



VAST – Questions About H.287

Respectfully Submitted by, Cindy Locke, VAST Executive Director

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Dear Chairman Brennan, et al.

VAST very much appreciates you allowing us to voice our concerns regarding H.287 on not only our behalf, but for others who use recreational trails in Vermont and the landowners who allow that use.

How will H.287 affect landowners that allow recreational use on their property?

At the very least our concern is the perception of this bill by landowners who allow public and recreational use on their property, especially when there is already a law in place that protects landowners unless they do something to intentionally cause harm. VAST has almost 5000 miles of trails in Vermont and 80% of these are on private lands. Will both private and public landowners be subject to this law? If this bill becomes law, we think it would be unfair to only say private landowners would be subject to it. How would H.287 affect land trusts and others that gain easements on properties? Has that been considered and have land trusts been asked to weigh in?

Will this law encourage landowners to close their land to recreational use because they do not want to be liable? Wouldn't it just give them reason to bar such use, subsequently affecting Vermont's recreational economy and state revenue? Could this law encourage them to close their land to public use because they do not have someone able to oversee and enforce this law?

Already in statute: Title 10: Conservation and Development, Chapter 20: Vermont Trails System; Section 448 specially states the following: ***No public or private owner of land which is a part of the Vermont trails system shall be liable for any property damage or personal injury sustained by any person using these trails unless the public or private owner intentionally inflicts the damage or injury.*** (Added 1993, No. 211 (Adj. Sess.), § 28.)

In this case, does the section of statute above not also cover a steward of that land who has permission to use it, build and maintain a trail? What will happen to that statute?

What could H.287 do to insurance rates for the non-profit organizations that use lands owned by private and public landowners? VAST already pays over \$120,000 a year for our liability policy that covers volunteers and land owners.

If H.287 is being put in place to stop someone from intentionally injuring another, isn't that already against the law? In a pending court case involving an accident on June 3, 2015, it was not the landowner or a person affiliated with the landowner who allegedly put up the cable/gate, so how would this law make any difference except to blame a potentially innocent party?

In the description of types of gates considered, what about sap lines? Will they too be included, which would in turn affect the lands sugar makers own (We have sap lines that cross our trails)?

If this is going to be a law should it not also include others who use trails at higher rates of speed than walking: downhill skiing, backcountry skiing (using skins to climb steep hills and a crossover ski to ski down fast), sledding? Why would it not include them as well? We are not advocating for this whatsoever, but we also believe that the idea behind this is to protect trail users, without imposing liability to other innocent parties there needs to be a lot more thought and research put into it.

In 2015 we had a snowmobiler leave our trail system on purpose to ride off trail (which is against the law) to trespass on someone else's camp road. As a consequence, he went up that unplowed camp driveway, hit a chain and was killed. There was a no trespassing sign in place and it was during the day. If this bill had been passed prior to that accident, would the camp owner have been considered liable for the reckless behavior of a snowmobiler? What about trespassers. Would landowners also be liable if a trespasser got injured?

Who will set up the proper standards to be followed? What agency will be in charge of this and how much will it cost to educate landowners and enforce the law? At VAST we have very strict sign rules and guidelines for our clubs to follow (attached), which the State of Vermont would need to put together and make sure landowners know about them. See below.

What will the standards be?

- Types of warnings?
- Types of approach to warnings?
- Rules regarding placement?
- Who will enforce them?
- What width of trails (if any) are included or not?

There need to be specifics, and this would have to be well thought out, governed and enforced.

While, we very much sympathize with the family that has been affected by the tragic event of June 3, 2015, passing a sweeping bill like this can have far-reaching negative ramifications that impact the entire Vermont recreational community, as well as land trusts, farmers, logging companies, sugar makers, and other large tract landowners. And again, it would not have prevented the tragedy it seeks to remedy.

H.287 could potentially devastate industries that bring hundreds of millions of dollars in revenue to Vermont each year. Often in Vermont, landowners try to use recreational uses of their property as leverage when they are unhappy with an action by the state, be it a raise in taxes or changes in land management laws. **We have already heard from landowners that, should this bill pass they would close their land to us.** This could devastate and segment our trail system and potentially crush us as we go into our fiftieth year as Vermont's snowmobile industry operator, which brings into Vermont, on average, more than five hundred million dollars a year of revenue.

A solution we believe would be to add to the current statute noted earlier, or create and enforce a law that focuses strictly on anyone intentionally and specifically trying to harm someone by erecting a cable/gate to inflict mortal damage or injury. Holding a landowner or legitimate steward liable for knowing exactly what is happening on their property 24/7 is not the solution.

I would like to thank the committee for taking my testimony and your time interviewing so many who have a stake in H.287 and your thoughtful pursuit for the right path to take.