



Connecticut Chapter
645 Farmington Ave.
Hartford, Connecticut 06105
www.connecticut.sierraclub.org
Martin Mador, Legislative Chair

Judiciary Committee
March 29, 2012
Testimony in Opposition to
SB 445 AAC Liability For The Recreational Use Of Land

There follows the original testimony of Connecticut residents in opposition to SB 445, as forwarded to the Sierra Club for submission to the Committee. It is submitted unedited, but printed together as a single document in order to save paper.

I am writing in regards to S.B. 445, 'An Act Concerning Liability for the Recreational Use of Land.' I urge you to vote against this bill and help keep open space open by maintaining liability protections voted into law last year. The language in S.B. 445 proposes to make boardwalks, public beaches and paved sidewalks ineligible for protection under the Recreational Liability Statute. These are broadly defined and could impact the availability and use of bikeways, greenways, paved multi-use trails, any wooden walkways and public beaches throughout the state. I, along with my family, regularly use the paved trails in and around West Hartford. We also utilize public beaches and bikeways throughout the state. I am concerned that S.B. 445 will limit access to these open spaces around the state due to liability concerns. If these places are no longer available it will reduce the quality of life for me, my family and thousands of Connecticut residents. There is no reason to alter the protections that were just passed last year. Please vote against S.B. 445 and ensure continued access to open spaces such as boardwalks, bikeways, greenways and public beaches.

Claire L Zick
77 Beverly Road
West Hartford, CT

If what I have heard about S.B. 445 is true, then in the service of the citizens of this state it must be defeated. I am told the effect of this bill would be to remove municipal liability protection from boardwalks, public beaches, and paved sidewalks which were protected just last year under P.L. 11-211.

As a resident of Stonington, what comes to mind immediately is the modest little beach at Stonington Point in the Borough. A blessing to many families with small children. I also have a son living in Waterford and am aware of a very pleasant municipal park and beach on the Sound over there, which as I recall contains all of the items from which municipal liability protection would be removed. If that were to force the Town of Waterford to close that park, it would be a major disappointment for my son's young family and all who might have made use of that park. I have no doubt there are properties in every municipality in Connecticut that would be impacted by a bill such as this, to the detriment of it's citizens.

Thank you, Legislators, in advance for taking the correct action with respect to S.B. 445.
John Hughes
52 Lathrop Ave
Pawcatuck, CT 06379

The changes to the law passed last year, P.L.11-211, that would follow from the adoption of bill 445 will make unusable multiple trails in the towns 45 mile open space trail system. This is due to the

presence of board walks over wet areas and board bridges over small streams. They are carefully constructed and maintained usually with chicken wire to prevent slipping. This would be a major detriment to the people of Ridgefield who would be unable to enjoy this important town amenity.

Benjamin Oko
Chair, Ridgefield Conservation Commission
11 Barlow Mountain Road
Ridgefield, Ct.

As a hike leader and bicycle rider, I oppose S.B. 445, which would make some areas on municipal lands ineligible for protection under the Recreational Liability Statute, i.e., boardwalks, public beaches, and paved sidewalks. Our East Coast Greenway in Manchester, the Hockanum River bridges and boardwalks, and similar corridors and rail trails would have a negative result from S.B. 445, in that these trails, now open for recreational use under the Recreational Liability Statute, could be closed if considered too risky due to the possibility of lawsuits. Please do all you can to keep land open for recreation by opposing S.B. 445. Thank you.

Susan Barlow
Connecticut Forest & Park Association Family Ramble Leader, DEEP Master Wildlife
Conservationist, Manchester Historical Society history-walk leader
Manchester, CT

I am stunned at the shortsightedness of a bill that would eliminate from liability protection municipal-owned public beaches, many of which are central to a town's desirability as a place to live. In my hometown of East Haddam, we are privileged to have a beautiful town beach on the Moodus Reservoir, which is frequented by local townspeople. Likewise, the nearby town of Chester provides the beautiful beach at Cedar Lake, at which our family has spent many a long hour, to its residents and visitors. Should our towns, and so many others like ours, be threatened by costly personal injury lawsuits, which would most certainly gravely impact the burden of local town taxes on its residents, one would have to predict that closure of these facilities would be the outcome.

At a time when there we are encouraging healthy outdoor lifestyles, and when the demand for outdoor recreational opportunities is of significant note, it would seem foolhardy to retreat from offering these irreplaceable amenities as part of Connecticut's unique profile.

Starr Sayres
Vice President, CT Forest and Parks Association

Passage of this bill is setting the foundation for access reduction to the beauty that is Connecticut. It is a short-sighted and selfish bill and does not serve the residents of CT.

Our parks, trailways, biking and walking paths are used not only by CT residents, but by tourists as well.

Limiting access to them would not only be an affront to CT residents, but most assuredly would send tourist dollars elsewhere.

