



STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
DIVISION of PARKS and RECREATION

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February 3, 2016

The Honorable Robert Rowe, Chairman
and the House Judiciary Committee
Legislative Office Building, Room 208
Concord, NH 03301

Re: HB 1569-FN, Relative to volunteers under the department of resources and economic development.

Dear Chairman Rowe and Members of the Committee,

Thank you for the opportunity to testify in favor of HB 1569-FN on behalf of the Department of Resources and Economic Development, Division of Parks and Recreation. The purpose of this legislation is to help volunteer organizations working with the department by further limiting their liability and by addressing the cost of insurance through the purchase of insurance in bulk by the state and making it available to the volunteer organizations.

The 10 Year Strategic Plan for our State Parks notes that "People love the Parks so much that many become the volunteers who dedicate thousands of hours of work to maintain the parks. Park staff and committed volunteers work hard to provide programming in the parks that allow and encourage park guests to see something different, participate in a new activity, or learn a new skill when they visit the parks."

The State Park System Advisory Council (RSA 216-A:3-k) that oversees the implementation of the Strategic Plan recommended in a report on Friends and Volunteers that "expansion of volunteer programs and opportunities will depend first on certain internal improvements. Top priorities for parks staff include clarification of legal protections such as liability coverage...." The Council worked with the agency on the development of this legislation.

First, we would like to request an amendment to the bill to address a concern that we have heard from volunteer organizations. The legislation allows us to charge a portion of the cost of insurance to volunteer organizations. We would ask that "with the agreement of the organization" be added.

There are a number of points we wish to make related to this legislation:

1. This legislation has no effect on individual volunteers. They are adequately protected under existing statutes and the state does not require insurance from them. They do not pay to volunteer.

2. The state (enforced by the Attorney General's office) requires insurance from organizations that enter into agreements with the state, including volunteer organizations. (Although this requirement has not always been adequately understood and implemented.)
3. The state requires insurance because the statutes that protect individual volunteers do not provide the same level of protection for the organizations and the state generally does not assume liability for independent organizations. In fact, most agreements require the organizations to defend and indemnify the state.
4. These organizations remain liable for the actions of their members creating risk for both organizations and the state. This liability is greater if they are operating on DRED properties without an agreement.
5. The state does not have control over all of the activities of these independent organizations. Of the current organizations that volunteer, only about 15% of them conduct activities solely on DRED properties.

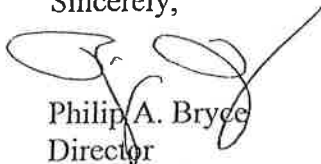
HB 1569-FN amends RSA 216-A:3-h to add liability protections for personal injury or property damage coverage to organizations (corporation or non-profit) volunteering on DRED properties, which are not provided under RSA 508:17,II. This is an extension of a Trails Bureau Statute, (RSA 508:14) to all volunteer activities on DRED properties, not just trail work.

The NH Snowmobile Association purchases insurance on behalf of all the clubs and is able to reduce the cost to each club by doing so. Our intent is that if the state can purchase insurance in the same way for volunteer organizations, we will also be able to reduce the cost to each organization that elects to participate.

If this legislation does not pass, the volunteer organizations will not have the additional liability protection for activities other than trails work and the State will not be able to play a role in addressing the financial impact of the insurance requirement.

Thank you for the opportunity to testify on behalf of this legislation. We are available to answer questions or help to provide any additional information you might need.

Sincerely,



Philip A. Bryce
Director

PAB/ttl

C: Jeffrey J. Rose, Commissioner

Phil &
Toni's
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HB-1569 FN

Volunteer Organization Liability

The purpose of this legislation is to help volunteer organizations reduce or eliminate the cost of liability insurance that is required for organizations while volunteering on State lands managed by DRED.

This legislation has no effect on individual volunteers. It only applies to and is solely intended to help organizations volunteering for DRED. Individual volunteers are already offered protection from liability under RSA 216-A:3-h, and the State does not require individuals volunteering independent of an organization under the direction of DRED to have insurance and indemnify the State.

NH House Bill 1569 FN gives additional liability protections to organizations volunteering on behalf of DRED (the Divisions of Parks & Recreation and Forests & Lands) where it currently does not exist in statute. The Bill would also allow DRED to carry blanket insurance coverage for partnering volunteer groups to voluntarily buy into, and provides the Department with the option of charging organizations for a portion of the cost of that insurance.

It is important to note that of the current organizations that volunteer for DRED, only about 15% of them have activities or missions that are solely related to supporting DRED.

The language in HB 1569 FN is sourced from the Trails Bureau liability statute (RSA 508:14) that protects OHRV Clubs and private landowners.

What HB-1569 FN does:

1. Amends RSA 216-A:3-h to add liability protections for personal injury or property damage coverage to organizations (corporation or non-profit) volunteering for DRED, which are not provided under RSA 508:17. Currently, volunteer organizations are subject to RSA 508:17 which subjects organizations up to \$250,000/ \$1,000,000 for negligent actions on the part of an individual/group member.
2. Provides DRED with the option to carry liability insurance coverage on behalf of partnering volunteer organizations. As of right now, DRED has no authority to carry insurance for volunteer organizations. If DRED carried the insurance, organizations would have an option, not a requirement, to buy into the policy.

3. Authorizes DRED to charge organizations a portion of the insurance coverage. This would help DRED offset the cost of insurance coverage, if needed, yet provide volunteer groups that don't already carry insurance independently with more affordable liability insurance coverage through the purchase of an aggregate policy.

What HB-1569 FN *does not* do:

1. Does not eliminate the need for organizations volunteering on behalf of DRED to carry insurance. This legislation has no effect on this requirement and without it, the requirement for insurance continues as a separate conversation. While the liability protections are expanded, the liability of an organization for gross negligence or willful or wanton misconduct on the part of an organization volunteer remains up to \$250,000 for an individual or \$1,000,000 for a number of persons for a group via RSA 508:17. This is important to note for organizations not currently carrying insurance.

2. Does not protect organizations when they are not carrying out "assigned duties or activities" under the general supervision of DRED staff or when the result of "gross negligence of willful or wanton misconduct".

"Assigned duties or activities" are captured in written agreements signed by the organizations and DRED.

3. Does not cover the activities of volunteer organizations off of DRED properties or activities that are not pertaining to DRED.
4. Does not require DRED to carry the liability insurance that would protect partnering organizations. It only authorizes DRED to do so, at its option, to assist its volunteer organizations.
5. Does not require organizations to purchase or join the liability insurance coverage offered through DRED. Insurance, as required by the State, can be purchased independently.

This legislation was developed with the help and support of the State Parks System Advisory Council. One of the top priorities of the Council has been to grow and support volunteer work in NH State Parks.