

LEGISLATIVE COMMITTEE MINUTES

HB1579

Bill as
Introduced

HB 1579 - AS AMENDED BY THE HOUSE

15Mar2022... 0438h

2022 SESSION

22-2247
04/05

HOUSE BILL **1579**

AN ACT relative to landowner liability on land authorized for outdoor recreational activities.

SPONSORS: Rep. Gould, Hills. 7; Rep. Stavis, Graf. 13; Rep. Cordelli, Carr. 4; Rep. S. Pearson, Rock. 6; Rep. Creighton, Hills. 38; Rep. Notter, Hills. 21; Rep. Gagne, Hills. 13; Rep. Abel, Graf. 13; Sen. Prentiss, Dist 5; Sen. Kahn, Dist 10

COMMITTEE: Judiciary

ANALYSIS

This bill provides for landowner liability involving the use of land for outdoor recreational activities.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to landowner liability on land authorized for outdoor recreational activities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Propagation of Fish and Game; Liability of Landowners; Duty of Care. Amend RSA 212:34, I
2 to read as follows:

3 I. In this section:

4 (a) "Charge" means a payment or fee paid by a person to the landowner for entry upon,
5 or use of the premises, for outdoor recreational activity. *A contribution or other voluntary*
6 *payment not required to be made to use such land shall not be considered a charge or fee*
7 *within the meaning of this section. In addition, a lease^{for a nominal fee} of such land for said purposes to*
8 *the state or any political subdivision thereof, or to any nonprofit corporation, trust, or*
9 *association, shall not be considered a charge.*

10 (b) "Landowner" means an owner, lessee, holder of an easement, occupant of the
11 premises, or person managing, controlling, or overseeing the premises on behalf of such owner,
12 lessee, holder of an easement, or occupant of the premises, *including the state or any political*
13 *subdivision.*

14 (c) "Outdoor recreational activity" means outdoor recreational pursuits including, but
15 not limited to, hunting, fishing, trapping, camping, horseback riding, bicycling, water sports, winter
16 sports, snowmobiling as defined in RSA 215-C:1, XV, operating an OHRV as defined in RSA 215-A:1,
17 V, hiking, ice and rock climbing or bouldering, or sightseeing upon or removing fuel wood from the
18 premises.

19 (d) "Premises" means the land owned, managed, controlled, or overseen by the
20 landowner upon which the outdoor recreational activity subject to this section occurs. *For the*
21 *purpose of this section, "land" shall include railroad property and railroad rights-of-way*
22 *to which public access is permitted.*

23 2 New Paragraph; Limitation of Actions; Landowner Liability Limited. Amend RSA 508:14 by
24 inserting after paragraph III the following new paragraph:

25 IV. In this section, "land" shall include railroad property and railroad rights-of-way. A
26 contribution or other voluntary payment not required to be made to use such land shall not be
27 considered a charge or fee within the meaning of this section. Nor shall a lease of such land for said
28 purposes to the state or any political subdivision thereof or to any nonprofit corporation, trust, or
29 association be considered a charge.

30 3 Effective Date. This act shall take effect 60 days after its passage.

HB 1579 - AS AMENDED BY THE SENATE

15Mar2022... 0438h
04/21/2022 1571s

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HB 1579 - AS AMENDED BY THE SENATE

- Page 2 -

1 3 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 207
HB 1579 - FINAL VERSION

15Mar2022... 0438h
04/21/2022 1571s

2022 SESSION

22-2247
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04/21/2022 1571s

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STATE OF NEW HAMPSHIRE

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1 207:1 Propagation of Fish and Game; Liability of Landowners; Duty of Care. Amend RSA
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CHAPTER 207
HB 1579 - FINAL VERSION
- Page 2 -

207:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 17, 2022
Effective Date: August 16, 2022

Amendments

Senate Judiciary
April 14, 2022
2022-1571s
04/10

Amendment to HB 1579

1 Amend RSA 212:34, I(a) as inserted by section 1 of the bill by replacing it with the following:

2

3 (a) "Charge" means a payment or fee paid by a person to the landowner for entry upon,
4 or use of the premises, for outdoor recreational activity. *A contribution or other voluntary*
5 *payment not required to be made to use such land shall not be considered a charge or fee*
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Committee Minutes

**AMENDED
SENATE CALENDAR NOTICE
Judiciary**

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Harold French, Member
Sen Rebecca Whitley, Member
Sen Jay Kahn, Member

Date: April 7, 2022

HEARINGS

Thursday	04/14/2022
(Day)	(Date)
Judiciary	State House 100
(Name of Committee)	(Place)
	10:30 a.m.
	(Time)

Note: The committee will meet at 10:30 a.m. or 15 minutes following the end of Session.

