



SNOWMOBILE VERMONT

## Testimony Regarding H.308

On behalf of the Vermont Association of Snow Travelers and our Governor's Council, we respectively submit the following testimony:

Since 1977 the Vermont Association of Snow Travelers (VAST) has been responsible for running the Statewide Snowmobile Trail System (SSTS) for the State of Vermont Department of Forest Parks & Recreation. We continue to maintain solid partnerships with private land owners, the State of Vermont, and the United States Forest Service. It is imperative that we are afforded protection from liability when riders are negligent and operate off from the designated SSTS. It is also important to VAST that we encourage not just safe riding, but also personal responsibility. As a rider "You are responsible for your own safe snowmobiling". H 308 supports this initiative.

VAST would like to point out that similar forms of protection have been enacted for other recreational activities in Vermont:

**Title 12: Court Procedure, Chapter 027: Pleading & Practice, Subchapter 002: Pleadings Generally, § 1037. Acceptance of inherent risk.** (see below and attached)

*Notwithstanding the provisions of section 1036 of this title, a person who takes part in any sport accepts as a matter of law the dangers that inhere therein insofar as they are obvious and necessary. (Added 1977, No. 119 (Adj. Sess.), § 2, eff. Feb. 7, 1978.)*

**Title 12: Court Procedure, Chapter 027: Pleading & Practice, Subchapter 002: Pleadings Generally, § 1038. Skiing off designated ski trails; collision; duty to report; recovery for rescue expenses.** (see below and attached)

*(a) Use of ski area facilities. No ski area, its owners, employees or agents shall be held responsible for ensuring the safety of or for damages, including injury or death, resulting to persons who utilize the facilities of a ski area to access terrain outside open and designated ski trails. Ski areas shall not be liable for damages, including injury or death, to persons who venture beyond such open and designated ski trails.*

*(b) Collision at a ski area.*

*(1) Any person who is involved in a collision with a skier at a ski area which results in bodily injury to any party to the collision has a duty to provide his or her name and local and permanent address to the other parties to the collision and shall proceed to the ski area first aid facility and provide that information to the ski area first aid personnel.*

*(2) No ski area, its employees or agents shall be held responsible for ensuring compliance with these duties by any person, nor shall it be liable in any way for a failure to obtain such person's name or address.*

*(c) Civil action to recover. A person who uses the facilities of a ski area to access terrain outside the open and designated ski trails, shall be liable in a civil action brought by any person, including a ski area, rescue organization, municipality or the state, to recover expenses incurred to provide rescue, medical or other services to such person for circumstances or injuries which resulted from such use. The entity seeking to recover may also recover reasonable attorney fees and court costs. No ski area, its owners, agents or employees, individual or entity, municipal or otherwise, shall be held liable for any acts or omissions taken in the course of such rescue operations unless such act or omission constitutes gross negligence. (Added 1993, No. 233 (Adj. Sess.), § 88, eff. June 21, 1994.)*



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VAST and the Governor's Snowmobile Advisory Council (the members listed below are appointed by the Governor of Vermont) have been working on promoting safe riding through rider education, safety checkpoints, and trail patrols by law enforcement agencies across the state. We are continuing to grow our safety education and enforcement efforts. During the 2013 and 2014 snowmobile seasons more than 3,000 students participated in an online safety course or one of the 82 class room snowmobile safety courses offered in Vermont. In 2016 we will continue our efforts to promote snowmobile safety here in Vermont during the International Snowmobile Safety Week which takes place annually across the country. Safe snowmobiling will be promoted through the International Snowmobile Manufacturers Association's Safe Riders Program, which promotes each rider to be responsible for making snowmobiling safe, as well as the Zero Tolerance Program which promotes 100% alcohol free operation of a snowmobile.

Lastly, we feel it is also important to offer a recommendation to add the following, underlined language to the current bill H-308:

*"... However, VAST's liability shall not be limited under this subdivision if an operator leaves the SSTS in a reasonable and prudent manner because of an unsafe condition on the SSTS and the damage or injury occurs before the operator is able to return safely to the SSTS."*

#### **Current VAST Governor's Council Members**

- Council Chair: Dick Jewitt, VAST Director from Windsor County: Dick Jewitt
- VAST Board Chair: Joe Cicia
- Vermont Sherriff's Association: Trevor Colby, Essex County Sherriff
- Vermont State Police: Jere Johnson, Safety Coordinator
- Vermont State Police: J.R. Underhill, Sargent and Commander of the State's Marine and Snowmobile Division
- Southern VT Taskforce: Joe Szarejko, Chief of Police
- Vermont State Fish and Wildlife: David Gregory, Lieutenant
- Vermont DMV: Michael Smith, Director of Operations
- Vermont DMV: Shannon Fassett, Records Officer
- Vermont State Senate: Jane Kitchel, State Senator
- Vermont State House: Chip Conquest, State Representative
- VAST Member Appointees: Tim Mills, Star Poulin, Norm Roark, Kenny Gammell and Dave Pastula
- VAST Employees: Cindy Locke, Executive Director & Matt Tetreault, Trails Administrator

Respectively submitted by:

Cindy Locke  
VAST Executive Director

c.c. Matt Tetreault, VAST Trails Administrator