

2009 HOUSE NATURAL RESOURCES

HB 1189

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1189

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: 01-23-09

Recorder Job Number: 7664

Committee Clerk Signature

Nancy L. Gerhardt

Minutes:

Frank Wald: Bill deals with the liability landowners face when they allow someone on their property for recreational purposes. ie-cross country, hunting, bird watching, photography, hiking, biking, snowmobiling, 4 wheeling the list is endless of people who would like to be on someone's property, and yet the property owner has a degree of liability. I have an amendment. See Attachment # 1.

Chairman Porter: Rep. DeKray

Rep. DeKray: Taxes on my land are a little over \$5,000 a year. Under present law I could only be held for \$20,000. Why would I want to increase that?

Wald: Prices are going up you may take in more revenue than that.

Chairman Porter: Questions for Rep. Wald? Questions

Mr. James Odermann – See Attachment # 2.ND Nature & Rural Tourism Association

Chairman Porter: Questions? Failure to warn of dangerous conditions. If you have a gate that needs fixing and you fail to fix it, your liabilities to that person you failed to fix your gate.

Mr. Odermann – They are not taking people that are taking these activities and putting them at risk. This protects them against involvement with a natural resource being pocket gopher

holes, prairie dog holes, or terrain that can cause a 4 wheeler to rollover horse to tumble or something like that.

Chairman Porter: Do you know if there is a section in the code that deals specifically with ski areas and their liability because of inherent features of that sort and the different changes of the terrain or does this fly back and forth because of the conditions that exist?

Mr. Odermann – No.

Chairman Porter: Questions? Further testimony in support of HB 1189? Any opposition to HB 1189?

Allen Ofsted – We oppose placing a cap. I want to introduce Jeff Weikum.

Chairman Porter: Questions

Mr. Jeff Weikum – ND association for Justice – The law regarding recreational lands had some valid points regarding opening up for recreational use of private landowners without worrying about every gopher hole, every badger hole to make sure things are properly done. With this amendment we are going to give specific and special exemption to individuals who are injured through negligence – through fault – of somebody. It just happens you get injured in a land area such as in a situation, you can have some extraordinary harmful events. When he talks about putting a \$250,000 cap he is not talking about insulating a landowner what he is talking about is insurance that is available to that. Shifts the burden for that injury – for that loss – from the insurance company to the person that is injured. The \$250,000 immunity is not to be applicable. We ask you NOT to support this amendment. Questions

Chairman Porter: Questions for Mr. Weikum? Opposition Close the hearing for HB 1189.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1189

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: 2-6-09

Recorder Job Number: 8922

Committee Clerk Signature

Nancy L. Gerhardt

Minutes:

Chairman Porter - We have a motion for a Do Not Pass on HB 1189 from Rep. Keiser and a 2nd from Rep. DeKrey. Discussion the clerk will call the roll for a Do Not Pass on HB 1189.

Yes 11 No 0 Absent 2 Carrier Rep. DeKrey

Date: 2-16-09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1189

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hanson	✓	
Vice Chairman Damschen	✓		Rep Hunskor	✓	
Rep Clark	✓		Rep Kelsh		
Rep DeKrey	✓		Rep Myxter	✓	
Rep Drovdal	✓		Rep Pinkerton		
Rep Hofstad	✓				
Rep Keiser	✓				
Rep Nottestad	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment DeKrey

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1189: Natural Resources Committee (Rep. Porter, Chairman) recommends DO NOT PASS (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1189 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1189

Attachment # 1

90592.0101
Title.

Prepared by the Legislative Council staff for
Representative Wald
January 14, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1189

Page 1, line 6, overstrike "This" and insert immediately thereafter "Except as provided in subsection 3, this"

Page 1, after line 19, insert:

"3. The liability of an owner of land under this section is limited to two hundred fifty thousand dollars for any number of claims arising from any single occurrence."

Renumber accordingly



**Testimony, North Dakota House of Representatives
Natural Resources Committee
Presented: January 23, 2009 – 9:00 a.m.**

Good morning. My name is James Odermann. I live in Billings County and speak to you today on behalf of the North Dakota Nature and Rural Tourism Association. The North Dakota Nature and Rural Tourism Association is an organization dedicated to sharing North Dakota's natural assets with a growing tourism industry. We have membership across the state from Pembina to Bowman, from Wahpton to Williston and parts in between.

Our natural resources determine the quality of our life's place. The quality of place is further defined by the space that abounds (less than 10 persons per square mile) and the reason(s) why we CHOOSE to stay in North Dakota. This is an attraction and we need to commit resources (time, talent and treasure) to develop a vision that can protect our quality of place and assist others with basic needs to sustain life choices.

The North Dakota Nature and Rural Tourism Association membership is comprised of entrepreneurs who do not have expenses accounts, company cars or per diem. A common thread among our members is their connection to the land.

In actuality, our membership is at risk everyday seeking to find ways to generate a revenue stream to cover associated costs. Liability concern is a major limiting factor in enterprise development.

The proposed language in section 53-08-05 to exempt those with sales under \$100,000 is a major step to helping alleviate the liability concerns. This protection could invite young people to become engaged in "staying home" to vertically integrate our land base and develop nature based tourism activities. These activities can supplement traditional revenue streams of production agriculture, enhance local economies and promote our state.

I speak today asking for your favorable consideration of House Bill 1189 to provide liability protection for many of our members

Thank you for the opportunity to discuss this issue today. I would be happy to answer any questions you may have.

James Odermann, president
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