

HOUSE BILL REPORT

HB 2244

As Passed House:
February 9, 2012

Title: An act relating to aircraft and ultra-light operations on public or private airstrips.

Brief Description: Concerning the liability of landowners for unintentional injuries that result from certain public or private airstrip operations.

Sponsors: Representatives Hargrove, Sullivan and Moeller.

Brief History:

Committee Activity:

Judiciary: 1/23/12, 1/30/12 [DP].

Floor Activity:

Passed House: 2/9/12, 94-0.

Brief Summary of Bill

- Adds aviation activities to those specified outdoor recreational activities for which public and private landowners who allow public use without a fee are given immunity from liability for unintentional injuries suffered by recreational users of the land.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Hansen, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Oliver Stiefel (786-5793) and Edie Adams (786-7180).

Background:

Landowner Duties, Generally.

Under Washington tort law, a landowner's duty of care to persons entering his or her land depends on the status of the entering party: invitee, licensee, or trespasser. Generally,

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landowners owe trespassers and licensees only a duty to refrain from willfully or wantonly injuring them. Landowners owe invitees an affirmative duty to keep the land in reasonably safe condition. This includes an affirmative duty to inspect the premises in order to discover any dangerous conditions, and landowners may be held liable for unintentionally causing harm through acts of negligence, gross negligence, or recklessness.

Recreational Use Immunity Statute.

Originally enacted in 1967, the Recreational Use Immunity Statute prescribes an alternative framework for determining landowner liability in certain cases. The Legislature's intent was to encourage landowners to make land and water areas available to the public for recreational purposes by limiting landowner liability.

According to the statute, a landowner who allows the public to use his or her land for certain recreational purposes will be immune from liability for unintentional injuries suffered by a recreational user. The immunity does not apply, however, to injuries caused by a "known dangerous artificial latent condition" on land where warning signs have not been posted.

Immunity extends to landowners allowing the following (non-exhaustive) list of activities:

- cutting/gathering/removing firewood;
- hunting, fishing, and clam digging;
- camping, and picnicking;
- swimming, hiking, rock climbing, and horseback riding;
- bicycling, skateboarding, and other nonmotorized wheel-based activities;
- driving off-road vehicles, snowmobiles, and other vehicles;
- boating, kayaking, canoeing, rafting, and other water sports;
- viewing historical, archeological, or scenic sites;
- winter sports; and
- hangliding and paragliding.

The statute applies to both public and private landowners who allow public use without a fee, although the statute does identify three exceptions to the no-fee requirement: (1) private landowners may extract a \$25 administrative fee for the cutting, gathering, and removing of firewood; (2) landowners may charge up to \$20 per person per day for access to public offroad vehicle facilities; and (3) certain passes and permits required by state agencies do not qualify as fees.

Summary of Bill:

Aviation activities generally, in addition to hangliding and paragliding, are added to the list of recreational activities for which a landowner may be immune from liability for unintentional injury to a recreational user of the property.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There are hundreds of private and privately-maintained public airstrips in Washington. Many of these are designed for public use. Due to concerns over liability, however, many are closing to the public. The Recreational Use Immunity Statute (RUIS) addresses a number of recreational uses, and this bill would extend immunity to landowners who permit aviation activities.

A survey of 185 of the 239 private owners of airstrips in Washington revealed that public access is not allowed because of a fear of liability. Private-use airstrip owners are uncertain if RUIS applies to them. Experience in the 10 states that have added aviation activities to their respective recreational use statutes and feedback from numerous Washington landowners has indicated that private landowners would be more likely to allow public use if aviation activities were added to the statute.

Benefits of this bill include: promoting safety; allowing more opportunities to practice takeoffs and landings; and encouraging economic activity, including purchasing fuel, plane maintenance, and tourism.

(Opposed) The term "landowner" is not appropriate; humans are only temporary stewards of the land, there is no such thing as ownership. In addition, people have a responsibility to their neighbors, to help prevent risky behavior, and to help those who have an accident recover. This bill erodes that responsibility.

Persons Testifying: (In support) Representative Hargrove, prime sponsor; Bob Kay, Recreational Aviation Foundation; Steve Jasmer, Randle-Kiona Airport; Tristan Atkins; and Tom Jensen.

(Opposed) Yoshe Revelle.

Persons Signed In To Testify But Not Testifying: None.