

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: H.308 Name of Bill: An relating to limiting the liability of VAST arising from snowmobile operation outside the Statewide Snowmobile Trail System

Agency/ Dept: FPR Author of Bill Review: Meghan Purvee

Date of Bill Review: 5/9/16 Related Bills and Key Players: _____

Status of Bill: (check one): _____ Upon Introduction _____ As passed by 1st body XX As passed by both

Recommended Position:

_____ Support _____ Oppose XX Remain Neutral _____ Support with modifications identified in #8 below

Analysis of Bill

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.* This bill proposes to limit the liability of VAST arising from the operation of snowmobiles outside the boundaries of the Statewide Snowmobile Trail System (SSTS) if VAST has exercised reasonable care in marking the boundaries of the SSTS. The new proposed language limits VAST's liability such that VAST will not be liable for ordinary negligence for any property damage or personal injury arising from operation of a snowmobile outside of the SSTS if VAST has exercised reasonable care in marking the boundaries of the SSTS. It does not limit liability of VAST if an operator leaves the SSTS due to unsafe conditions on the SSTS. This language leaves open for interpretation what is "reasonable care" in marking the boundaries of the SSTS and what is an "unsafe condition" of the SSTS. Therefore, a landowner that has a VAST trail across their land that sustains damage to their land outside of the SSTS due to an operator travelling outside of the SSTS wont be able to sue VAST if VAST used reasonable care to mark the trail.
2. **Is there a need for this bill?** *Please explain why or why not.* The Department is not aware of a need for this bill. Where the SSTS is on state land managed by FPR, VAST is liable for any and all claims arising from the construction, maintenance and use of the SSTS under the annual Grant agreement between VAST and FPR that provides VAST funding under chapter 29 of Title 23 of the Vermont Statutes Annotated. Therefore, this language would apply to private land that has a VAST snowmobile trail.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**
FPR will likely amend its Grant Agreement to specifically recognize that VAST is required to indemnify and defend the state for any and all claims related to snowmobiling on VAST trails on statewide regardless of H.308.
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** Not known.
5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*

Private landowners that currently authorize VAST snowmobile trails may reconsider this authorization due to this limitation of liability. Landowners will not be able to pursue recovery of damages from VAST unless it

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can be proven that there is negligence of VAST beyond ordinary negligence. Landowners would have to pursue the individual operators, which would likely be very difficult if not impossible.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

6.2 Who else is likely to oppose the proposal and why?

7. Rationale for recommendation: *Justify recommendation stated above.* As stated above, FPR requires that VAST indemnify and defend FPR for any and all claims related to the construction, maintenance and use of VAST trails on FPR owned and managed lands. FPR will amend the annual Grant Agreement to clarify that the indemnification and liability provisions of the Grant apply despite the limitation of liability in H.308 if enacted into law.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

9. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many? No

Commissioner has reviewed this document:  Date: 5/9/16

Secretary has reviewed this document: _____ Date: _____