10:30 a.m.	EXECUTIVE SESSION ON PENDING LEGISLATION	
1:00 p.m.	HB 1036	relative to nonpublic meetings concerning public employees.
1:15 p.m.	HB 1073	modifying attorney exemptions under RSA 91-A.
1:30 p.m.	HB 1343	allowing limited legal services to be provided by certain paraprofessionals.
1:45 p.m.	HB 1448	relative to the pretermitted heir statute.
2:00 p.m.	HB 1579	relative to landowner liability on land authorized for outdoor recreational activities.
2:15 p.m.	HB 238	prohibiting provocations based on a victim's actual or perceived gender, gender identity, gender expression, or sexual orientation from being used as a defense in manslaughter cases.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 1036

Rep. Wuelper
Rep. Spillane

Rep. M. Smith
Rep. Ford

Rep. P. Schmidt
Rep. Testerman

Rep. Potucek

HB 1073

Rep. Wuelper

Rep. Potucek

Rep. Stapleton

HB 1343

Rep. Gordon
Sen. French

Rep. Rice
Sen. Whitley

Rep. M. Smith

Rep. Wuelper

HB 1448

Rep. Lynn

Rep. Umberger

HB 1579

Rep. Gould

Rep. Stavis

Rep. Cordelli

Rep. S. Pearson

Rep. Creighton
Sen. Prentiss

HB 238

Rep. Query
Rep. Mullen
Rep. Amanda Bouldin

Rep. Notter
Sen. Kahn

Rep. Levesque
Rep. Tanner
Sen. Perkins Kwoka

Rep. Gagne

Rep. Weston
Rep. Alexander Jr.

Rep. Abel

Rep. Bunker
Rep. Toll

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee

Jennifer Horgan 271-7875

HB 1579, relative to landowner liability on land authorized for outdoor recreational activities.

Hearing Date: April 14, 2022

Time Opened: 3:04 p.m.

Time Closed: 3:30 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill provides for landowner liability involving the use of land for outdoor recreational activities.

Sponsors:

Rep. Gould

Rep. Stavis

Rep. Cordelli

Rep. S. Pearson

Rep. Creighton

Rep. Notter

Rep. Gagne

Rep. Abel

Sen. Prentiss

Sen. Kahn

Who supports the bill: Representative Gould; Representative Johnson; Craig Rennie, NH Bureau of Trails; Jason Soukup, Manchester Moves; Molly Lunn Owen; Jason Stock, NH Timberland Owners Association; Garrett McKarty, Manchester Moves; Marianne Borowski; Tom Christensen; Abby Evankow; Ellen Kolb, NH Rail Trails Commission; David Topham; Will Stewart, Stay Work Play NH

Who opposes the bill: No one

Who is neutral on the bill: Marissa Chase, NHAJ; Roger Turgeon, NHAJ

Summary of testimony presented in support:

Representative Gould

- This legislation will address a barrier to rail trail development.
- Active rail lines exist and are often the best corridor option to connect the State's rail trail network.
- Owners of active rail lines are justifiably concerned about potential liability from shared use of their right-of way.
- This bill seeks to overcome that liability concern.

