

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 72 Session of 2015

INTRODUCED BY ALLOWAY, VULAKOVICH, RAFFERTY, STEFANO, VOGEL,  
BOSCOLA, WHITE AND SCARNATI, JANUARY 14, 2015

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 14, 2015

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; 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, 1966 (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

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

1 (i) acts of omission by landowners; or

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

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

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

5 Section 2. As used in this act:

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

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

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

30 (4) "Charge" means the admission price or fee asked in

1 return for invitation or permission to enter or go upon the  
2 land. The term shall not include in-kind contributions or  
3 contributions made to an owner of real property which are de  
4 minimis and given in consideration for making the real property  
5 available for recreation purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5     Section 7. This act shall take effect immediately.