Debbie Saranitzky
Meriden CT

I am a volunteer for a number of youth, conservation and outdoor recreation organizations, including the Connecticut Forest and Park Association. I am writing to ask that you vote no on S.B. 445. We believe that it will diminish the hard-fought protections afforded to public lands by Public Act 11-211. By making boardwalks, public beaches and paved sidewalks ineligible for protection, boardwalks on trails in the woods, beaches on the Sound or along lakes or rivers and bikeways and paved multiple-use trails will again be a source of lawsuits. Municipalities that can't afford to defend these suits, or risk large judgments, will consider closing recreational facilities. We heard from many of them last year when the current law was making its way through the General Assembly.

Janet Ainsworth
Guilford, CT

For several years I worked in Farmington and enjoyed walking several times a week during lunch hours in the MDC, it was a wonderful experience, healthy physically and mentally. I would hope that similar experiences would continue to be available to everyone. Unfortunately, I can also understand why it would be difficult for the MDC to provide access to the public without open space liability protection. Please extend them this protection. You made a difference last year, but S.B. 445 threatens to make it difficult again for the MDC and other such properties, by changes that would leave owners with renewed liability for boardwalks, public beaches, and paved sidewalks.

The MDC has many paved paths, trails, and roads, which could easily be claimed to be sidewalks. They are a prime aspect of the MDC that need to be protected from liability concerns for the ultimate benefit of the public. Even the reservoirs and streams could be challenged as public beaches. Likely, the MDC would rather not have to defend such ill-conceived and costly suits.

Luther Weeks
334 Hollister Way West
Glastonbury, CT 06033

I also oppose S.B. 445. As a longtime supporter of open spaces in Connecticut, currently president of the Manchester Land Conservation Trust, this bill could spell the end of open space preservation. Land owners, including land trusts, would either block off their lands to passive recreation by the community, or risk being sued out of ownership by users of their property. Everyone loses.

Today land owners can open their lands to anyone and everyone. Owners can afford the costs of insurance due to the protections given them under current statutes and case law. Everyone of us can walk in our open spaces – no fences, no threatening signs. Everyone wins.

Malcolm F. Barlow
President of the Manchester Land Conservation Trust
172 East Center Street
Manchester, CT 06040-5208

It seems ridiculous not to protect municipalities from lawsuits due to accidents on public beaches, boardwalks, or paved pathways, like the rail to trail lines. These amenities were constructed at great expense for the public to enjoy and municipalities should not have to worry about personal injury lawsuits. I add my name to those trying to prevent passage of SB 445.

Johanna Becker
Commissioner of Rails to Trails, Hamden, CT
Hamden, CT

S.B. 445 proposes to remove the protection from liability for recreational use afforded by the passage of P.L. 11-211 last year. On behalf of my Board of Directors and our membership, I want to express our strong opposition to such a bill.

The trail is a vital well-used linear park along most of its 54-mile length in central CT, extending from New Haven to the Mass. Border, embraced by all 12 towns through which it passes. Three quarters of the right-of-way is now completed and hugely popular with commuters, bikers, joggers and other people looking to get away from motorized traffic. It is popular with both locals and out-of-towners, and attracts increasing numbers from out of state, bringing tourism dollars to the CT economy. Its many spurs connect to other recreational, cultural and historic amenities throughout central CT, and it is also a linchpin in the developing East Coast Greenway, which is envisioned as a trail connecting cities from Key West Fla to the Canadian border in Maine.

If S.B. 445 or anything like it were ever to become law, the protection municipalities enjoy from spurious personal injury lawsuits by users on "paved sidewalks," which broadly defined include most of the developed trail and its connectors, would be destroyed. Such a law would force municipalities to close or limit access to the trail and other much needed recreational amenities. These prized areas of open space for non-motor recreation and commuting are important ingredients in the quality of life of CT residents, for human health and well-being. It is also likely that such a law would kill the momentum and enthusiasm that is building to complete the remaining gaps in the trail in Cheshire and

Plainville. I am confident that this is not what you want. Please oppose this terrible idea and this bill so that we and future generations in this state can continue to enjoy the trail and others like it. Do not roll back the existing important protections to municipalities. We need to do everything we can to encourage active recreation.

Lisa Fernandez

Farmington Canal Rail-to-Trail Association, President

Please reject SB 445. The language of the bill is imprecise (What is a "beach"? What is a "boardwalk"? What sort of "pavement" is contemplated by "paved sidewalk open for pedestrian use"?). At the public hearings that preceded passage of 2011 HB 6557, numerous town officials described chilling affect that potential liability exposure has on a municipality's willingness to invest in the development of a parcel of land for recreational use. It is precisely the sort of ill-defined language contained in SB 445 that opens towns to unlimited liability.

What were widely regarded as inappropriate and excessive personal injury judgments galvanized a large coalition of recreation activists, land owners, municipal agenst, and state legislators to work for passage of 2011 HB 6557 – the modification of 52-557 that provides municipalities with limited liability protection.