- Massachusetts and Maine have similar legislation to this, and they have used it to expand their rail trail network.
- This will advance our ability to create a world class network of recreational and alternative transportation trails.
- Senator French asked if this would take the liability off from the railroad owners in case of an accident, so that those owners would allow the use of their property.
 - Yes. This is similar to what the State provides for letting people hunt on private property

Chief Craig Rennie (Department of Natural and Cultural Resources) (provided written testimony)

- The 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.
- The majority of the trail system is on private land.
- One of the main reasons private landowners support public access to their lands is the liability protections they have under the existing Duty of Care law and the Limited Liability statute.
- Motorized and non-motorized trail use plays an important part in our tourist economy, contributing more than \$1 billion in direct economic benefit annually.
- Access to trails is important to the quality of life of our citizens.
- It is critical to ensure the Duty of Care law does what it is intended to do, which is to support public access by protecting landowners.
- The House amended the bill for address recent federal liability concerns under the current Duty of Care laws.
- The bill addresses the Department's concerns relating to the following situations: landowner lease agreements with the state for trail use; railroad and utility property and right of ways designated for recreational use; and trails located on state lands.
- This bill includes a change 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 has lease agreements with several large landowners around the State to allow recreational trail use on their properties.
- This change will allow the Duty of Care protections to remain available to those landowners who enter into lease agreements with the State; without it, the State would be in danger of losing access to hundreds of miles of snowmobile trails.
- This bill adds railroad property, railroad rights of ways, and corridors to which public access is permitted to the statute, ensuring they are protected by the Duty of Care laws.

- The Corridor 13 snowmobile trail in Bennington occurs on an existing railroad property, and it was closed this last season based on insurance concerns by the owners about liability.
- The bill also has a housekeeping measure; it modifies the “landowner” definition in RSA 212:34, I.(b) by adding “to include the state or any political subdivision thereof”
- This will ensure consistency with the existing Limited Liability statute (RSA 508:14).
- Senator Kahn asked if this is comparable to the liability coverage that exists in other New England states
 - It is very similar.

Jason Soukup (Manchester Moves) (provided written testimony)

- The Manchester Rail Trail goes west, east, and south of the city, but they cannot go north or close the big gap in the Granite State Rail Trail.
- The Granite State Rail Trail is a nearly continuous 125-mile off-road rail trail, and it was ranked #12 in the nation by Outside Magazine this month.
- The challenge is when there is a privately owned rail line.
- They have been in negotiations with Pan Am railways on numerous occasions asking to use an application to close those gaps with a ‘rail with trail’ option; provided images of what that looks like.
- ‘Rail with trail’ has been used in other states to close their gaps.
- In 2020 Pan Am was sold to CSX railways.
- Have been in active communication with CSX about this and they are open to the concept, but they have a liability concern.
- If this bill was in place, they are confident that they would get permission to use that land to close the gaps in the rail trail.
- Shared images of the current risks of using bike lanes in comparison to these ‘rail with trail’ options and the importance of being active.
- Everyone in the city is in favor of this project and they are excited for an opportunity to get this done.
- Commission Sheehan (NHDOT) has reviewed the project and is willing to build it to federal standards.
- CSX already has multiple examples of this in place when they are afforded these liability protections.
- This will also benefit Nashua and Portsmouth by allowing them to close their gaps.
- Does not think there are any unintended consequences with the “charge” definition because there haven’t been any issues in MA and ME.
- This law is specific to railroads only, not go-kart situations.
- The biggest reason to do this is safety.
- Senator French asked if Manchester Moves would have a lease over the land.

- That's possible. They still have to get to 'yes' with CSX and that may require a lease. The proposed amendment may limit their ability to induce CSX to allow them to use the land.
- Senator French predicted that they would likely want to do a lease.
 - They are looking for a 99-year lease. They might be able to get that lease for free, but maybe not. If they cannot get it for free thinks people in the community may be willing to step up financially to make this happen.

Garrett McKarty (Manchester Moves)

- The language as in the bill reflects almost identically with the language in neighboring states.
- The goal of this is safety for the kids.
- Wants to see the community out and active for its numerous benefits.
- There are many sections in the city without bike lanes.
- The gold standard is to have kids build healthy habits at a young age.
- The best thing is to move kids off the road for their safety when they are biking and to provide safe options for all members of the community.

