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SECOND SUBSTITUTE HOUSE BILL 2480

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State of Washington

61st Legislature

2010 Regular Session

**By** House General Government Appropriations (originally sponsored by Representatives Blake, Warnick, Takko, Upthegrove, Dunshee, Hinkle, Sells, Kretz, and Ormsby; by request of Commissioner of Public Lands)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to implementing certain recommendations of the  
2 sustainable recreation work group; amending RCW 79.10.140 and 4.24.210;  
3 creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the members  
6 of the sustainable recreation work group created in chapter 195, Laws  
7 of 2008 volunteered numerous hours and dedicated considerable personal  
8 resources and knowledge to aid the legislature with the development of  
9 recommendations aimed at improving recreational opportunities on land  
10 managed by the department of natural resources. Their dedication and  
11 contributions deserve the respect and appreciation of everyone who  
12 enjoys recreating in Washington's great outdoor spaces.

13 (2) The legislature further finds that the input and expertise of  
14 these volunteers, which was presented to the legislature in a final  
15 report dated December 2009, has created an invaluable document that  
16 deserves consideration by state policymakers both today and into the  
17 future.

18 (3) It is the intent of this act to adopt certain policy  
19 recommendations developed by the sustainable recreation work group that

1 are capable of being implemented in the near term and that may provide  
2 near-term benefits to sustainable recreation or additional information  
3 that may be used to improve recreational activities in Washington.

4 **Sec. 2.** RCW 79.10.140 and 2007 c 241 s 23 are each amended to read  
5 as follows:

6 The department is authorized:

7 (1)(a) To construct, operate, and maintain primitive outdoor  
8 recreation and conservation facilities on lands under its jurisdiction  
9 which are of primitive character when deemed necessary by the  
10 department to achieve maximum effective development of such lands and  
11 resources consistent with the purposes for which the lands are held.  
12 (~~This~~)

13 (b) The authority provided by this section shall be exercised only  
14 after review by the recreation and conservation funding board and  
15 determination by the recreation and conservation funding board that the  
16 department is the most appropriate agency to undertake such  
17 construction, operation, and maintenance. Such review is not required  
18 for campgrounds designated and prepared or approved by the department;

19 (2) To acquire right-of-way and develop public access to lands  
20 under the jurisdiction of the department and suitable for public  
21 outdoor recreation and conservation purposes;

22 (3) To receive and expend funds from federal and state outdoor  
23 recreation funding measures for the purposes of this section and RCW  
24 79A.50.110;

25 (4)(a) To assess use charges on individuals for the privilege of  
26 accessing certain specific improved, dedicated recreation sites  
27 identified by the department or assess an operation fee on individuals  
28 or organizations hosting specific events located on public lands. The  
29 department may only require use charges to access specific recreation  
30 sites if the department determines that the use charge revenue would be  
31 critical given the expenses required to maintain access to the site,  
32 the amount of public access pressure on the site is significant, or  
33 that the site is likely to otherwise be closed to public access due to  
34 lack of financial resources.

35 (b) For any recreation site subject to an access use charge, the  
36 department must allow the use charge requirement to be satisfied by one  
37 of the following methods:

1 (i) Purchase of a one-day only parking and access fee at  
2 trailheads, campgrounds, or other parking areas in the amount of five  
3 dollars;

4 (ii) Purchase of an annual parking and access pass in the amount of  
5 twenty dollars; or

6 (iii) Purchase of a one-night campsite fee for overnight camping at  
7 a designated camping facility, in the amount of ten dollars.

8 (c) For any specific event located on public lands, the department  
9 must allow the operation fee requirement to be satisfied by the payment  
10 of a flat administrative fee set at two hundred dollars, plus the  
11 greater of either ten percent of entrance fees collected by the host or  
12 ten percent of the host's total commercial operations.

13 (d) A violation of the use charge or operation fee requirements of  
14 this section is punishable as a natural resources infraction under  
15 chapter 7.84 RCW.

16 (e) Except for annual parking and access passes, all revenues  
17 collected through use charges under this section must be reinvested by  
18 the department into the management of, and the provision of  
19 recreational opportunities at, the site where the use charge was  
20 collected.

