

2A: 42A-8

# LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 2A:42A-8 (Private property--public access--  
absolve owners and lessees from  
liability)

**LAWS OF:** 1989 **CHAPTER:** 172

**Bill No:** S1534

**Sponsor(s):** Pallone

**Date Introduced:** Pre-filed

**Committee:** **Assembly:** Insurance

**Senate:** Energy and Environment

**Amended during passage:** Yes Amendments during passage  
denoted by asterisks

**Date of Passage:** **Assembly:** June 29, 1989

**Senate:** August 4, 1988

**Date of Approval:** August 17, 1989

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee Statement:** **Assembly:** Yes

**Senate:** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator PALLONE

AN ACT concerning the limitation of liability of owners, lessees,  
and occupants of certain premises, and supplementing Title 2A  
of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the  
State of New Jersey:*

1. An owner, lessee or occupant of premises upon which public  
access has been required as a condition of a regulatory approval  
of, or by agreement with, the Department of Environmental  
Protection, regardless of whether public notice is provided,  
[owes no duty to keep the premises safe for entry or use by  
others] shall be liable only for:

a. willful or malicious failure to guard, or to warn against, a  
dangerous condition, use, structure or activity; or

b. injury <sup>3</sup>[suffered in any case] caused by acts of negligence  
on the part of the owner, lessee or occupant of the premises to  
any person<sup>3</sup> where permission to engage in sport or recreational  
activity on the premises was granted for a consideration other  
than the consideration, if any, paid to the landowner by the State;

or

c. injury caused by acts of gross negligence on the part of the  
owner, lessee, or occupant of the premises <sup>3</sup>[; or

d. injuries suffered by] to<sup>3</sup> any person entering or using the  
land for a use or purpose unrelated to public access purposes.<sup>2</sup>

<sup>2</sup>[2. This act shall not limit the liability which would otherwise  
exist:

a. For willful or malicious failure to guard, or to warn against,  
a dangerous condition, use, structure or activity; or

b. For injury suffered in any case where permission to engage  
in sport or recreational activity on the premises was granted for  
a consideration other than the consideration, if any, paid to the  
landowner by the State; or

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SEN committee amendments adopted April 25, 1988.

<sup>2</sup> Senate floor amendments adopted June 27, 1988.

<sup>3</sup> Assembly AIN committee amendments adopted June 19, 1989.

2 c. For injury caused<sup>1</sup>[,]<sup>1</sup> by acts of <sup>1</sup>[persons to whom  
2 permission to engage in sport or recreational activity was  
4 granted, to other persons as to whom the person granting  
4 permission, or the owner, lessee or occupant of the premises,  
6 owes a duty to keep the premises safe or to warn against a  
6 dangerous condition, use, structure or activity] gross negligence  
6 on the part of the owner, lessee, or occupant of the premises<sup>1</sup>; or

8 d. For injuries suffered by any person entering or using the  
land for a use of purpose unrelated to public access purposes.]<sup>2</sup>

10 <sup>3</sup>[<sup>2</sup>2. The Department of Environmental Protection shall be  
12 responsible for maintaining in a safe condition any walkways,  
12 roads, structures or other facilities the purpose of which is to  
14 promote public access which the department requires any person  
14 to provide as a condition of a regulatory approval of, or by  
14 agreement with, the department.<sup>2</sup>]<sup>3</sup>

16 <sup>3</sup>[<sup>3</sup>.] <sup>3</sup>2. This act shall take effect immediately.

18

## ENVIRONMENT

20

### Public Safety

22 Absolves owners, lessees or occupants of premises upon which  
public access is required for injuries to others.

1

## STATEMENT

3       This bill would limit the liability of owners, lessees or  
occupants of premises upon which public access has been  
5       required as a condition of a regulatory approval of, or by  
agreement with, the Department of Environmental Protection  
7       for injuries which occur on their property. This measure would  
alleviate the fear of reprisal by injured parties and encourage  
9       the cooperation of owners, lessees or occupants with the  
Department of Environmental protection in providing public  
11      access areas.

          This limitation on liability would not apply to (1) willful or  
13      malicious failure to guard against dangerous or unsafe  
conditions; (2) injuries suffered by persons paying to use the  
15      property; (3) injuries caused by persons to other persons to whom  
the owner of the land owes a duty to keep the land safe; (4)  
17      injuries suffered by any person entering or using the land for a  
purpose unrelated to public access purposes; and (5) the failure  
19      to warn of any hazardous condition or structure existing on the  
land.

21

23

## ENVIRONMENT

## Public Safety

25

Absolves owners, lessees or occupants of premises upon which  
27      public access is required for injuries to others.

51534

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

[SECOND REPRINT]

SENATE, No. 1534

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 1989

The Assembly Insurance Committee reports favorably Senate Bill No. 1534 [2R] with committee amendments.

This bill would limit the liability of owners, lessees, or occupants of premises upon which public access has been required as a condition of a regulatory approval of, or by agreement with, the Department of Environmental Protection (DEP) for injuries which occur on their property.

As amended by the committee, an owner, lesser or occupant would be liable only for: (1) willful or malicious failure to guard or warn against dangerous conditions; (2) injuries caused by acts of negligence on the part of the owner, lessee or occupant to persons paying to use the property; or (3) injuries caused by acts of gross negligence on the part of the owner, lessee or occupant to any person entering or using the land for a purpose unrelated to public access purposes.

As passed by the Senate, the limitation on liability would not have applied to (1) willful or malicious failure to guard or warn against dangerous conditions; (2) injuries suffered by persons paying to use the property; (3) injuries caused by acts of gross negligence on the part of the owner, lessee or occupant; or (4) injuries suffered by any person entering or using the land for a purpose unrelated to public access purposes.

The committee amendments also eliminate the provision which made DEP responsible for maintaining the safe condition of walkways, roads, structures or other facilities required to promote public access as a condition of approval of, or by agreement with, the department.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1534

with Senate committee amendments

STATE OF NEW JERSEY

DATED: APRIL 25, 1988

The Senate Energy and Environment Committee favorably reports Senate Bill No. 1534 with Senate committee amendments.

As amended by the Committee, this bill would limit the liability of owners, lessees or occupants of premises upon which public access has been required as a condition of a regulatory approval of, or by agreement with, the Department of Environmental Protection for injuries which occur on their property.

This limitation on liability would not apply to (1) willful or malicious failure to guard or warn against dangerous or unsafe conditions; (2) injuries suffered by persons paying to use the property; (3) injuries caused by acts of gross negligence on the part of the owner, lessee or occupant; and (4) injuries suffered by any person entering or using the land for a purpose unrelated to public access purposes.

This bill was prefiled for introduction in the 1988 session pending technical review. As reported by the committee this bill includes any changes required by technical review.