Summary of testimony presented in opposition:

None

Neutral Information Presented:

Marissa Chase and Roger Turgeon (NH Association for Justice)

- Originally opposed the bill when it was introduced due to concerns about it broadening the statute.
- House Judiciary made some good changes, and they are almost at a point to support the language.
- There is an unintended loophole that is unrelated to the intent of the bill.
- The bill aside from the "charge" language, basically codifies current case law, from *Dolbeare v. City of Laconia* and *Coan v. NH Department of Environmental Services*.
- Those cases interpreted the recreational use statutes and expanded the definition.
- Believes this bill largely mirrors those cases.
- Does not oppose the intention of the bill.
- There is an unintended consequence with the redefinition of what a "charge" is.
- Recreational immunity has been a part of the law in virtually every state in the country for a long time.
- The basic premise of that is if an individual has property that they are going to let people use for recreational purposes for free the government is going to encourage that by saying the landowner cannot be held responsible for damages, even if the landowner may be negligent with a defect in the property.
- The unintended consequence comes from the language "if you are leasing the property that is not a charge"
- This could allow someone to take a profit-making business around outdoor recreation and give themselves immunity by leasing it to a non-profit.

- For example, a go-kart business making \$60,000 a year after expenses currently has a responsibility to make sure it is done properly, so people don't get hurt. If that owner creates or finds a non-profit dedicated to recreational use and leases that property to that non-profit for \$60,000, they would still get the money, but would not have any liability because they are not charging people for the use, and they would no longer have to maintain the property.
- Does not believe that is the intention of the bill and does not oppose the language regarding leasing to the state or city or a political subdivision.
- Suggests including language requiring it to only be leased for a nominal fee.
- Senator Kahn asked what language they would propose to address that issue.
 - Suggests adding "for a nominal amount or a nominal fee." on line 7.

jch

Date Hearing Report completed: April 15, 2022

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB1579 on 2022-04-14

Support: 7 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Borowski, Marianne	A Member of the Public	Myself	Support
Christensen, Tom	A Member of the Public	Myself	Support
Evankow, Abby	An Elected Official	Myself	Support
Kolb, Ellen	A Member of the Public	New Hampshire Rail Trails Coalition	Support
Topham, David	A Member of the Public	Myself	Support
Stewart, Will	A Lobbyist	Stay Work Play NH	Support
Lunn Owen, Molly	A Member of the Public	Myself	Support

Testimony



STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION of PARKS and RECREATION
172 Pembroke Road Concord, New Hampshire 03301
Phone: (603) 271-3556 Fax: (603) 271-3553
Web: www.nhstateparks.org

April 14, 2022

The Honorable Sharon Carson
and the Judiciary Committee
State House, Rm 100
Concord, NH 03301

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

Dear Chair Carson 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 Division supports HB 1579, as amended by the House.**

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 appreciate that the House amended the bill to address several recent liability concerns that were not expressly covered under the current Duty of Care and Limitation of Action laws of RSA 212:34 and RSA 508:14. The House amendments addresses our concerns 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; and
- 3) Trails located on state lands.

April 14, 2022

Chair Sharon Carson and the Judiciary Committee

Page 2

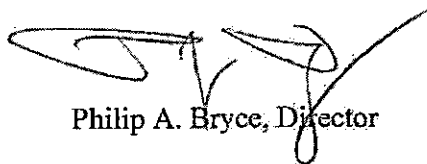
HB1579 includes changes to the “charge” definition in RSA 212:34, I.(a) that includes, “*a lease of such land for said purposes to the state or any political subdivision thereof...shall not be considered a charge*”. The Bureau of Trails has lease agreements with several large landowners around the state 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. Without this change, we would have been in danger of losing access to hundreds of miles of snowmobile trails.

HB1579 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. As an example of the importance of this change, the Corridor 13 snowmobile trail in Bennington which occurs on an existing railroad property was closed this past snowmobile season based on insurance company concerns over potential hazards.

As a housekeeping measure, the amended bill modifies the “landowner” definition in RSA 212:34, I.(b) *to include the state or any political subdivision thereof*, to ensure consistency with the existing Landowner Liability Limited statute of RSA 508:14.

Thank you for the opportunity to provide testimony in support of this bill. Please let me know if we can answer questions or provide any additional information.

