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By: **Delegate Shriver**

Introduced and read first time: March 1, 1999

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Natural Resources - Public Recreation on Private and Public Land -**  
3                                   **Liability**

4 FOR the purpose of making certain provisions concerning duty of care and liability  
5 applicable to certain land owned by the State or a political subdivision used for  
6 certain recreational or educational purposes; authorizing the State or a political  
7 subdivision to waive certain provisions concerning duty of care and liability by  
8 designating certain land as protected recreation land; authorizing the State or a  
9 political subdivision to designate certain improvements as a hazardous  
10 recreational facility if the State or political subdivision determines that a certain  
11 improvement involves an inherently dangerous activity; prohibiting a cause of  
12 action for damages against the State or a political subdivision incurred by  
13 certain participants or spectators on land designated as a hazardous  
14 recreational facility; prohibiting a cause of action for damages against certain  
15 persons incurred by certain trail users from the condition, design, development,  
16 or maintenance of a trail; providing for certain exceptions from certain  
17 prohibitions against bringing certain causes of action for causes of action  
18 involving malice or gross negligence; requiring the Department of Natural  
19 Resources to adopt certain regulations; requiring a certain officer to maintain a  
20 copy of a certain designation of land; defining certain terms; altering a  
21 definition; and generally relating to liability on land used for recreation.

22 BY repealing and reenacting, with amendments,  
23 Article - Natural Resources  
24 Section 5-1101(b), (e), and (f) and 5-1105 to be under the amended subtitle  
25 "Subtitle 11. Public Recreation on Private and Public Lands"  
26 Annotated Code of Maryland  
27 (1997 Replacement Volume and 1998 Supplement)

28 BY adding to  
29 Article - Natural Resources  
30 Section 5-1110  
31 Annotated Code of Maryland  
32 (1997 Replacement Volume and 1998 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Natural Resources**

4 Subtitle 11. Public Recreation on Private [Land] AND PUBLIC LANDS.

5 5-1101.

6 (b) (1) "Charge" means price or fee asked for services, entertainment,  
7 recreation performed, or products offered for sale on land or in return for invitation or  
8 permission to enter or go upon land.

9 (2) "CHARGE" DOES NOT INCLUDE:

10 (I) THE SHARING OF GAME, FISH, OR OTHER PRODUCTS OF  
11 RECREATIONAL USE;

12 (II) BENEFITS TO THE LAND ARISING FROM THE RECREATIONAL  
13 USE;

14 (III) CONTRIBUTIONS IN KIND, SERVICES, OR CASH MADE TO THE  
15 MANAGEMENT OR CONSERVATION OF RESOURCES ON THE LAND; OR

16 (IV) A FEE CHARGED BY A UNIT OF STATE OR LOCAL GOVERNMENT  
17 THAT, IN THE DETERMINATION OF THE UNIT, COVERS ONLY THE REASONABLE  
18 COSTS OF MAKING THE LAND AVAILABLE TO USERS.

19 (e) "Owner" means [the possessor of] A PERSON WHO HAS a fee interest, A  
20 tenant, A lessee, or ANOTHER person who possesses the premises.

21 (f) "Recreational purpose" includes the following or any combination of the  
22 following: Hunting, fishing, swimming, boating, camping, picnicking, hiking,  
23 BICYCLING, pleasure driving, nature study, water skiing, winter sports, horseback  
24 riding or horse driving, operating motorized recreational vehicles, jogging, marathon  
25 racing, hang gliding, hot air ballooning, and operating light airplanes and other forms  
26 of recreational aircraft, and viewing or enjoying historical, archaeological, scenic, or  
27 scientific sites.

28 5-1105.

29 (A) IN THIS SECTION, "LAND" INCLUDES AN UNPAVED ROAD, WAY, PATH, OR  
30 TRAIL.

