

SENATE BILL REPORT

SB 5254

As Reported By Senate Committee On:
Natural Resources & Parks, February 28, 1997

Title: An act relating to the limitation of liability of owners or others in possession of land and water areas for injuries to recreational users.

Brief Description: Limiting liability of owners or possessors for injuries to recreational users.

Sponsors: Senators Long, Roach, Haugen, Jacobsen, Fraser, Zarelli, Strannigan, Deccio, Thibaudeau, Wood, Fairley, Goings and Winsley.

Brief History:

Committee Activity: Natural Resources & Parks: 2/27/97, 2/28/97 [DPS].

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5254 be substituted therefor, and the substitute bill do pass.

Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Spanel, Stevens and Swecker.

Staff: Aldo Melchiori (786-7439)

Background: In common law, a landowner's duty of care to persons entering his or her land is governed by the status of those entering, i.e., trespassers, licensees, or invitees. Generally, a landowner owes trespassers and licensees the duty to refrain from willfully or wantonly injuring them, whereas to invitees the landowner owes an affirmative duty to use ordinary care to keep the premises in a reasonably safe condition.

The recreational land statute was enacted in 1967 to encourage the owners of agricultural or forest lands to open land for gratuitous recreational use by limiting landowner liability.

The limitation of liability is not without exceptions: (1) when the recreational user is charged a fee; (2) when the user is injured by intentional acts; or (3) when the user sustains injuries caused by a known dangerous artificial latent condition for which warning signs have not been conspicuously posted.

Artificial— means not naturally occurring, caused by man. Latent— means not apparent to the general class of users. The condition itself must be latent, not just the danger. Known— means actual knowledge of the danger itself and the fact that the danger is latent (differing from common law in which constructive knowledge is recognized).

Summary of Substitute Bill: Public or private landowners who allow members of the public to use their lands for purposes of skateboarding or other nonmotorized wheel based activities, hang gliding, or paragliding are not liable for unintentional injuries to users.

Substitute Bill Compared to Original Bill: Hang gliding and paragliding are added to the list of activities.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This has the support of the citizens and costs the state nothing. Skateboarders are athletes, not rebels, and should be treated accordingly by passing this legislation. Many cities are waiting for such legislation before building skateboard parks.

Testimony Against: None.

Testified: PRO: Senator Long, prime sponsor; Doug Levy, city of Everett; Mayor Judy Clibborn, Mercer Island; Curt Marsh, city of Everett; Arvilla Ohlde, city of Edmonds; Kathy Gerke, Association of Washington Cities.