Sincerely,



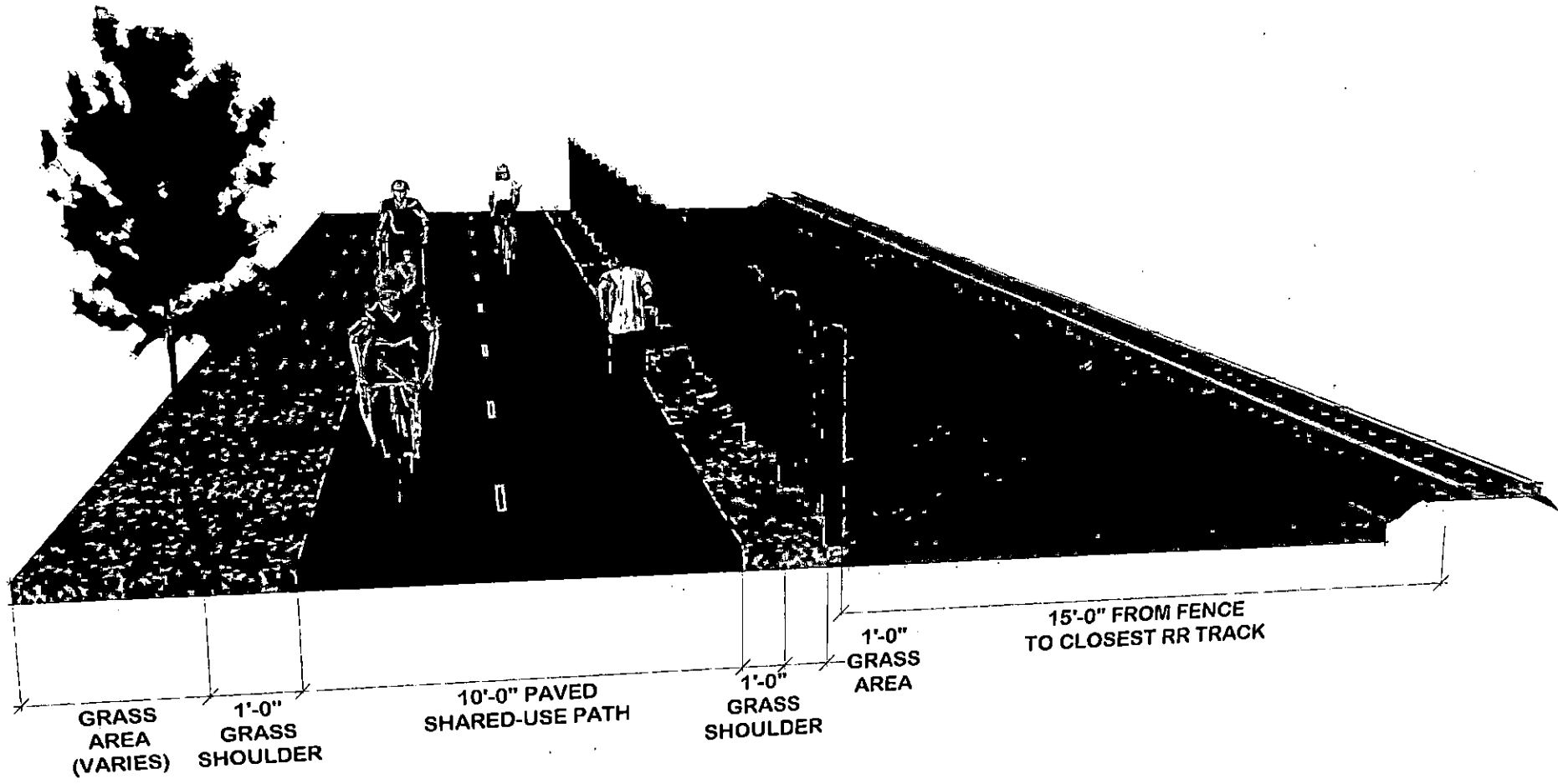
Philip A. Bryce, Director

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

PAB/CR/ttl-04112022



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ccm



Jennifer Horgan

From: Marissa Chase <mchase@nhaj.org>
Sent: Saturday, April 9, 2022 12:59 PM
To: Sharon Carson; William Gannon; Harold French; Becky Whitley; Jay Kahn
Cc: Rick Lehmann; Jennifer Horgan
Subject: Proposed amendment to HB 1579
Attachments: 2022 oppose HB 1579.pdf

Hello Senators,

HB 1579, relative to landowner liability on land authorized for outdoor recreational activities, is scheduled for a hearing this Thursday 4/14 in Senate Judiciary at 2pm.

