

No. 1978-41

AN ACT

HB 3

Authorizing the Commonwealth of Pennsylvania, through the Department of Environmental Resources, to enter into such agreements and to acquire such interest as may be necessary to establish, protect and maintain the Appalachian Trail, and providing for the establishment, protection and maintenance of such trail.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the "Pennsylvania Appalachian Trail Act."

Section 2. Policy and purpose.

In order to implement Article I, section 27 of the Constitution of Pennsylvania with respect to the Appalachian Trail in Pennsylvania as a source of natural, scenic, historic and esthetic values to be preserved and as a public natural resource to be conserved and maintained for the benefit of all the people, the General Assembly finds as a matter of legislative policy that planning and zoning by a municipality, as municipality is defined in the act of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania Municipalities Planning Code," as amended, to implement Article I, section 27 is a valid exercise of the police power under that code.

Section 3. Powers of department.

(a) The Commonwealth of Pennsylvania, through the Department of Environmental Resources, hereinafter referred to as the department, is authorized independent of any action by a municipality under section 4 to enter into written cooperative agreements with political subdivisions, landowners, private organizations and individuals and to acquire by agreement, gift, eminent domain or purchase, land, rights-of-way and easements for the purpose of establishing, protecting and maintaining a walking trail right-of-way across this Commonwealth, now generally known as the Appalachian Trail, under such terms and conditions, including payment by the department in lieu of property taxes on trail lands or property so acquired or subject to such use in accordance with the act of May 17, 1929 (P.L.1798, No.591) referred to as the Forest Reserves Municipal Financial Relief Law, as shall protect the interests of the actual or adjacent landowners, or land users and as shall further the purposes of this act. In the event of acquisition by eminent domain of land other than tillable farmland, the total amount of land so acquired shall not exceed an average of 125 acres per mile of trail; and in the event of acquisition by eminent domain of tillable farmland, such acquisition of such land shall be limited to a footpath with a width of not more than 25 feet across such land

until the owner of such land evidences plans to convert the land to nonfarming use. Any department or agency of the Commonwealth, or any political subdivision, may transfer to the department land or rights in land for these purposes, on terms and conditions as agreed upon, or may enter into an agreement with the department providing for the establishment and protection of the trail.

(b) The Appalachian Trail shall be held, developed and administered primarily as a footpath, consonant with the provisions of the National Trails Systems Act applicable to the Appalachian Trail as part of the National Scenic Trails System, and the natural scenic beauty thereof shall be preserved insofar as is practicable. The use of motorized vehicles by the general public along the trail is prohibited: Provided, That the owner of private land over which the trail passes may use or authorize use of motorized vehicles on or across the trail for nonrecreational purposes incident to ownership and management of the land: And, provided further, That the department may authorize use of the trail by motorized emergency vehicles. The department may permit other uses of the trail and land acquired hereunder, by the owner of adjoining land or others, in a manner and for purposes as will not substantially interfere with the primary use of the trail, and may grant temporary or permanent rights-of-way across lands acquired under this act under terms and conditions deemed advisable. Nothing in this act shall be construed to limit the right of the public to pass over public roads which are part of the trail, or to prevent the department from performing work necessary for the purpose of forest fire prevention and control, insect, pest and disease control, and the removal of damage caused by natural disaster, or to prohibit or authorize the prohibition of the construction, operation or maintenance by a public utility of overhead or underground facilities at points of intersection with or in close proximity to the trail. The department may enter into cooperative agreements with agencies of the Federal Government, political subdivisions or with private organizations to provide for the maintenance of the trail. No person who has granted a right-of-way for the trail across his land, or his successors in title, shall be liable to any user of the trail for injuries suffered on such portion of the trail unless the same are caused by his willful or wanton misconduct.

Section 4. Municipalities; powers and duties.

Political subdivisions, including municipalities as defined in the Pennsylvania Municipalities Planning Code, through which the Appalachian Trail passes shall have the power and their duty shall be to take such action consistent with applicable law, as at least an interim measure, to preserve the natural, scenic, historic and esthetic values of the trail and to conserve and maintain it as a public natural resource. Such municipalities may act hereunder in that section of the municipality through which the Appalachian Trail passes without zoning the entire municipality as required under section 605 of the Pennsylvania Municipalities Planning Code.

Section 5. Pennsylvania Appalachian Trail Committee.

The secretary shall appoint a Pennsylvania Appalachian Trail Committee consisting of not more than nine persons who shall be selected to represent the different Appalachian Trail interests and for the purpose of advising him in matters relating to the Appalachian Trail.

Section 6. Effective date.

This act shall take effect July 1, 1977.

APPROVED—The 28th day of April, A. D. 1978.

MILTON J. SHAPP