

# STATE OF NEW YORK



S. 2542—A

A. 3271—A

1975-1976 Regular Sessions

## SENATE—ASSEMBLY

February 11, 1975

IN SENATE—Introduced by Sens. B. C. SMITH, STAFFORD, HALPERIN, TRUNZO, BELLAMY, BURSTEIN, BLOOM, ECKERT, PISANI, PATERSON, GALIBER, MASON—read twice and ordered printed, and when printed to be committed to the Committee on Transportation—committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY—Introduced by Mr. LANE—Multi-Sponsored by—Messrs. HARRIS, RIFORD—read once and referred to the Committee on Transportation—committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

### AN ACT

to amend the highway law, in relation to prohibiting the abandonment of access roads to state forest preserve lands

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

- 1 Section 1. The highway law is hereby amended by adding thereto
- 2 a new section, to be section two hundred five-a, to read as follows:
- 3 § 205-a. *Qualified abandonment of certain town highways. 1.*
- 4 *Abandonment of town highways which are access roads to state*
- 5 *forest preserve lands or lands now owned or hereafter acquired by*

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

1 the state and held under the jurisdiction of the department of  
2 environmental conservation as reforestation areas for reforestation  
3 and the establishment and maintenance thereon of forests for  
4 watershed protection, the production of timber and other forest  
5 products and for recreation and kindred purposes may be qualifiedly  
6 abandoned in the following manner and shall have the following  
7 effect:

8 a. upon written notice to the department of environmental con-  
9 servation, the town shall follow the procedure provided for in  
10 subdivision two of section two hundred five of this chapter;

11 b. the resolution of abandonment shall provide that even though  
12 the responsibility of maintenance of the road by the town shall cease,  
13 there shall remain a public easement over such road in perpetuity;

14 c. the department of environmental conservation shall have the  
15 right to maintain such road if it so desires;

16 d. no one, including the owner of adjoining land, may fence any  
17 portion of such road, with or without gates;

18 e. the town, at any time, shall have the right to resume jurisdiction  
19 over such road for any purpose;

20 f. the title to such road shall remain with the town.

21 2. For the purposes of this section, access roads to state forest  
22 preserve lands or lands under the jurisdiction of the environmental  
23 conservation department shall mean roads which are the only  
24 practical means of ingress or egress to such state lands.

25 3. In no event shall the provisions of this section be construed as

1 forest preserve lands or lands now owned or hereafter acquired by  
2 the state.

3 § 2. This act shall take effect immediately.

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MEMORANDUM IN SUPPORT OF:

Assembly

Senate #

2542

by: Mr. B. C. Smith

AN ACT to amend the highway law to prohibit the abandonment or qualified abandonment of any highway affording direct access to forest preserve lands or reforestation areas, except by special law.

SUMMARY OF PROVISIONS. This bill would retain existing public rights of way to state owned forest preserve lands and reforestation area lands by prohibiting abandonment of public roads which afford "direct access" to such lands, except by passage of a special law.

PURPOSE OF BILL. Under various sections of the highway law, existing highways may be abandoned by action of the town board or the county legislature in the town or county within which such lands are located. Title to the roadbed then either reverts to adjoining owners, or is granted to such owners.

In addition, there may be a "qualified abandonment" under Section 205 of the Highway Law, or roads "not usually travelled along the greater part thereof by more than two vehicles daily". An adjoining owner may then fence such highway and use it for his own private purposes.

The State of New York owns more than two and one-half million acres of forest preserve land, and well over half a million acres of lands purchased for reforestation, recreation and the other uses cited in this bill. Both categories of land must, by law, be open to public use.

However, by its very nature (and reforestation area lands, by the restrictions governing its purchase) much of this land is difficult of access. Much of it is in remote locations, and use thereof in winter months is minimal. Many roadways which would not be used by "two vehicles daily" in February, are heavily travelled in summer months and during the hunting season.

This bill would retain, for the people of the state, the existing means of access to lands the people have purchased, and upon which the state pays local taxes.

Michael Dick  
2167



THE SENATE  
STATE OF NEW YORK

2167

BC Smith -

Do you want to  
Co-sponsor

Yes

Called it