NHAJ opposed the bill as introduced. House Judiciary made some strong improvements to the language, however there is one final change we would request your committee to make (suggested language in red)

Starting at page 1 line 3:

"1. In this section: (a) "Charge" means a payment or fee paid by a person to the landowner for entry upon, or use of the premises, for outdoor recreational activity. ***A contribution or other voluntary payment not required to be made to use such land shall not be considered a charge or fee within the meaning of this section. In addition, a lease for a nominal fee of such land for said purposes to the state or any political subdivision thereof, or to any nonprofit corporation, trust, or association, shall not be considered a charge.***"

This language would not change the intent of the bill, but removes what we fear could be an unintended loophole that could open up the opportunity for a private entity to profit from the bill as currently drafted. I ran this language by Representative Gordon who said he is okay with this. I have sent the proposed language to the prime sponsor, Representative Gould.

As you all know, NHAJ opposes immunities - however, we could live with this bill with this change. We believe it is unnecessary as it basically codifies current case law. At the hearing in House Judiciary there was a group of rail trail enthusiasts who said they believed this language was needed to be able to start building rail trails along existing railways, and utility corridors. However, upon further questioning we learned that no railroad or utility companies have made any promises that should this language exist, they will make their land available for such use.

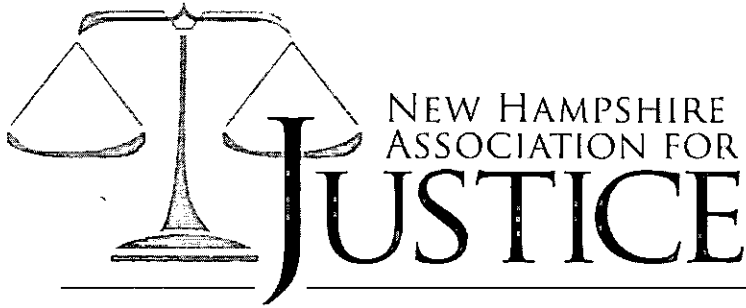
I have attached NHAJ's testimony submitted to House Judiciary that explains current case law and speaks to the bill as introduced.

Thank you for your time and consideration, and please don't hesitate to call me if you have any questions.

Sincerely,
Marissa

Marissa Chase
Executive Director

New Hampshire Association for Justice
PO Box 1583
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House Judiciary Committee
Hon. Ned Gordon, Chair

January 20, 2022

Re: Opposition to HB 1579

Dear Chairman Gordon and Members of the Committee:

NHAJ is a statewide professional trade association of approximately 400 trial attorneys who predominantly practice in the areas of personal injury, family law, medical malpractice, civil rights, employment law, workers' compensation, and consumer protection matters. As New Hampshire is a small state with a collegial bar, that list of practice areas is not exhaustive. If our organization can ever be of assistance or serve as a legal resource to any of you, or your constituents, please do not hesitate to give me a call. As practicing attorneys with a variety of experience, we oppose HB 1579 as introduced for the following reasons.

Existing caselaw makes this bill unnecessary

Under *Dolbeare v. City of Laconia*, 168 NH 52 (2015), existing caselaw removes the need for this bill and its stated intent. The case was about a woman who was using playground equipment in a public park with her granddaughter and sustained a severe knee injury. When the case reached the Superior Court, the judge agreed with *Dolbeare* that the use of playground equipment was not "outdoor recreational activity" as defined in RSA 212: 34 and that it did not constitute the use of land under RSA 508: 14. The insurance company for the city of Laconia appealed.

In the end, the case stood for a couple of things. In the recreational immunity statute RSA 212:34, there is a list of specific outdoor recreational activities. This is at 212:34, I. The list includes but is not limited to hunting, fishing, trapping, camping, horseback riding, bicycling, water sports, winter sports, snowmobiling, operating an OHRV, hiking, ice and rock climbing or bouldering, and sightseeing. The plaintiff argued that use of structures that were provided specifically to attract people onto the land shouldn't be considered as falling under that list as other items on that list involve equipment that people bring with them. The Court disagreed and said that on its face, the statute is not limited to outside recreational activities involving equipment provided by the user. The Court emphasized RSA 212: 34, V which indicates that "a landowner owes no duty of care to keep premises safe for entry or use by others for outdoor recreational activity or to give any warning of hazardous conditions, uses of, **structures**, or activities on such premises to persons entering for such purposes."

