

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2310 Session of 2020

INTRODUCED BY DRISCOLL, McNEILL, MURT, HILL-EVANS, YOUNGBLOOD,
ROZZI, NEILSON AND HOHENSTEIN, FEBRUARY 24, 2020

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 24, 2020

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in immunities generally,
3 further providing for volunteer-in-public-service negligence
4 standard.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 8332.4 of Title 42 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 8332.4. Volunteer-in-public-service negligence standard.

10 (a) Services covered.--

11 [(1) Except as provided otherwise in this section, no
12 person who, without compensation and as a volunteer, renders
13 public services for a nonprofit organization under section
14 501(c)(3), (4) or (6) of the Internal Revenue Code of 1986
15 (68A Stat. 3, 26 U.S.C. § 501(c)(3), (4) or (6)) or for a
16 Commonwealth or local government agency conducting or
17 sponsoring a public service program or project shall be
18 liable to any person for any civil damages as a result of any
19 acts or omissions in rendering such services unless the

1 conduct of such person falls substantially below the
2 standards generally practiced and accepted in like
3 circumstances by similar persons rendering such services and
4 unless it is shown that such person did an act or omitted the
5 doing of an act which such person was under a recognized duty
6 to another to do, knowing or having reason to know that such
7 act or omission created a substantial risk of actual harm to
8 the person or property of another. It shall be insufficient
9 to impose liability to establish only that the conduct of
10 such person fell below ordinary standards of care.

11 (2) Except as provided otherwise in this section, no
12 design professional who, without compensation and as a
13 volunteer, provides professional services related to a
14 declared national, State or local emergency caused by a major
15 earthquake, hurricane, tornado, explosion, collapse or other
16 similar disaster or catastrophic event at the request of or
17 with the approval of a Federal, State or local public
18 official, law enforcement official, public safety official or
19 building inspection official acting in an official capacity
20 shall be liable to any person for any civil damages as a
21 result of any acts or omissions in rendering such services
22 unless the conduct of such design professional falls
23 substantially below the standards generally practiced and
24 accepted in like circumstances by similar persons rendering
25 such professional services and unless it is shown that such
26 design professional did an act or omitted the doing of an act
27 which such design professional was under a recognized duty to
28 another to do, knowing or having reason to know that such act
29 or omission created a substantial risk of actual harm to the
30 person or property of another. It shall be insufficient to

1 impose liability to establish only that the conduct of such
2 design professional fell below ordinary standards of care.]

3 Except as provided in this section, the following persons and
4 organizations shall not be liable for any civil damages as a
5 result of any acts or omissions in rendering a volunteer
6 public service program or project:

7 (1) a person who, without compensation and as a
8 volunteer for a public service program or project, renders
9 public services for a volunteer park organization or for a
10 Commonwealth agency or political subdivision; or

11 (2) a volunteer park organization conducting a public
12 service program or project, including the organization's
13 officers and directors in any circumstance in which the
14 officer or director is subject to personal liability as a
15 representative of the organization.

16 (a.1) Limitation on exemption.--The provisions of subsection
17 (a) shall not apply if:

18 (1) the conduct of the person or organization under
19 subsection (a) falls substantially below the standards
20 generally practiced and accepted in like circumstances by
21 similar persons or organizations rendering similar services,
22 programs or projects; and

23 (2) it is shown that the person or organization
24 conducted or omitted any act that the person or organization
25 was under a recognized duty to another to do, knowing or
26 having reason to know that the act or omission created a
27 substantial risk of actual harm to the person or property of
28 another.

29 (a.2) Standard of conduct.--A person or organization
30 identified in subsection (a.1)(1) or (2) shall not be liable if

1 a claimant establishes only that the person's or volunteer park
2 organization's conduct fell below the standard of ordinary
3 negligence.

4 (b) Exceptions.--The following limitations shall apply:

5 (1) [Nothing in this section shall be construed as
6 affecting or modifying the liability of such person for acts
7 or omissions relating to the transportation of participants
8 in a public service program or project or others to or from a
9 public service program or project.] Nothing in this section
10 shall be construed to limit, affect, modify or otherwise
11 preclude the liability of a person or volunteer park
12 organization for gross negligence, intentional misconduct,
13 reckless misconduct or for acts or omissions relating to the
14 transportation of participants in a public service program or
15 project or others to or from a public service program or
16 project.

17 (2) [Nothing in this section shall be construed as
18 affecting or modifying any existing legal basis for
19 determining the liability, or any defense thereto, of any
20 person not covered by the standard of negligence established
21 by this section.] Nothing in this section shall be construed
22 to limit, affect or modify any legal basis for determining
23 the liability, or any defense to liability, of any person or
24 organization not covered by the standard of negligence
25 established by this section.

26 (c) Assumption of risk or contributory fault.--Nothing in
27 this section shall be construed as affecting or modifying the
28 doctrine of assumption of risk or contributory fault on the part
29 of the participant.

30 (d) Construction.--The negligence standard created by this

1 section shall not be deemed to abrogate or lessen any immunity
2 or other protection against liability granted by statute or
3 court decision.

4 (e) Definitions.--As used in this section, the following
5 words and phrases shall have the meanings given to them in this
6 subsection:

7 "Compensation." The term shall not include reimbursement for
8 reasonable expenses actually incurred or to be incurred in
9 connection with public services for a volunteer park
10 organization or for the Commonwealth or an agency of a political
11 subdivision.

12 "Design professional." An individual licensed by the
13 Commonwealth of Pennsylvania as an architect, geologist, land
14 surveyor, landscape architect or professional engineer.

15 "Public service program or project." An organized program or
16 project, or other public service ordinarily conducted or
17 rendered by [volunteers] a volunteer park organization on or in
18 a publicly accessible recreation facility, including a ball
19 field, forest, lake, park, reservoir, wetland, wildlife preserve
20 or woodland or any building or other structure used by users of
21 a recreation facility.

22 "Volunteer park organization." An independent volunteer-
23 based not-for-profit organization that is dedicated to the care,
24 enhancement, preservation, restoration or maintenance of a
25 publicly accessible recreation facility or public service
26 program or project.

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