

NJ Beach Access:

Do Beach Badges Violate the Public Trust Doctrine?

AVON-BY-THE-SEA
NORWOOD AVENUE

NO SWIMMING
Lifeguard Off Duty

UNPROTECTED BEACH

Beach Tags Required
9 am - 5 pm, Sat. & Sun. 9 am - 5:30 pm
(Age 11 and under, Free)

Tags Must Be Displayed On Your Person Before Entering Gate And While On Beach.
Transfers Not Permitted. Footwear Required On Boardwalk.

THE FOLLOWING ARE PROHIBITED ON BEACH AND BOARDWALK:

- Alcoholic Beverages
- Smoking or vaping (beach, boardwalk and jetty)
- Dogs and other pets
- Music
- Bicycles - Skateboards - Rollerblades or Scooters (except midnigh to 9 am)
- Tents and canopies (exception: occupied by infant only and a maximum of 36" x 36" x 36" in size)
- Changing of clothes or showering with shampoo or soap
- Drones
- Walking on the jetty or barefoot on boardwalk
- Fire or any other combustibles including but not limited to Sterno propane, gas flames or electric burners.
- Tables, stands, boards and other products to function as a table
- Serving trays, warming trays or other devices utilized for preparation and serving of food.
- Discarding of refuse - except in designated containers
- Persons on beach midnigh to 6 am (except fishermen)
- Conduct which endangers the safety and comfort of others.

As Per Borough Ordinance 64-8-1c



RIP CURRENTS
Break the Grip of the Rip

SAFETY
• Do not swim alone
• Do not swim in the rip current area
• Do not swim in the rip current area
• Do not swim in the rip current area



Roadmap

1. What is the Public Trust Doctrine?
2. Why do we pay to access most NJ beaches?
3. Existing Legal Framework
4. Do beach badges violate the PTD?
5. Proposals to better uphold the rights granted in the PTD.

The Public Trust Doctrine

Definition = The principle that certain natural and cultural resources are *preserved for public use*, and that the government owns and must protect and maintain these resources for the public's use.

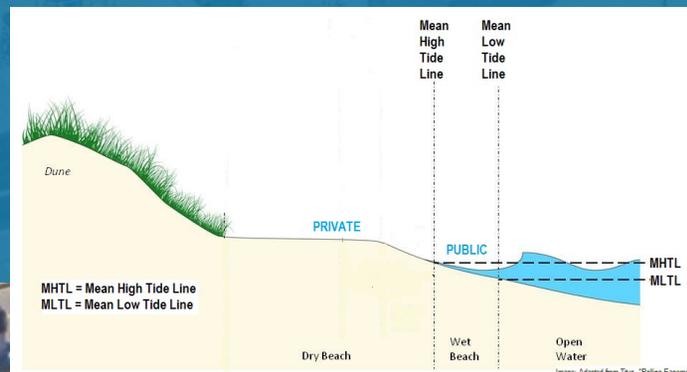
In NJ, the Public Trust Doctrine applies to tidal waterways and their shores in the state and establishes that:

- the right of the public to fully utilize these lands and waters for a variety of public activities must be protected.

(navigation, commerce, fishing, swimming, bathing, sunbathing, and walking along tidal waterways and their shores)

- the state must ensure adequate access to public trust sites

(Linear/Lateral Access, Perpendicular Access, Visual Access)



Why Do We Pay?

In 1929, the town of Bradley Beach was the first town to require beach badges.

Why? - To *limit beach access* to town residents and visitors in town hotels. But quickly was recognized as a revenue generating method.

Other beach towns followed suit - only 7 free beaches.

"All of the money collected from the beach badge sales may only be utilized for the functioning of the beach," said Kelly Barrett, borough administrator for Bradley Beach. "It's very costly to run the beaches."

Many NJ towns have started requiring payment for beachfront parking. - not public trust land

Existing Legal Framework

BOROUGH OF NEPTUNE v. AVON-BY-THE-SEA, 61 N.J. 296 (1972), New Jersey Supreme Court, 1972

- The court determined that the public's rights under the Public Trust Doctrine extend to bathing, swimming and other shore activities.
- Municipalities may not discriminate in any way between their residents and nonresidents via badge fees.

05/3/2019

Gov. Phil Murphy passed a bill that enshrines the public trust doctrine into state law.

- Legislation ensures that the State, through the Department of Environmental Protection, protects the public's right of access to public trust lands

Do badges violate the PTD?

Arguments can be made for both sides.

No, it doesn't violate the PTD.

- Badges and daily tags are the same price for everyone no matter their residency.

- Avon Beach 2021 fees: daily badge - \$12, season badge - \$100, young adult & senior badge - \$55

Yes, it does violate the PTD.

- Although badges are the same price for everyone, the price badges goes up every year - making it more expensive to access public trust land & ultimately limiting access for lower income families.

- Avon Beach 2019 fees: daily badge - \$9, season badge - \$90, young adult & senior badge - \$35

Tag fees were originally created to limit access to the beach. Although it is not outright, it can be assumed through increased pricing that towns like Avon discriminate against lower income families who may not be able to afford increased tag fees, ultimately violating the PTD. - Why uphold a practice that was originally created to violate rights granted in the PTD??

Proposals

1. Make all NJ beaches free.
2. Limit the amount a town can increase their badge fees per season through state action.
3. All NJ towns who charge for badges should adopt a *Beach Utility*.

*"The Borough of Avon-by-the-Sea hereby dedicates **all revenues derived from sale of beach badges** and operation of any beach-front concessions to **liquidate all sums** borrowed in connection with the beach utility operation after payment of all expenses directly and indirectly chargeable to the **operation, maintenance and support of the beach, boardwalk and related facilities**. All income and expenses shall be kept separate and apart from the local municipal budget and shall be collected in a separate beach utility fund for the purposes identified herein."*

An aerial photograph of a beach and boardwalk area, overlaid with a semi-transparent blue rectangle. The background shows the ocean, a sandy beach with people and umbrellas, and a boardwalk with a railing and cars. The text is centered on the blue overlay.

Thank you!

Thank you! Questions?

Michelle Etienne
s1210843@monmouth.edu