With respect to the second of the landowner liability statutes, RSA 508:14, the Court cited the case of Coan v. NH Department of Environmental Services, 161 NH 1 (2010). This case essentially stands for the prospect that when one uses land held open to the public without charge to access certain elements, in that case a body of water, for recreational activity, the landowner was entitled to the immunity under the statute. The Court felt Dolbeare was similar as she had crossed the open land to access the playground equipment.

Our position is that the Supreme Court's interpretation of these particular statutes under Coan and Dolbeare provides wide ranging protections for all entities seeking said protection. The proposal in HB 1579 is unnecessarily broad and generally unnecessary. If anything, it is a situation where defining things too narrowly may in fact negatively impact a landowner seeking immunity later on.

Unintended Consequences

The underlying foundational premise of recreational immunity statutes is to encourage landowners to allow **free use** of their land for recreational purposes. We believe that's a good thing. The lease language that this bill adds to section I(a) of RSA 212:34 threatens to do away with that premise, granting immunity even to those who profit from such recreational use.

Section I(a) as proposed in HB 1579 would amend the statute's definition of what it means to "charge" for use of the land, such that the immunity would not apply. This bill would insert an exception to that definition:

"A lease of such land for said purposes...to any nonprofit corporation, trust, or association, shall not be considered a charge."

Our fear is unintended interpretation of this language could turn the amended statute into one that grants immunity to **owners of all arguably recreational property**, even those who profit greatly from it.

Imagine, for example, that entity X owns an amusement park replete with roller coasters, bungee jumps, zip lines, and other structures that can cause serious injury or death if not maintained properly. Presently, the prospect of a lawsuit for negligent maintenance is the only legal incentive that entity X has to keep the park safe.

Then entity X creates a non-profit entity dedicated to making recreational activities available to all. X then leases the amusement park to this non-profit entity for an amount that equals the desired profit level. That nonprofit raises the funds needed to pay that lease through a combination of public donations, user donations, and perhaps even actual entrance fees.

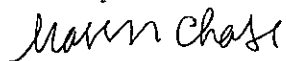
As the park owner, X is now profiting as much as, or more than, it did before the arrangement, but X can drastically reduce its maintenance costs because it does not have to worry about being sued if, for example, a rollercoaster car flies off the rails. And the non-profit is protected by RSA 508:17, with its liability limited to \$250,000 per person injured

or killed by its negligence, and \$1,000,000 aggregate no matter how many people are harmed or killed in a single incident.

In essence, the owner of virtually every for-profit facility in this state that has an arguably recreational purpose will be able to render itself immune from liability for its own negligence if this bill passes as written.

We respectfully urge this committee to vote this legislation "inexpedient to legislate". Please do not hesitate to contact us should you have any further questions.

Thank you for your time and consideration.



Marissa Chase
Executive Director
New Hampshire Association for Justice



New Hampshire Rail Trails Coalition

An affiliate of the Bike-Walk Alliance of NH

2 Whitney Road, Suite 11

Concord, NH 03301-1844

www.nhrtc.org

April 12, 2022

To: Senate Judiciary Committee
From: New Hampshire Rail Trails Coalition
Subject: House Bill 1579

Dear Senators,

The New Hampshire Rail Trails Coalition (NHRTC) represents 27 organizations and hundreds of individual members throughout the Granite State. We are cyclists and walkers who advocate for the development and recreational use of rail trails.

We strongly urge you to vote Ought to Pass on HB 1579 as amended by the House, relative to landowner liability on land authorized for outdoor recreational activities. The bill is modeled on existing statutes in Maine and Massachusetts that protect landowners while promoting recreational use of private land.

We oppose any additional amendments. Similar legislation in other states has not resulted in any loopholes of which we are aware. The bill as it comes before you this week is sound and deserves your support.

Thank you for your consideration.

