

SENATE BILL REPORT

SB 5866

As of February 18, 1997

Title: An act relating to the liability of landowners.

Brief Description: Limiting the liability of landowners who allow the public to use the land for certain outdoor recreations.

Sponsors: Senators Sellar and Oke.

Brief History:

Committee Activity: Natural Resources & Parks: 2/27/97.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

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 user. 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 Bill: Public or private landowners who allow members of the public to use their lands for purposes of hanggliding or paragliding are not liable for unintentional injuries to users.

Appropriation: None.

Fiscal Note: Not requested.

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