
Judiciary Committee

HB 2150

Title: An act relating to encouraging recreational access to private property.

Brief Description: Encouraging recreational access to private property.

Sponsors: Representative Blake.

Brief Summary of Bill

- Makes the following changes to the Recreational Land Use Act:
 - Allows property owners who provide recreational use of their land to exclude individuals who violate the conditions of access.
 - Eliminates landowner liability to third parties for the intentional, reckless, or negligent acts of recreational users who are using the landowners' property.
 - Specifies an additional means for providing notice regarding "known dangerous artificial latent conditions."
 - Allows landowners to assess a low annual fee for recreational use and accept government payments to facilitate or manage access.

Hearing Date: 1/14/14

Staff: Jenna Zwang (786-7290) and Cece Clynch (786-7195).

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, 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

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dangerous conditions, and landowners may be held liable for unintentionally causing harm through acts of negligence, gross negligence, or recklessness.

Recreational Land Use Act.

Originally enacted in 1967, the Recreational Land Use Act prescribes an alternative framework for determining landowner liability in certain cases. The purpose of the recreational use statute is to "encourage property owners to provide free recreational areas for public use by limiting a property owner's liability for injuries to recreational users."

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. A landowner must have actual (as opposed to constructive) knowledge that a condition that is not readily apparent to a recreational user poses an unreasonable risk of harm in order for it to be considered known, dangerous and latent.

Immunity extends to landowners who allow activities that include the following:

- Cutting, gathering, and removing firewood;
- hunting, fishing, and clam digging;
- camping, and picnicking;
- swimming, hiking, rock climbing, and horseback riding;
- bicycling, skateboarding, and other non-motorized 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
- hang-gliding and paragliding.

Both public and private landowners who allow public use without a fee are protected. There are three exceptions to the no-fee requirement: (1) landowners may assess 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 off-road vehicle facilities; and (3) certain passes and permits required by state agencies do not qualify as fees.

Summary of Bill:

Landowners may exclude individuals who violate rules of access from their land. They are not liable to a third party for intentional, reckless, or negligent acts of recreational users. Written notices provided to the user with respect to known dangerous artificial latent conditions are permitted to take the place of posted warning signs.

Two more exceptions to the no-fee requirement are specified. Landowners may annually charge up to \$25 per person for recreational use, including hunting and fishing access, on adjoining parcels owned by a single landowner as long as no limits are placed on the number of participants granted recreational access to the parcels. Landowners may also receive payments from state or local government to facilitate or manage public access.

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.