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Introduced by Representatives Hubert of Milton, Bancroft of Westford, Baser of Bristol, Batchelor of Derby, Beck of St. Johnsbury, Berry of Manchester, Bissonnette of Winooski, Burditt of West Rutland, Buxton of Tunbridge, Canfield of Fair Haven, Carr of Brandon, Christie of Hartford, Cole of Burlington, Connor of Fairfield, Dakin of Colchester, Devereux of Mount Holly, Dickinson of St. Albans Town, Donahue of Northfield, Donovan of Burlington, Evans of Essex, Fagan of Rutland City, Feltus of Lyndon, Fiske of Enosburgh, Gage of Rutland City, Gamache of Swanton, Graham of Williamstown, Higley of Lowell, Jerman of Essex, Juskiewicz of Cambridge, LaClair of Barre Town, Lenes of Shelburne, Lewis of Berlin, Lucke of Hartford, Marcotte of Coventry, Martel of Waterford, Martin of Wolcott, McFaun of Barre Town, Myers of Essex, Olsen of Londonderry, Pearce of Richford, Potter of Clarendon, Purvis of Colchester, Savage of Swanton, Shaw of Derby, Smith of New Haven, Stevens of Waterbury, Strong of Albany, Sweaney of Windsor, Tate of Mendon, Terenzini of Rutland Town, Till of Jericho, Townsend of South Burlington, Troiano of Stannard, Turner of Milton, Van Wyck of Ferrisburgh, Viens of Newport

1 City, Wright of Burlington, Yantachka of Charlotte, and Zagar
2 of Barnard

3 Referred to Committee on

4 Date:

5 Subject: Ways used for vehicular travel; chains or barriers; limitation on
6 liability

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) regulate the use of chains or barriers across public or private ways
9 used for vehicular travel;

10 (2) eliminate certain limitations that may exist on the liability of a
11 person responsible for the installation of, or who owns or controls property
12 with, a chain or other barrier across a public or private way that the person
13 knows or should know is used for vehicular travel.

14 An act relating to chains or barriers across ways used for vehicular travel

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 19 V.S.A. chapter 29 is added to read:

17 CHAPTER 29. WAYS USED FOR VEHICULAR TRAVEL

18 § 2901. DEFINITIONS

19 As used in this chapter:

1 (1) “Property owner” means a person who owns, leases, or otherwise
2 controls ownership or manages the use of real property, including waters
3 thereon.

4 (2)(A) “Vehicle” means every device upon which any person or
5 property can be transported or drawn, except conveyances that run on rails.

6 (B) “Vehicle” includes motor vehicles as defined in 23 V.S.A. § 4,
7 bicycles, all-terrain vehicles, snowmobiles, and watercraft.

8 (C) “Vehicle” does not include sleds, skis, snowboards, or the like.

9 (3) “Vehicular travel” means travel by a person upon a vehicle.

10 (4) “Way” includes a strip of public or private property, or a body of
11 water.

12 § 2902. WAYS USED FOR VEHICULAR TRAVEL; CHAINS OR

13 OTHER BARRIERS; DUTY; LIABILITY

14 (a)(1) A person who knows, or should know, that a way is used for
15 vehicular travel and who causes to be installed a chain or other barrier across
16 all or part of the way, shall mark the chain or barrier with flags or other
17 markings that are retroflective or otherwise readily visible in the presence of
18 natural and artificial light. This requirement shall not apply, however, if the
19 chain or barrier is itself readily visible in the presence of natural and artificial
20 light in the absence of such markings.

1 (2) A property owner who knows, or should know, that a way on the
2 property is used for vehicular travel, and that a chain or other barrier exists
3 across all or part of the way, shall:

4 (A) maintain markings as may be required under subdivision (1) of
5 this subsection; or

6 (B) cause the chain or barrier to be removed.

7 (b) A person does not violate this section if markings in compliance with
8 this section are removed or detached and the person does not know or have
9 reason to know of their removal or detachment.

10 (c)(1) An unexcused violation of this section is negligence in itself.

11 (2) A person's liability in tort for a violation of this section shall not be
12 limited under:

13 (A) Vermont's recreational use statutes, including 12 V.S.A. § 5793,
14 23 V.S.A. § 3206(d), and 23 V.S.A. § 3506(c);

15 (B) any contrary provision of the common law of Vermont that limits
16 the duty of care owed to trespassers.

17 (3) Except as expressly provided in this section, this section is not
18 intended to modify causes of action or defenses otherwise available under
19 Vermont statute or common law.

20 Sec. 2. EFFECTIVE DATE

21 This act shall take effect on July 1, 2016.