Sincerely,
The NHRTC Board

Dave Topham, President
Marianne Borowski, Vice President
Ellen Kolb, Treasurer,
Abby Evankow, Secretary
Charles Martin, Founder
Chuck Redfern,
Rick Audy
Tom Christensen
Rich Westhoff
Mike Kowalczyk
Brian Smith

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # 1579

Hearing date: _____

Executive Session date: _____

Motion of: Comm Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reported out by: Carson

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, April 14, 2022

THE COMMITTEE ON Judiciary

to which was referred **HB 1579**

AN ACT

relative to landowner liability on land authorized
for outdoor recreational activities.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 2022-1571s

Senator Sharon Carson
For the Committee

This bill provides for landowner liability involving the use of land for outdoor recreational activities. The passage of this language will allow for an increase in the creation of rail trails, OHRV trails, and other outdoor activities by limiting landowners' liability when their property is utilized by the public for free. Outdoor activity is essential to promoting a healthy lifestyle for our Granite Staters and the Committee supports this modest, but meaningful change to the statute.

Jennifer Horgan 271-7875

FOR THE CONSENT CALENDAR

JUDICIARY

HB 1579, relative to landowner liability on land authorized for outdoor recreational activities.

Ought to Pass with Amendment, Vote 5-0.

Senator Sharon Carson for the committee.

This bill provides for landowner liability involving the use of land for outdoor recreational activities. The passage of this language will allow for an increase in the creation of rail trails, OHRV trails, and other outdoor activities by limiting landowners' liability when their property is utilized by the public for free. Outdoor activity is essential to promoting a healthy lifestyle for our Granite Staters and the Committee supports this modest, but meaningful change to the statute.

HB1579

Bill Details

Title: relative to landowner liability on land authorized for outdoor recreational activities.

Sponsors: *(Prime)* Gould (R), Stavis (D), Cordelli (R), Stephen Pearson (R), Creighton (R), Notter (R), Gagne (R), Abel (D), Prentiss (D), Kahn (D)

LSR Number: **22-2247**

General Status: **SIGNED BY GOVERNOR**

Chapter Number: **207**

House:

Committee: Judiciary

Due Out: 3/10/2022

Status: CONCURRED

Senate:

Committee: Judiciary

Floor Date: 4/21/2022

Status: PASSED/ADOPTED WITH AMENDMENT

Bill Docket

Body	Description
H	Introduced 01/05/2022 and referred to Judiciary
H	Public Hearing: 01/20/2022 01:00 pm LOB 206-208
H	Executive Session: 01/20/2022 01:00 pm LOB 206-208
H	Committee Report: Ought to Pass with Amendment # 2022-0438h (<u>Vote 20-1; CC</u>)
H	Amendment # 2022-0438h: AA VV 03/15/2022 <u>HJ 6</u>
H	Ought to Pass with Amendment 2022-0438h: MA VV 03/15/2022 <u>HJ 6</u>
S	Introduced 03/17/2022 and Referred to Judiciary; <u>SJ 6</u>
S	Hearing: 04/14/2022, Room 100, SH, 02:00 pm; <u>SC 15</u>
S	Committee Report: Ought to Pass with Amendment # 2022-1571s. 04/21/2022; Vote 5-0; CC; <u>SC 16</u>
S	Committee Amendment # 2022-1571s, AA, VV; 04/21/2022; <u>SJ 9</u>
S	Ought to Pass with Amendment 2022-1571s, MA, VV; OT3rdg; 04/21/2022; <u>SJ 9</u>
H	House Concurs with Senate Amendment (Rep. Gordon); MA VV 05/12/2022 <u>HJ 13</u>
S	Enrolled Adopted. VV, (In recess 05/26/2022); <u>SJ 13</u>
H	Enrolled (in recess of) 05/26/2022
H	Signed by Governor Sununu 06/17/2022; Chapter 207; eff. 08/16/2022 <u>HJ 14</u>

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB1579

Senate Committee: Judiciary

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

- amendment # 15715 - amendment # _____

- amendment # _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # _____ - amendment # _____

- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) (Clerk's Office)

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)


Governor's Veto Message

All available versions of the bill: (Clerk's Office)

as amended by the senate as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:


Committee Aide

8/12/22
Date

Senate Clerk's Office AK