

HB 191 – VERSION ADOPTED BY BOTH BODIES

19May2010... 2085eba

2010 SESSION

09-0307

10/05

HOUSE BILL ***191***

AN ACT relative to liability of a landowner giving permission to ride bicycles on his or her property.

SPONSORS: Rep. Chandler, Carr 1; Rep. Butler, Carr 1; Rep. Umberger, Carr 1; Rep. Bucu, Carr 1; Sen. Gallus, Dist 1

COMMITTEE: Judiciary

ANALYSIS

This bill adds riding bicycles to the permitted activities for which a landowner does not owe a duty of care to persons entering and using the property.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to liability of a landowner giving permission to ride bicycles on his or her property.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Liability of Landowners; Duty of Care; Bicycling Added. Amend RSA 212:34 to read as follows:

212:34 Duty of Care.

I. An owner, lessee, or occupant of premises owes no duty of care to keep such premises safe for entry or use by others for hunting, fishing, trapping, camping, horseback riding, ***bicycling***, water sports, winter sports, snowmobiling, or OHRVs as defined in RSA 215-A, hiking, sightseeing, or removal of fuel wood, or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purposes, except as provided in paragraph III hereof.

II. An owner, lessee or occupant of premises who gives permission to another to hunt, fish, trap, camp, ride horseback, ***ride bicycles***, hike, use snowmobiles as defined in RSA 215-C, use OHRVs as defined in RSA 215-A, sightsee upon, or remove fuel wood from, such premises, or use said premises for water sports, or winter sports

does not thereby:

- (a) Extend any assurance that the premises are safe for such purpose, or
- (b) Constitute the person to whom permission has been granted the legal status of an invitee to whom a duty of care is owed, or
- (c) Assume responsibility for or incur liability for an injury to person or property caused by any act of such person to whom permission has been granted except as provided in paragraph III hereof.

III. This section does not limit the liability which otherwise exists:

- (a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or
- (b) For injury suffered in any case where permission to hunt, fish, trap, camp, ride horseback, *ride bicycles*, hike, use for water sports, winter sports, use of snowmobiles as defined in RSA 215-C, or use of OHRVs as defined in RSA 215-A, sightsee, or remove fuel wood was granted for a consideration other than the consideration, if any, paid to said landowner by the state; or
- (c) The injury caused by acts of persons to whom permission to hunt, fish, trap, camp, ride horseback, *ride bicycles*, hike, use for water sports, winter sports, use of snowmobiles as defined in RSA 215-C, or use of OHRVs as defined in RSA 215-A, sightsee, or remove fuel wood was granted, to third persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

IV. Except as provided in paragraph III, a person using the premises as provided in paragraph I or given permission as provided in paragraph II, shall not maintain an action against the owner, occupant, or lessee of the premises for any injury which resulted while on the premises.

2 Effective Date. This act shall take effect January 1, 2011.