

SENATOR WICKERSHAM: Thank you, Madam President. Just very briefly, of course this amendment has nothing to do with open season or anything else. The amendment is simply an attempt to recognize that in this particular situation it may be appropriate to shift the burden as to who has to keep the lookout, who has to be aware and who has to be careful about the well-being of the people on the trail. Are we going to place that burden primarily on the people who are utilizing the trail, or are we going to place that burden primarily on the adjoining property owners? I think it's a proper...it's a proper judgment to make that that responsibility and that degree of care is to be borne more heavily by the users of the trails than the adjoining property owners. After all, the users of the trail know they're there. It isn't necessarily the fact that the owners of the adjoining property know they're there and it's very difficult on various occasions for the adjoining property owners to find out if they're there, and it simply is...the amendment is simply an attempt to recognize that particular and very difficult situation that the adjoining landowners could be put in when they cannot reasonably find out if someone is utilizing the trail and they're going to crop spray or they're going to turn on their center-pivot irrigation system, or they're going to do something else that might be detrimental to the people who are using the trail.

PRESIDENT MOUL: Thank you, Senator Wickersham. Senator Beutler, followed by Senators Wehrbein and Lynch. Senator Beutler.

SENATOR BEUTLER: Madam President and members of the Legislature, this is not a reasonable amendment and let me try, as best I can, to explain why. First of all, generally speaking, with all groups in our society we have a standard by which we expect each other, by which we expect one group or one person to regard another person, and that is basically a negligent standard. You can do anything you want on your property, on my property, but you can't act in such a way that you're negligent and expect there not to be consequences. That's the general rule. You have a duty of care to your fellowman and fellowwoman. What this amendment says, it does away with the negligence standard, and there's another standard--gross negligence. It doesn't even go to that middle standard, but it goes to an extreme standard and says that you're not going to be responsible for any of your actions