

HOUSE BILL No. 2510

By Committee on Agriculture

1-22

1 AN ACT concerning real property; relating to recreational trails;
2 applicability of conditions for operating such trails; amending K.S.A.
3 58-3212 and 58-3213 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 58-3212 is hereby amended to read as follows: 58-
7 3212. (a) The responsible party, at all times after transfer of the deed to the
8 responsible party, shall:

9 (1) Perform the duties imposed by K.S.A. 2-1314, and amendments
10 thereto, along the recreational trail;

11 (2) provide for the safety, use and accessibility of existing easements,
12 utility facilities and access licenses along the recreational trail;

13 (3) provide for trail-user education and signs regarding trespassing
14 laws and safety along the recreational trail;

15 (4) provide for litter control and the enforcement of laws prohibiting
16 littering along the recreational trail, including, but not limited to, trail-user
17 education and signs about laws prohibiting littering and the provision of
18 trash receptacles and the cleanup of trash and litter;

19 (5) develop and maintain the recreational trail in a condition that does
20 not create a fire hazard;

21 (6) designate the recreational trail for non-motorized vehicle use with
22 exceptions only for motorized wheelchairs and maintenance, law
23 enforcement and emergency vehicles;

24 (7) prohibit hunting or trapping on or from the recreational trail;

25 (8) provide for law enforcement along the recreational trail;

26 (9) grant easements to adjacent property owners to permit such
27 owners to cross the recreational trail in a reasonable manner consistent
28 with the use of the adjacent property and with K.S.A. 66-301 through 66-
29 303, and amendments thereto;

30 (10) (A) maintain any existing fencing between the trail and adjacent
31 property; (B) maintain any future fencing installed between the trail and
32 adjacent property; (C) install between the trail and adjacent property
33 fencing corresponding in class to that maintained on the remaining sides of
34 such adjacent property; and (D) on request of an adjacent property owner,
35 pay one-half the cost of installing fencing between the trail and such
36 property owner's adjacent property with a fence of the class requested by

1 such property owner, if not all remaining sides of such property are fenced;
2 and

3 (11) (A) maintain the trail; (B) maintain all bridges, culverts, roadway
4 intersections and crossings on the trail, essential to the reasonable and
5 prudent operation of the trail or needed for drainage, flood control or the
6 use of easements for crossing the trail between adjacent properties, or
7 cause maintenance thereof by other parties that have assumed contractual
8 responsibility therefor; and (C) install and maintain any warranted traffic
9 signs on the trail.

10 (b) If the responsible party is not a governmental entity, the
11 responsible party shall file with the county clerk of each county where a
12 portion of the recreational trail is or will be located a bond or proof of an
13 escrow account in a Kansas financial institution, as defined by K.S.A. 16-
14 117, and amendments thereto, payable to the county. The bond or proof of
15 an escrow account shall be filed at the time of transfer of the deed to the
16 responsible party and annually thereafter. The bond or escrow account
17 shall be conditioned on the responsible party's performance, and shall be in
18 an amount agreed upon between the responsible party and the county
19 commission as sufficient to fully cover the annual costs; of:

20 (1) Weed control along the trail, as required by subsection (a)(1);

21 (2) litter control along the trail, as required by subsection (a)(4);

22 (3) maintenance of the trail in a condition that does not create a fire
23 hazard, as required by subsection (a)(5);

24 (4) installation and maintenance of fencing between the trail and
25 adjacent property within the county, as required by subsection (a)(10); and

26 (5) installation and maintenance of signs along the trail, as required
27 by subsections (a)(3), (a)(4) and (a)(11)(C).

28 If separate bonds are submitted to or escrow accounts established for
29 the various counties through which the trail transverses, the annual costs
30 listed above shall be only for that portion of the trail located within the
31 particular county that is the holder of the bond or beneficiary of the
32 escrow. A responsible party may submit a single bond or escrow account
33 with multiple counties respectively as co-obligees or co-beneficiaries, but
34 in that event the annual costs used in computation of the bond amount
35 shall be for the entire trail length.

36 (c) If the responsible party is not a governmental entity, the
37 responsible party shall file with the county clerk of each county where a
38 portion of the recreational trail is or will be located, proof of liability
39 insurance in an amount agreed upon between the responsible party and the
40 county commission as sufficient. Such proof shall be filed at the time of
41 transfer of the deed to the responsible party and annually thereafter.

42 (d) The provisions of this section shall apply to all recreational trails,
43 regardless of when approval *to the responsible party* to enter into

1 negotiations for interim trail use is or was received from the appropriate
2 federal agency.

3 (e) The provisions of this section may be modified or supplemented
4 by any city governing body for recreational trails within the corporate
5 limits of such city in the manner provided by K.S.A. 12-137 et seq. and
6 amendments thereto. If a city governing body adopts requirements in
7 addition to those provided by this section, the city shall pay all costs of
8 compliance with such additional requirements.

9 Sec. 2. K.S.A. 58-3213 is hereby amended to read as follows: 58-
10 3213. (a) Upon receipt of permission from the appropriate federal agency
11 to enter into negotiations for interim trail use, the responsible party shall
12 give written notice to each adjacent property owner that the responsible
13 party intends to build a recreational trail adjacent to the property owner's
14 property. The responsible party may utilize the addresses to which real
15 estate tax statements are sent, as maintained by county officials, for such
16 notices. Such notice shall be given by first-class mail unless the notice is
17 returned undelivered, in which case a further notice shall be given by
18 certified mail. Further notice shall be published once each week for three
19 consecutive weeks in the official newspaper of the county in which such
20 trail is proposed to be located.

21 (b) Before commencing development or operation of a recreational
22 trail, the responsible party shall:

23 (1) Prepare a project plan that includes: (A) The name and address of
24 the responsible party;; (B) an itemized estimate of the costs of the project
25 and sources of funding for the project;; and (C) maps of the recreational
26 trail;

27 (2) submit by certified mail, not later than 180 days after receiving
28 approval of interim trail use from the appropriate federal agency, the initial
29 project plan to the county commission of each county where a portion of
30 the trail is to be located outside of city limits and to the governing body of
31 each city where a portion of the trail is to be located inside the city limits;

32 (3) submit the final project plan to the county commission of each
33 county where a portion of the trail is to be located outside of city limits
34 and make subsequent reports to such county commission as to the status of
35 trail development or operation, or both, at intervals determined by the
36 commission and consider all recommendations the commission has
37 regarding the trail; and

38 (4) submit the final project plan to the governing body of each city
39 where a portion of the trail is to be located inside the city limits and make
40 subsequent reports to such city governing body as to the status of trail
41 development or operation, or both, at intervals determined by the
42 governing body and consider all recommendations the governing body has
43 regarding the trail.

1 (c) The responsible party shall complete development of a
2 recreational trail within a period of time equal to two years times the
3 number of counties in which the recreational trail is located. Such period
4 of time shall begin only when the appeal period pursuant to ~~subsection (d)~~
5 ~~of~~ 16 U.S.C. 1247(d) (1983) has expired. Any time during which there is
6 pending any court action challenging the development or use of the trail
7 shall not be computed as part of the time limitation imposed by this
8 subsection.

9 (d) The provisions of this section shall apply to only recreational
10 trails for which approval *to the responsible party* to enter into negotiations
11 for interim trail use is received from the appropriate federal agency on or
12 after the effective date of this act.

13 Sec. 3. K.S.A. 58-3212 and 58-3213 are hereby repealed.

14 Sec. 4. This act shall take effect and be in force from and after its
15 publication in the Kansas register.