21 (f)(i) The department may allow a noncommercial organization to  
22 host an event on public lands without having to pay an otherwise  
23 required operation fee if the organization has recorded at least one  
24 thousand cumulative hours of recorded volunteer time with the  
25 department in the previous fiscal year. The department may allow each  
26 unit of one thousand recorded cumulative volunteer hours to entitle the  
27 organization to host one event without paying an operation fee.

28 (ii) The department may allow any individual volunteering at least  
29 fifty hours with the department in any one fiscal year to receive one  
30 free annual parking and access pass.

31 (g)(i) Any annual parking and access passes provided by the  
32 department must be available at the department's Olympia headquarters  
33 and at the department's regional offices.

34 (ii) The department may enter into agreements with the department  
35 of fish and wildlife or the United States forest service to allow the  
36 department-issued annual parking and access pass to authorize the  
37 holder access to recreational lands managed by either agency.

1       **Sec. 3.** RCW 4.24.210 and 2006 c 212 s 6 are each amended to read  
2 as follows:

3       (1) Except as otherwise provided in subsection (3) or (4) of this  
4 section, any public or private landowners or others in lawful  
5 possession and control of any lands whether designated resource, rural,  
6 or urban, or water areas or channels and lands adjacent to such areas  
7 or channels, who allow members of the public to use them for the  
8 purposes of outdoor recreation, which term includes, but is not limited  
9 to, the cutting, gathering, and removing of firewood by private persons  
10 for their personal use without purchasing the firewood from the  
11 landowner, hunting, fishing, camping, picnicking, swimming, hiking,  
12 bicycling, skateboarding or other nonmotorized wheel-based activities,  
13 hanggliding, paragliding, rock climbing, the riding of horses or other  
14 animals, clam digging, pleasure driving of off-road vehicles,  
15 snowmobiles, and other vehicles, boating, nature study, winter or water  
16 sports, viewing or enjoying historical, archaeological, scenic, or  
17 scientific sites, without charging a fee of any kind therefor, shall  
18 not be liable for unintentional injuries to such users.

19       (2) Except as otherwise provided in subsection (3) or (4) of this  
20 section, any public or private landowner or others in lawful possession  
21 and control of any lands whether rural or urban, or water areas or  
22 channels and lands adjacent to such areas or channels, who offer or  
23 allow such land to be used for purposes of a fish or wildlife  
24 cooperative project, or allow access to such land for cleanup of litter  
25 or other solid waste, shall not be liable for unintentional injuries to  
26 any volunteer group or to any other users.

27       (3) Any public or private landowner, or others in lawful possession  
28 and control of the land, may charge an administrative fee of up to  
29 twenty-five dollars for the cutting, gathering, and removing of  
30 firewood from the land.

31       (4) Nothing in this section shall prevent the liability of a  
32 landowner or others in lawful possession and control for injuries  
33 sustained to users by reason of a known dangerous artificial latent  
34 condition for which warning signs have not been conspicuously posted.  
35 A fixed anchor used in rock climbing and put in place by someone other  
36 than a landowner is not a known dangerous artificial latent condition  
37 and a landowner under subsection (1) of this section shall not be  
38 liable for unintentional injuries resulting from the condition or use

1 of such an anchor. Nothing in RCW 4.24.200 and this section limits or  
2 expands in any way the doctrine of attractive nuisance. Usage by  
3 members of the public, volunteer groups, or other users is permissive  
4 and does not support any claim of adverse possession.

5 (5) For purposes of this section, the following are not fees:

6 (a) A license or permit issued for statewide use under the  
7 authority of chapter 79A.05 RCW or Title 77 RCW; (~~and~~)

8 (b) A use charge issued under the authority of RCW 79.10.140; and

9 (c) A daily charge not to exceed twenty dollars per person, per  
10 day, for access to a publicly owned ORV sports park, as defined in RCW  
11 46.09.020, or other public facility accessed by a highway, street, or  
12 nonhighway road for the purposes of off-road vehicle use.

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