



STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION of PARKS and RECREATION
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January 20, 2022

The Honorable Edward Gordon
and the Judiciary Committee
Legislative Office Building, Rm 208
33 North State Street
Concord, NH 03301

RE: HB 1579 relative to landowner liability on land authorized for outdoor recreational activities

Dear Chair Gordon and Members of the Committee,

Please accept this testimony on behalf of the Department of Natural and Cultural Resources, Division of Parks and Recreation, Bureau of Trails regarding HB 1579 relative to landowner liability on land authorized for outdoor recreational activities.

The Department of Natural and Cultural Resources, Division of Parks and Recreation, Bureau of Trails administers and maintains multi-use trails on state, federal, and private lands which includes over 1,000 miles of OHRV trails, 300 miles of state-owned rail trails, and over 7,000 miles of snowmobile trails throughout the state. The majority of our statewide trail system occurs on private lands because of the generosity of landowners. One of the major reasons landowners are willing to support public access on their properties is because of the liability protections landowners have with the existing Duty of Care and Limited Liability laws.

Motorized and non-motorized trail use in New Hampshire plays an important part of our tourism economy contributing over \$1 billion of direct economic impact to New Hampshire annually. Also, access to trails is important to the quality of life of our citizens. We believe it is critical to ensure that the Duty of Care law does what it is intended to do – support public access by protecting landowners.

We are aware of several recent liability concerns that are not expressly covered under the current Duty of Care and Limitation of Action laws of RSA 212:34 and RSA 508:14. Specifically, our concerns are related to the following situations and examples:

- 1) Landowner lease agreements with the state for trail use;
- 2) Railroad and utility property and right of ways designated for recreational use;
- 3) Trails located on state lands; and
- 4) Private landowners who also own a business and allow trail use on their property.

January 20, 2022

Chair Edward Gordon and the Judiciary Committee

Page 2

HB1579 as written includes changes to the “*charge*” definition in RSA 212:34, I.(a) that includes, “*a lease of such land for said purposes to the state or any political subdivision thereof...shall not be considered a charge*”. The Bureau of Trails has lease agreements with several large landowners around the state to allow recreational trail use on their properties. We agree with this change to the definition, as the Duty of Care protections remain available to those landowners who enter into lease agreements with the Bureau of Trails.

HB1579 as written also includes several changes that include adding railroad property, railroad right of ways, and corridors to which public access is permitted. We agree with these changes to ensure that railroad and utility corridors that are designated for recreational use are protected by the Duty of Care laws and remain open for future use.

Regarding amendments to the bill, as a housekeeping measure, we suggest modifying the “*landowner*” definition in RSA 212:34, I.(b) ***to include the state or any political subdivision thereof***, as is already used in the existing Landowner Liability Limited statute of RSA 508:14 to ensure consistency between the statutes.

Lastly, landowners conducting activities such as timber harvesting on their own land are protected under the current law. However, if the landowner is conducting those activities through a separate business that they also own, that business is not protected. We also suggest modifying the “*landowner*” definition ***to include any business owned in whole or in part by the landowner as defined in this section***.

Thank you for the opportunity to provide testimony on this bill. Please let me know if I can answer questions or provide any additional information.

Sincerely,



Philip A. Bryce, Director

Cc: Sarah L. Stewart, Commissioner, Department of Natural and Cultural Resources
Craig Rennie, Chief, Bureau of Trails

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