

Trail Talk

The Issue:
Occupiers Liability

The Fear:
Adjacent landowners are liable for trespass incident on their property.

The response:

The fear is valid. At present, Alberta's Provincial legislation provide more liability risk towards landowners (or even leaseholders) than most any other Province in Canada. Fortunately the Provincial Government thru it's Ministers realizes that the laws of the Provinces are needing changes which will significantly reduce the risk of liable towards landowners caused when others especially those without permission stray onto privately owned or leased lands. Last fall we were told that these laws were subject to review this spring, however, pressure from other issues has prevailed, and the review has been delayed until later (this year?). When this does happen, insurance availability for a reasonable premium will significantly improve.

Insurance provided by the Alberta Snowmobile Association with a ten million dollar liability coverage is reviewed and renewed annually to protect the landowners thru which an approved trail passes with coverage not only while snowmobilers are on the trail but also in the event that they may stray off the trail onto the directly adjacent property.

The Trans Canada Trail Foundation does provide insurance which covers landowners with insurance for the five core acceptable uses while on the trail only. ATV's for now are not considered acceptable, therefore in areas where ATV's might be allowed by the local "owners" of the Trail, a separate insurance coverage may be required.

Municipal insurance may also cover liability protection where the trail is municipal owned.

Safe recreation is the most important element and reason for a trail to exist. In Canada, it is shown that last year, less than 15% of all accidents happened on a trail, while over 85% of all snowmobiling nationally was done on trails. In Alberta 0% of registered accidents happened on a snowmobile trail last year.

Especially in an area where a significant amount of recreational riding does occur especially in the winter, when it seems acceptable by landowners, would the establishment of a trail network significantly reduce the risk presently directed to the landowners. Established, signed, maintained, and insured trails would potentially offer what is known as destination riding where riders, hikers, bicyclists, etc. would set out to travel from one community to the next or to a designated riding area rather than "poke" around in places not necessarily acceptable to the private land owners, in search of somewhere to go.

In summary: It may be seen that the establishment of proper trails in an area where random recreational activity already does exist would not only significantly increase the safety of the participants but would also potentially reduce the risk of liability to area landowners rather than increase it.

The above commentary is provided only to the best of the ability of the submitter, and some items may be personal opinion.