

Legislation Affecting Trails

BILL 208, OCCUPIERS' LIABILITY (RECREATIONAL USERS) AMENDMENT ACT, 2003

For a number of years, Alberta TrailNet and other stakeholders requested revisions to the Occupies' Liability Act or the creation of new trails legislation. Concerns centred around the need to provide enhanced protection to land managers, landowners and trail operators from liability claims brought by persons who are injured as a result of using trails in an unauthorized or unsafe manner, or while trespassing on private land. Fear of a potential lawsuit may prevent landowners from permitting recreational users on their property. Bill 208 reduces the current level of liability that landowners and occupiers owe to visitors on their property and places the responsibility on recreational users for their actions. The liability of an occupier to a person who uses premises for a recreational purpose shall be determined as if the person were a trespasser. Therefore, owners and occupiers would not be held liable for anything that is common practice, except where death or injury to recreational visitors occurs due to the willful and reckless conduct of the landowner or land occupier. While relieving landowners of the burden of liability from recreational users on their lands, Bill 208 also supports trail operators by reducing their liability and risk, therefore assisting to keep insurance premiums at manageable levels. With injury liability concerns lessened, Alberta landowners and occupiers may be more willing to allow recreational users to enter their land for recreational purposes.

Please contact Alberta TrailNet with questions or for other information regarding this Act.

BILL 6, JUSTICE STATUTES AMENDMENT ACT, 2003

Bill 6 amends the Petty Trespass Act by raising the amount of the fine to \$2000 from \$100. In addition, section 5, which requires the laying of a charge before magistrate by the owner or occupier, has been deleted. Law enforcement officers can now lay charges upon a complaint. Citizens' arrests are still possible.

BILL 15, FOREST AND PRAIRIE PROTECTION AMENDMENT ACT, 2003

Bill 15 amends the Forest and Prairie Protection Act by providing for "joint and several liability" of the following persons for firefighting costs:

- a. person who caused the fire,
- b. person who directed the lighting of the fire,
- c. person who was otherwise responsible for the fire,
- d. person who owned the land on which the fire began and does not establish that the fire ignited or was lit without that person's consent, express or implied, and
- e. person who was in control of the land on which the fire began and does not establish that the fire ignited or was lit without that person's consent, express or implied.

"Joint and several liability" means that the party entitled to be reimbursed may go after any or all of the above list of persons for the entire amount of the costs. The second key point is the onus placed on the person who owns or is in control of the land to prove that there was no express or implied consent to igniting a fire. Signage limiting fires will be important in demonstrating that permission was not given and may reduce liability.