One of the "messages" from public testimony about HB 6557 (and the other similar bills introduced in the same session) is that users of recreational properties choose to engage in their activities; they assume the responsibility for the outcomes of those activities. SB 445 does injustice to the public sentiment that was expressed during passage of HB6557. Simply put, there are all manner of ways in which individuals can misuse town land and facilities and cause injury to themselves. Short of closing their property to recreation, municipalities cannot prevent inappropriate or untimely use. If we don't want them to close their properties, then we need to provide them with (limited) protection.

52-557 is designed to encourage land-owners to make property available for no-free recreation by limiting their liability if they do so. The intent of 2011 HB 6557 was to affirmatively extend to municipalities the same protections that were available to private landowners. SB 445 would unwind those protections and so should be rejected.

Timothy M. Linehan

166 Georgetown Drive

Glastonbury, CT 06033

I am writing to ask you to vote against S.B. 445, "An Act Concerning Liability for the Recreational Use of Land." I am very concerned about the way this proposed bill is going to undermine the municipal liability protections established last year in P.L. 11-211. As someone who is very focused on increasing opportunities for Connecticut residents (and tourists) to utilize public areas and open space for recreational activities, I think it is very important that we maintain the present liability limitations. As I'm sure you well know, if municipalities feel they will be liable for accidents and injuries occurring on municipal properties, the likely reaction will be to close those properties to public use. I hope you will support public recreational activities by voting NO on this bill and urging your colleagues to do the same.

Richard R. Rendeiro

Kroll, McNamara, Evans & Delehanty, LLP 65 Memorial Road - Suite 300

West Hartford, CT 06107

I would ask you not only to vote against SB 445, described below, but to actively work for its defeat. Last year the Assembly removed a great disincentive for the municipal acquisition and public access to open space and parkland with P.L. 11-211.

Greenwich is blessed with, and continually attempts to increase, its wonderful parkland and beaches.

This asset is one of the major reasons why Greenwich is the pre-eminent residential community.

S.B.445 would dampen the will to increase, open, and maintain this critical aspect of healthy living.

The public liability inclusion of beaches, for Greenwich alone, is an unconscionable action. The vague definition for boardwalks and sidewalks is purely irresponsibly and lazy.

Since this whole topic of municipal liability was "asked and answered" by the Assembly only last

year, one must ask what great epiphany has struck the Judicial Committee to cause this new bill to be raised to the floor. If one of you had a part in this, I will happily pause for an explanation. Otherwise, please maintain the integrity of last years P.L. 11-211.

Chris von Keyserling
Cos Cob, CT

I urge you to vote against S.B. 445.

I cannot understand why the Act passed last year to keep municipal lands free from liability and so remain open to the public is being tampered with. Leave it alone! All municipal recreational lands are a vital resource to the citizens of the state and need to stay completely open.

I am frequent user of the paved Farmington Valley Greenway system that runs from Granby through East Granby, Simsbury, Avon and Farmington. This system of paths is used by thousands and must remain safe from all liability issues.

I also swim and recreate at the at MDC beaches at the McDonough Reservoir in Barkhamsted. This is a unique resource in the summer which is a haven for thousands of people from Greater Hartford. Please don't allow loopholes in the ACT that would prevent these beaches from public access.

I thank you for your consideration.

Sincerely,

Richard Stanley
5 Sherwood Ln.

West Simsbury, CT 06092

I am writing to ask you to vote against S.B. 445, "An Act Concerning Liability for the Recreational Use of Land." I am very concerned that undermining municipal liability will negatively impact the health and well being of Connecticut residents, businesses, and community. My health, physical, social and spiritual is closely tied to the ability to get outside and use these spaces to ride, walk, and meditate. I have noticed in recent years that towns become more vibrant as more people use a communities parks, beaches and open space.

I think it is very important that we maintain the present liability limitations. I am afraid if municipalities are afraid of lawsuits they will close these spaces to public use. This will have a direct negative impact on the state's businesses, tourism, and health of our residents. Please support public recreational activities by voting NO on this bill and urging your colleagues to do the same.

Thank you

Susan L. Durant
1 Muirfield Lane
Avon, CT 06001

Please leave recreational liability statute P.L.11-211 as is. Excluding boardwalks, beaches, and paved surfaces would leave some of our most popular recreational areas unprotected. As a watershed, linear trail association member, and an outdoors enthusiast, I can attest to this. The Quinnipiac River, which through much effort is becoming a renewed recreational resource, has beaches used by fisherman and paddlers alike. These could be in jeopardy. Paved linear trails, like the ones presently being built in Meriden, are arguably the most frequented outdoor, municipal resources. How would SB445 affect those? Hiking or walking areas with bridges or board walks, i.e. Hammonasset, White Memorial, Appalachian Trail, what about them?

Let's keep our limited open areas open.

Thank you.

David James
Quinnipiac River Watershed Association,
Meriden Linear Trails Advisory Committee
11 Carl St.
Meriden CT