrain vehicle and motorcycle
26 riding, nature study, water skiing, water sports, cave
27 exploration [and], viewing or enjoying historical,
28 archaeological, scenic, or scientific sites~~].~~ and creation, <--
29 mapping or maintenance of trails to which an owner has granted
30 public access.

1 (4) "Charge" means the admission price or fee asked in
2 return for invitation or permission to enter or go upon the
3 land. The term does not include VOLUNTARY CONTRIBUTIONS, in-kind <--
4 contributions or contributions made to an owner of real property
5 that are voluntary in nature and for the purpose of conserving <--
6 the land. NOT RETAINED BY THE OWNER OF THE REAL PROPERTY AND ARE <--
7 USED BY THE OWNER OF THE REAL PROPERTY EXCLUSIVELY FOR ONE OR
8 MORE OF THE FOLLOWING PURPOSES:

9 (I) CONSERVING OR MAINTAINING THE LAND;

10 (II) PAYING TAXES ON THE REAL PROPERTY; OR

11 (III) PAYING FOR LIABILITY INSURANCE ON THE REAL PROPERTY.

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

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

21 Section 4. Except as specifically recognized by or provided
22 in section 6 of this act, an owner of land who either directly
23 or indirectly invites or permits without charge any [person]
24 recreational user to use such property [for recreational
25 purposes] does not thereby:

26 (1) Extend any assurance that the premises are safe for any
27 purpose.

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

30 (3) Assume responsibility for or incur liability for any

1 injury to persons or property caused by an act of omission of
2 [such persons] a recreational user or landowner.

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

7 Section 6. Nothing in this act limits in any way any
8 liability which otherwise exists:

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

11 (2) For injury suffered in any case where the owner of land
12 charges the [person or persons] recreational user or users who
13 enter or go on the land [for the recreational use thereof],
14 except that in the case of land leased to the State or a
15 subdivision thereof, any consideration received by the owner for
16 such lease shall not be deemed a charge within the meaning of
17 its section.

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

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

21 (2) Relieve any [person using the land of another for
22 recreational purposes] recreational user from any obligation
23 which he may have in the absence of this act to exercise care in
24 his use of such land and in his activities thereon, or from the
25 legal consequences of failure to employ such care.

26 Section 2. This act shall take effect in 60 days.