

RE: HB6557 AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.

Dear Co-Chairs Coleman and Fox, and Committee members,

My name is Charles Beristain and I live in West Hartford. I belong to the following organizations: Bike Walk Connecticut - founding member (www.bikewalkct.org), A principal behind Save Our CT Trails (www.saveourcttrails.org) and Save The MDC Trails (www.savethemdctrails.org), New England Mountain Biking Association (NEMBA), International Mountain Biking Association (IMBA), MDC Recreation Committee, and Connecticut Bicycle and Pedestrian Advisory Committee.

It is impressive that there are 14 identical or very similar bills on this recreational liability issue working their way through the legislative process, with the sponsorship of 35 Legislators, Senators and Representatives, Republican and Democrat. There have been three public hearings so far (Planning and Development and Environment) with strong public support. Over 150 written testimony items in support of passage from organizations and individuals have been placed online by these committees. Over 70 businesses and organizations have signed on in support of passage of this bill (the list is included in the CFPa testimony). In the initial stages of getting grass roots support, we had over 6000 individuals sign up in support of "fixing the holes in the liability law".

The Trial Lawyers Association was the only organization to talk against passage of this bill. No one else has come forward to talk against passage of this bill. I am not a lawyer, but there are arguments being used against municipalities receiving liability protection that do not pass a common sense test.

In the Trial Lawyers Association testimony, one very important topic is not addressed, which is the liability protection that is afforded to the State of Connecticut (CGS section 4-160). The State has the same limited liability protection as private landowners, except under CGS section 4-160 rather than 52-557n. I have yet to figure out what is it that is so different about a Municipality that it should be singled out and excluded from coverage provided to the State, Private Landowners, Corporations, and Utilities.

Also in the Trial Lawyers Association testimony, they suggested that Municipalities already had adequate protection with existing law. Yet the fear of liability exists and municipalities have closed half of the rock climbing sites since Conway v Wilton and the fear of liability rose to an even higher level after the two recently reported cases (\$2.9 in the MDC cycling verdict and \$8 million verdict against the City of Waterbury from a sledding accident). I have been riding at the West Hartford Reservoir about 200 days a year for the past 12 years and I know almost every nook and cranny. In the MDC incident, the subject was traveling at a high rate of speed riding the WRONG way on a blacktop section. There is a bike lane with at least 4 painted signs showing it as a bike lane with direction of travel arrows. The subject was not riding in the bike

lane but riding in the lane that walkers, runners, joggers and baby strollers use. In addition, because the subject was "racing", she was not looking forward, but riding with her head down. In the verdict the MDC was cited because there were no warning signs about the big yellow gate across the road. Does it make sense that municipalities should put warning signs on one way streets/paths to warn wrong way drivers/cyclists that there may be danger ahead?!

Also in the Trial Lawyers Association testimony, they suggested that because municipalities have in the past made their open space available to the public, there is no need to encourage them to do so in the future. But with the budget issues our towns are having and with the justifiable and increasing fear of liability, municipalities will have an incentive to close open spaces and not acquire new open spaces unless you pass liability reform now.

Open spaces are very important to Connecticut Communities, They provide places for recreational activities, support many different businesses that employ people and pay taxes and make Connecticut a place where people want to live.

Charless Beristain/West Hartford
cberistain@saveourcttrails.org
860.521.7188