

SESSION OF 2006

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2432

As Amended by Senate Committee on
Agriculture

Brief*

HB 2432 would amend the sections of the statutes dealing with recreational trails (rails-to-trails) and the liability of adjacent landowners. Specifically, in addition to the current provisions of law, the bill would provide that any person entering upon adjacent property to a recreational trail without implied or expressed permission or consent of the adjacent property owner has no duty of care. The bill would create an exception to this lack of duty of care by not relieving an adjacent property owner from liability for injury to another that is a direct result of an intentional or unlawful act of the adjacent property owner.

In addition, the bill would provide that if a responsible party fails to comply with the provisions of the law, any adjacent property owner, city or county aggrieved by the noncompliance could bring an action in a district court to enforce the provisions of the law. Failure to comply would permit the court to issue an order requiring the responsible party to comply with the provisions of the law. Current law allows a city or county to institute procedures for recourse against a responsible party upon failure to comply with the provisions of the law.

The bill would become effective upon publication in the *Kansas Register*.

Background

This bill was introduced in the 2005 Legislative Session. At the hearing on the bill during the 2006 Legislative Session, proponents included representatives of the Kansas Livestock Association and the Kansas Farm Bureau. These conferees indicated that the bill was intended to assure the landowner adjacent to a recreational trail owes no duty of care to a trespasser. There were no opponents to the bill.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The House Committee on Agriculture amended the bill to delete language which would have subjected adjacent landowners to liability for willful or wanton misconduct. Other amendments were technical in nature.

The Senate Committee on Agriculture amended the bill to allow adjacent property owners, cities, and counties aggrieved by the noncompliance of a responsible party to seek a court order requiring responsible parties to comply with the provisions of the recreational trail law.

The fiscal note on the original bill states that according to the Kansas Department of Wildlife and Parks and the Kansas Association of Counties, passage of HB 2432 would not be expected to have any fiscal effect on the state budget. The Office of Judicial Administration states that passage of this bill could bring more cases before the court; however, it cannot predict with any certainty the fiscal effect that might result.