
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 544 Session of
2013

INTRODUCED BY MOUL, CAUSER, BLOOM, SWANGER, CUTLER, TALLMAN,
MILLARD, READSHAW, HESS, AUMENT, KAUFFMAN, C. HARRIS,
PICKETT, LAWRENCE, GOODMAN, GILLEN, SAYLOR, GABLER, MASSER,
MACKENZIE, PEIFER, EVERETT AND HAHN, FEBRUARY 6, 2013

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,
FEBRUARY 6, 2013

AN ACT

1 Amending the act of February 2, 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; and providing for attorney fees and
7 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), entitled "An act encouraging landowners to
12 make land and water areas available to the public for
13 recreational purposes by limiting liability in connection
14 therewith, and repealing certain acts," amended June 30, 2007
15 (P.L.42, No.11), is amended to read:

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

19 (1) recreational users; and

1 (2) persons or property, wherever located, based on:

2 (i) acts of omission by landowners; or

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

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

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

6 Section 2. As used in this act:

7 (1) "Land" means land, roads, water, watercourses, private
8 ways and buildings, amenities, structures, boating access and
9 launch ramps, bridges, fishing piers, boat docks, ramps, paths,
10 paved or unpaved trails, hunting blinds, and areas providing
11 access to, or parking for, lands and waters, including, but not
12 limited to, access ramps, trails or piers for use by persons
13 with disabilities, and machinery or equipment when attached to
14 the realty. The term applies to those areas and physical objects
15 whether they are in an unimproved condition or a condition
16 improved by manmade effort, whether they are large or small in
17 size and whether they are located in a rural or an urban area.

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

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

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 shall not include in-kind contributions or
4 contributions made to an owner of real property that are de
5 minimis and given in consideration for making the real property
6 available for recreation purposes.

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

9 (6) "Willful or malicious" means, in reference to an owner
10 of real property, an actual or deliberate intention by the owner
11 to cause harm or which, if not intentional, shows an utter
12 indifference to or conscious disregard for the safety of others.

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

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

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

28 (1) Extend any assurance that the premises are safe for any
29 purpose.

30 (2) Confer upon such [person] recreational user the legal

1 status of an invitee or licensee to whom a duty of care is owed.

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

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

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

10 Section 6. Nothing in this act limits in any way any
11 liability which otherwise exists:

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

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

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

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

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

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

30 Section 7.1. The court shall award attorney fees and direct

1 legal costs to an owner, lessee, manager, holder of an easement
2 or occupant of real property who is found not to be liable for
3 the injury to a person or property pursuant to this act.

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