



A.701 (HOYT, ET AL.) **S.3666 (FLANAGAN, ET AL.)**

Summary

This bill will codify the public's right to use vessels of all kinds, including small boats, canoes, and kayaks, on New York State waterways that are navigable-in-fact for commercial and recreational purposes. The legislation also protects private landowners by allowing portaging, scouting and poling on private land only to the extent necessary to bypass obstructions in a waterway. The bill states that the right of the public to use navigable waters does not permit crossing private land for access to, or egress from, such waters. In addition, this legislation makes it clear that, with some exceptions, landowners cannot be held liable if a member of the public is injured while exercising his or her right of passage on private land.

Explanation

Navigable waterways have been the lifeblood of New York since the state's inception, providing commercial and recreational opportunities for tens if not hundreds of thousands of residents. Navigable-in-fact water bodies are those that provide practical utility to the public as a means for transportation and travel and as such allow New Yorkers to interact with the natural world and provide economic benefits by means of travel and tourism.

However, confusion remains with regard to the rights of the public and the rights of landowners when it comes to the state's navigable waters. Although recent court cases uphold the public's rights under common law (see *Adirondack League Club, Inc. v. Sierra Club*, 1998), public use of some navigable waterways has been illegally obstructed by riparian landowners. This bill will clarify the rights of both the public and private landowners.

This measure removes much of the ambiguity associated with determining which state waterways are available for public recreational use, as well as continued commercial use. The end result will be increased use of the state's waterways for recreation, an increased appreciation of the state's environment by those who enjoy the state's waters, and increased economic activity in communities that play host to recreational boaters.

Environmental Advocates of New York supports this bill.

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