



**A commentary for the Parliamentary Committee
Regarding Bill 100**

From a legal, written point of view the Ontario Trails Council repeats what it has said since the Bill was first released to us, through special session with MTCS staffs on May 5th 2015:

Bill 100 “The Supporting Ontario Trails Act,” and its various amendments to other Acts is; substantially fine, in its entirety, other than for one suggested amendment,

“the amount of minimum fines assessed under the Trespass Act to a \$250.00 minimum fine. “

We wish to be clear, this is a minimum fine, not a ‘mandatory minimum’ as others may be requesting. We believe the mandatory aspect removes judicial discretion and could invoke total enactment of quilt including penalty, despite mitigating circumstances.



Other than this, do not change or alter the Act, nor the amendments it makes to the Planning, Snowmobile, Off Road, Occupiers Liability et al; and its changes as it currently stands.

At Ontario Trails Council we also wish to say, since we have the opportunity to comment that it is not the Act, but the subjective, sometimes reckless interpretations, speculative anticipated consequences, and “lack of clarity” by some members of the public, or their advocates; that has been damaging by closing trails through restricted access to private land.

While trail closure is very problematic, in many ways Bill 100 does not go far enough in legally securing or sustaining the 80,000+ kilometers of trails and the groups that support one of the worlds largest trail networks.



Bill 100, or sections therein -

- **Could be strengthened to enact a process of managing the 80,000 kilometers of trails**
- **Could be improved to reinforce the workings of the Ontario Trails Council as the lead provincial trails association in a fashion similar to other provincial level associations (OMA)**
- **Could directly reduce trail organization liability**
- **Could be improved by introducing a trails funding model for groups managing trails**
- **Could be strengthened through the introduction of a support a license fee recapture, with a province wide trail pass system.**
- **Could provide tax incentives for private land access**

Since 2004, through at least 6 appearances at the Legislatures own Pre-budget Consultation Committee, OTC has made recommendation for a sustained systematic process to declare, and then solve trail issues.



As we have witnessed through a required MTCS media response to the second reading, 10 hours of house debate, and now these two committee meetings, it is the need for better understanding of due process, misinterpretation of may vs shall, “eligible bodies”, some Conservation Practices, the need for of trail education support, the need for trail count mechanisms, land owner appreciation and other factors from non-related provincial legislation and enactment of same (wind-farms) – that has created two solitudes in Ontario.

In fact, the relationship between trails and land, i.e. having a landowner agreement with a trail group, has over the years, ensured protection for landowners that they retain title on land they are not utilizing.

This is rural versus urban Ontario, and a rural neighbor versus neighbor situation that has resulted in the closure of trails as a reactionary, and in the opinion of OTC – unnecessary damage to the rural economy.



To be clear it is not this Act. The Act is clear in language and we do not know how it could be re-written to enhance understanding. Do not withdraw it, do not change it except for the aforementioned amendment to the trespass fine amount.

If it is not language, what is it that has caused the sudden and damaging loss of trails through the release of the Act?

We would encourage the Ontario Government to pass the Act and ensure subsequent to this that landowner and trail enablement programs and projects be initiated through the Ontario Trails Coordinating Committee.

Landowners, trail users, management groups and other federations must be consulted to secure and sustain the 10 billion annual economy taking place through and around recreational trails.



It has also been disheartening to have members of parliament stand up in the house and have virtually no understanding of the total number of trails, 80,000+, nor the number of communities that have a trail, 430; any awareness of the Ontario Trails Council and its 240 municipal, conservation and user federation members; nor the full value to the Ontario economy on an annual basis - \$10 billion.

As we move forward with the Ontario Trails Act, we renew our earlier requests for an appendix of terms, clarity on enactment and safeguard of lands and landowners.

This Act should pass because it does improve trespass penalty (as request of landowners), remove ceilings on damages (a request of the business sector), maintain easements (a respected and known process involving public disclosure, appeal, initiated by the landowner) as per the Planning Act, improve clarity and safeguards for the Occupiers Lands Act (enabling provincial bodies et



**al to have a reduced duty while charging entrance fees),
a request of some private and public bodies.**

**On the whole the “Supporting Ontario Trails Act” as
written and currently presented represents a fair
summation of consultation in 2004-05, 2012-13.**

**For our part at OTC we are concerned with elements that
others have declared as OK – a trails week, trails of
distinction, trails classification – these are all areas that
the government has introduced on a unilateral basis
with no clear recognition in the Act that specifically the
Ontario Trails Council – who offers awards, recognizes
trails and communities, has provided funding for
development, supported grants would be utilized in the
lead role for these activities.**

**We would request that all matters of sale of lands,
historically or currently hosting recreational trail follow
a public disclosure process, similar to that of the
easement provision in the Planning Act. Many trails**



have in fact been lost due to unknown private transaction with some well meaning national conservation groups.

In closing, at OTC this Act has become a lightning rod for issues that have nothing to do with trails.

A short list would be; transparency, due process, clarity of intent, collateral damage, and public education.

Since first created to fulfill these objectives by the MNR in 1976, the one thing that has not occurred is the sustainability of the OTC and its programs to work as the lead government partner ensuring understanding of land practices, landowner relations, and the other 51 challenges laid out in the Ontario Trails Strategy and partially covered by the Supporting Ontario Trails Act.

We respectfully suggest that through these 40 years, core support of the OTC would have enabled the



smoother transition and acceptance of the “Supporting Ontario’s Trails Act.”

Properly enabled, OTC can continue to be the ounce of prevention to the pound of cure situation trails now find themselves.

We look forward to working with all partners in support of other requested changes and the successful passage of Bill 100.