

HOUSE BILL REPORT

HB 1493

As Reported By House Committee On:

Natural Resources
Appropriations

Title: An act relating to licensing whitewater river outfitters.

Brief Description: Licensing whitewater river outfitters.

Sponsors: Representatives Buck, Regala, Talcott, Ballasiotes, Kessler and Dyer.

Brief History:

Committee Activity:

Natural Resources: 2/18/97, 2/26/97 [DPS];

Appropriations: 3/6/97 [DPS(NR)].

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Buck, Chairman; Sump, Vice Chairman; Thompson, Vice Chairman; Regala, Ranking Minority Member; Butler, Assistant Ranking Minority Member; Alexander; Anderson; Hatfield; Pennington and Sheldon.

Minority Report: Without recommendation. Signed by 1 member: Representative Chandler.

Staff: Linda Byers (786-7129).

Background: Vessels carrying passengers for hire on whitewater rivers in the state must meet certain operating and equipment requirements. For example, operators and passengers must wear personal flotation devices, and vessels must carry spare propelling devices and first-aid kits. A person operating whitewater river trips must complete a lifesaving training course meeting standards adopted by the State Parks and Recreation Commission. A person carrying passengers for hire on whitewater river trips may, but is not required to, register annually with the Department of Licensing. If a person chooses to register, that person supplies information on his or her name, address, and proof of liability insurance.

Summary of Substitute Bill: Definitions are established in statute for whitewater river outfitters and guides. A mandatory whitewater river outfitter licensing program is established in the Department of Licensing. In addition to the information currently provided under the voluntary registration program, an applicant for an outfitter's license must certify that all guides who work for the outfitter meet new training standards and are covered by the applicant's insurance policy. The applicant must also show that within the last two years the applicant has not had a related license, permit, or certificate revoked by another state or a federal agency due to a conviction for a violation of safety or insurance coverage requirements, and that the applicant has not been denied the right to apply for such a license, permit, or certificate by another state. Within five days of conviction for any of the state laws on whitewater river rafting, the court will forward a copy of the judgment to the Department of Licensing. After receiving proof of conviction, the department may suspend the license of a whitewater river outfitter for a period not to exceed one year or until the outfitter provides proof of compliance.

Guides must be at least 18 years old. In addition to the lifesaving training course, guides must complete a minimum of 50 hours of guide training on whitewater rivers. The guide training program must include training on equipment preparation and boat rigging, reading river characteristics, methods of scouting and running rapids, river rescue techniques, and communication with clients, including paddling and safety instruction. A guide must complete at least one trip on an entire section of whitewater river before carrying passengers for hire on that section. In order to be a guide instructor, a person must have traveled at least 1,500 river miles, 750 of which must have been while acting as a guide.

The State Parks and Recreation Commission will adopt rules that designate as whitewater rivers all sections of rivers with at least one Class III rapid. The commission may consider the imposition of a schedule of fines for minor violations.

Substitute Bill Compared to Original Bill: The original bill directed the State Parks and Recreation Commission to adopt standards for guide training programs; the substitute bill outlines the required guide training program in statute. The substitute bill removes a provision regarding an outfitter's ability to waive liability and a provision creating an advisory committee to assist the State Parks and Recreation Commission.

Appropriation: None.

Fiscal Note: Requested on February 13, 1997.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed except for Sections 2, 4, 7 and 8 of this act which take effect January 1, 1998.

Testimony For: (original bill) Washington relies on self-policing in the whitewater river outfitting community. This bill can put into place minimum standards for the safety of the public. A 1994 accident should not have happened. There was a negligent standard of care that bordered on criminal. Self-policing may have worked 20 years ago but not today. The large number of people rafting every year deserve to have competent people guiding them. The bill will provide a moderate level of training and accountability, as is required in other states. This is about consumer protection. The State Parks and Recreation Commission supports the concept of the legislation. The fundamental key is mandatory registration. The State Parks and Recreation Commission would consult with the industry in implementing the bill. Other industries that pose significantly fewer risks have to do a lot more. This is not overreaching or a significant burden on outfitters.

Testimony Against: (original bill) This bill orders outfitters to fund a bureaucracy to reign over them. It is based on two myths: that safety problems are solved by bureaucracy, and that there is an epidemic of unsafe rafting. Many rivers have had no fatalities, and no river has been repeated the site of a fatality. Outfitters investigate accidents and try to learn from them. Outfitters and guides had no input in drafting the legislation. An alternative compromise could make for better consumer safety. Rafting continues to evolve and get safer. Nothing in this legislation will keep a bad person from owning and operating a river company. There is no enforcement of existing requirements. Law enforcement does not have the manpower to do enforcement now; realistically, only the rafters will be on the rivers to oversee any laws. The Legislature needs to be careful not to create something that will destroy the careful way we do business. The State Parks and Recreation Commission does not have the expertise to adopt standards.

Testified: Linda Hull; Brian Brunner; Barbara Brunner; Casey Garland, Downstream River Runners Inc.; Cleve Pinnix, State Parks and Recreation Commission (all in favor); Jim Behla, River Riders; Gerald Michalec, North Cascades River Expeditions and Professional River Outfitters of Washington; Dave Ribacchi; Lynda Myra, Rivers, Inc; James L. Moore, Orion; Charles Van Gorder, Professional River Outfitters of Washington and Van Gorder Law Offices; Rich Adams, Raging River Outfitters; Jerry Redell, Redline River Adventures; Phil Zoller, Phils White Water Adventures; and Allan Kearney, Wild and Scenic River Tours (all opposed).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Natural Resources be substituted therefor and the substitute bill do pass. Signed by 24 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority

Member; Carlson; Chopp; Cody; Cooke; Dyer; Keiser; Kenney; Kessler; Linville; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Minority Report: Do not pass. Signed by 6 members: Representatives Benson; Crouse; Grant; Lisk; Mastin and McMorris.

Staff: Nancy Stevenson (786-7137).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Natural Resources: No new changes were recommended.

Appropriation: None.

Fiscal Note: Available on the original bill.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed except for Sections 2, 4, 7, and 8 of this act which take effect January 1, 1998.

Testimony For: The state has had five fatalities. Fatalities happen when people are not trained. This will make for a safer industry. The bill is self-enacting and self-supported.

Testimony Against: None.

Testified: Representative Buck, prime sponsor; and Linda Hull, for Brian and Barbara Brunner.