31 (B) Unless otherwise agreed in writing, the provisions of §§ 5-1103 and 5-1104  
32 OF THIS SUBTITLE are applicable to any duty and liability of an owner of land leased  
33 to the State or any of its political subdivisions OR TO LAND OWNED BY THE STATE OR  
34 ANY OF ITS POLITICAL SUBDIVISIONS for any recreational or educational purpose.

1 (C) (1) THE STATE MAY WAIVE THE PROVISIONS OF §§ 5-1103 AND 5-1104 OF  
2 THIS SUBTITLE BY DESIGNATING BY REGULATION PARTICULAR LAND OWNED BY OR  
3 LEASED TO THE STATE AS PROTECTED RECREATION LAND.

4 (2) A POLITICAL SUBDIVISION MAY WAIVE THE PROVISIONS OF §§ 5-1103  
5 AND 5-1104 OF THIS SUBTITLE BY DESIGNATING BY REGULATION PARTICULAR LAND  
6 OWNED BY OR LEASED TO A POLITICAL SUBDIVISION AS PROTECTED RECREATION  
7 LAND.

8 (D) (1) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (B) OF THIS  
9 SECTION, WHEN THE STATE OR A POLITICAL SUBDIVISION DETERMINES THAT A  
10 PARTICULAR RECREATIONAL IMPROVEMENT ON LAND OWNED BY OR LEASED TO  
11 THE STATE OR THE POLITICAL SUBDIVISION, AS APPROPRIATE, INVOLVES AN  
12 ACTIVITY THAT IS INHERENTLY DANGEROUS, THE IMPROVEMENT MAY BE  
13 DESIGNATED BY REGULATION AS A HAZARDOUS RECREATIONAL FACILITY.

14 (2) (I) THIS PARAGRAPH DOES NOT APPLY TO A CAUSE OF ACTION  
15 THAT INVOLVES MALICE OR GROSS NEGLIGENCE ON THE PART OF THE STATE OR A  
16 POLITICAL SUBDIVISION, AS APPROPRIATE.

17 (II) A CAUSE OF ACTION FOR DAMAGES MAY NOT ACCRUE AND A  
18 PERSON MAY NOT SEEK CONTRIBUTION OR INDEMNITY FOR DAMAGES AGAINST THE  
19 STATE OR A POLITICAL SUBDIVISION, AS APPROPRIATE, INCURRED BY PARTICIPANTS  
20 OR SPECTATORS ON LAND DESIGNATED AS A HAZARDOUS RECREATIONAL FACILITY.

21 (E) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO DESIGNATE  
22 LAND UNDER THIS SECTION.

23 (2) THE OFFICER RESPONSIBLE FOR RECEIVING CLAIMS UNDER TITLE 5,  
24 SUBTITLES 3 AND 5 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE AND  
25 TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE SHALL MAINTAIN A  
26 COPY OF A DESIGNATION OF LAND UNDER THIS SECTION.

27 5-1110.

28 (A) THE PURPOSE OF THIS SECTION IS TO ENCOURAGE DEVELOPMENT AND  
29 MAINTENANCE OF TRAIL SYSTEMS AND TO PLACE THE BURDEN OR THE  
30 RESPONSIBILITY OF USE ON TRAIL USERS.

31 (B) (1) THIS SUBSECTION DOES NOT APPLY TO A CAUSE OF ACTION THAT  
32 INVOLVES MALICE OR GROSS NEGLIGENCE ON THE PART OF THE STATE OR A  
33 POLITICAL SUBDIVISION, AS APPROPRIATE.

34 (2) A CAUSE OF ACTION FOR DAMAGES MAY NOT ACCRUE AND A PERSON  
35 MAY NOT SEEK CONTRIBUTION OR INDEMNITY FOR DAMAGES AGAINST THE OWNER  
36 OF A TRAIL OR A PERSON INVOLVED IN THE DESIGN, DEVELOPMENT, OR  
37 MAINTENANCE OF A TRAIL INCURRED BY TRAIL USERS FROM THE CONDITION,  
38 DESIGN, DEVELOPMENT, OR MAINTENANCE OF A TRAIL.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 1999.