



April 13, 2018

RE: S. 105
Vermont Ski Areas Association
Molly Mahar, President

The Vermont Ski Areas Association represents 20 alpine and 30 cross-country ski areas across the state. Vermont is the number one ski state in the eastern US and fourth largest in the country. The industry is a significant contributor to Vermont's economy, bringing \$900M in direct spending each season, two-thirds of which occurs off mountain in surrounding towns and communities. This spending generates over \$120 million in tax revenues for the state.

We are very concerned about S.105: the Model State Consumer Justice Enforcement Act: Standard Form Contracts bill. This bill would significantly change the landscape for recreational providers, landowners non-skiing recreation and competitive events such as biking, running and challenge course races. Ski areas are often host sites for such competitive events. This bill would have an extremely detrimental impact on the ski industry as well as all other recreational businesses in Vermont. It would likely drive recreational activities out of Vermont, prevent others from coming into the state and make it more difficult for businesses offering recreational activities and competitive and other recreational events to secure liability insurance, as well as increase insurance premiums significantly.

Our concern is that in every ski area contract and every other voluntary participatory recreation activity contract in the state (bike races, running races, marathons, horseback riding, etc) there is limitation of liability language and forum selection included.

This bill in its current form says if someone finds this unconscionable, they can bring a consumer fraud claim and sue for unfair and deceptive trade practices. Not only that, a business could be fined for having the language in their contract and have to pay the plaintiff's legal fees if any language was found to be unconscionable. Having a statute of limitation is also critical.

Most recreation in Vermont is still subject to some form of waiver. In consumer skiing, we limit that waiver to "the full extent allowed by law" and to "inherent risk" under Vermont law due to specific case law which says that skiing is a "public interest". This has been critically important to our sustainability.

Other recreational activities including sporting contests, racing (cars, bikes, motor cycles, challenge course races, running, swimming), special events, etc. are still legally waivable even for negligence claims, and this is important to maintain.

This bill would have a very harmful impact on our state's economy as people look elsewhere to hold events and fewer insurers remain interested in insuring businesses offering recreational activities. The Governor has identified recreation as a key component of our economic viability and this bill is incompatible with that goal.

Thank you for your consideration.