

Pennsylvania Fish & Boat Commission Report

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Recreational Use of Land and Water Act

Pennsylvania is blessed with miles and miles of publicly accessible shoreline from which to access our streams, rivers, ponds, and lakes. Chances are that we can all think of a favorite state park, state forest, game land, or Pennsylvania Fish and Boat Commission (PFBC) lake or public access site along a flowing water.

Public access has been and continues to be a priority for our agency. One of the best examples is the work that we do with willing landowners to grant angler access along the tributaries to Lake Erie which is supported by proceeds from the Lake Erie Permit. Pennsylvania's Fishing and Boating Access

Strategy provides the PFBC, the Pennsylvania Department of Conservation and Natural Resources (DCNR), and many other important partners, such as local governments and conservation organizations, with the necessary tools to make sound decisions on the discovery and selection of priority access points, acquisition of key properties, and the design, development, and improvement of new or existing facilities.

While we do everything we can to preserve public access areas, the reality is that the majority of our waterways are, and will always be, surrounded by private lands. Realizing that the long-term survival of fishing and boating

LBFC repeated a finding from a similar audit done in 2008. In each case, the LBFC acknowledged the shortcomings of RULWA and recommended that the General Assembly consider amending it consistent with House Bill 544.

The LBFC did an excellent job of summarizing the issues behind the need for the fishing and boating related improvements to RULWA. The following text is taken directly from the LBFC's 2010 report entitled A Performance Audit of the Pennsylvania Fish and Boat Commission. The full report may be found at <http://lbfc.legis.state.pa.us/>.

The LBFC made the following observations on pages 90-92 of its analysis of our agency's efforts to improve public access to the Commonwealth's waters:

Pennsylvania has a long history of private landowners allowing the public access to stream-side lands for fishing. In fact, 83 percent of stocked trout waters are on private lands, as are 70 percent of wild trout waters, and 59 percent of Class A trout waters. Many prime fishing destinations in the Commonwealth, however, have become difficult or impossible to access due to landowners posting no trespassing signs on their properties.

Boaters and anglers are, therefore, increasingly experiencing difficulties in gaining access to areas where they can launch boats and/or fish. The establishment of private fishing clubs and private leases has restricted public fishing at locations that have previously been open to the public. According to the PFBC, 47 percent of anglers responding to the 2008 Pennsylvania Trout Fishing Survey indicated that private land posting is a problem. . . .

ing in Pennsylvania depends, in large part, on the generosity of landowners to allow people to connect with the water from their land, the PFBC has been strongly supportive of the efforts led by Representative Dan Moul to make needed improvements to the Recreational Use of Land and Water Act (RULWA) with House Bill 544.

This support is bolstered by the findings of the Legislative Budget and Finance Committee (LBFC), which has consistently recognized the need to amend RULWA to help continue to promote access to Commonwealth lands and waters by anglers and boaters.

In its 2010 audit of our agency (their next triennial audit is expected to be released before this issue of On Target reaches your mailbox), the



John with the Pirate Parrot at Conservation Night at PNC Park where the Pirates recognized the PFBC's 150th anniversary.



The Recreational Use of Land and Water Act (RULWA), 68 P.S. §477-1 et seq., was enacted in 1966 to encourage land owners to make land and water areas available for public recreational purposes and limits a property owner's liability toward persons entering their property, providing the landowner opens his property free of charge to the public for recreational use, and makes no requirement that the landowner keep his property safe for recreational purposes or warn the public of any dangerous property conditions. While the definition of "land" under the RULWA specifically includes "buildings, structures and machinery or equipment when attached to the realty," Pennsylvania courts have held that RULWA coverage does not extend to certain situations concerning property that has been improved.

As noted in our 2008 report, the PFBC believes the protection afforded by the RULWA is a major factor leading many public and private landowners to permit free public hunting, fishing, boating, and other recreational uses of lands and waters. However, the PFBC

still considers it unclear as to whether the legal protections of the RULWA apply to fishing and boating related improvements to realty such as access ramps and paths (including ramps for persons with disabilities), fishing and boating piers, boat launch ramps, docks, stream improvement projects, dams and impoundments, and parking lots, for example. The lack of legal clarity as to what fishing and boating related improvements to land are covered under the RULWA has reportedly discouraged some landowners, clubs, and organizations from going forward with proposed projects.

A landowner can still be liable where he either charges a fee for the use of the land or acts willfully or maliciously in failing to guard or warn against a dangerous condition.

Building on this analysis, the LBFC offered the following recommendation: The General Assembly should consider amending the RULWA . . . by clarifying and broadening the scope of legal protection afforded by the act to cover certain fishing and boating related improvements to land, which could in-

clude improvements such as boating access and launch ramps, fishing piers, boat docks, ramps, access to and parking for these areas, and hiking trails. (Page S-11).

House Bill 544 directly addresses the issues identified by the LBFC. The PFBC agreed with the LBFC's recommendations, and we support House Bill 544 as a means to provide landowners further incentive to maintain those lands currently open to recreational fishing and boating. This will hopefully encourage additional landowners to allow public access to more miles of Pennsylvania waterways.

In my time with the PFBC, it has always been gratifying to see diverse coalitions come together for a common goal, and that is certainly the case here, with 30 organizations joining together in support of House Bill 544. Led by the energy and dedication of Fred Browne, the groups include the Pennsylvania Federation of Sportsmen's Clubs, Unified Sportsmen of Pennsylvania, National Rifle Association, Pennsylvania Land Trust Association, Pennsylvania Environmental Council, and numerous

other outdoor, agricultural, local government, and business interests.

We were happy to see the bill pass out of the House of Representatives in April and have remained an active member of this unique coalition of groups who are advocating for its passage in the Senate this legislative session. If the Senate has not acted on House Bill 544 by the time you read this, I encourage you to take a few minutes to contact your local Senator to let him or her know your support for the bill and its importance to ensuring long-term access to Pennsylvania's water resources. **PFBC**



Commissioner Len Lichvar, John Arway, Commissioners Glade Squires, Rocco Ali and Eric Hussar at PNC Park for Conservation Night

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