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**SUBSTITUTE SENATE BILL 5422**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Natural Resources, Ocean & Recreation (originally sponsored by Senators Parlette, Jacobsen, Morton, Hewitt, Schoesler, Carrell, Swecker, Stevens, Delvin, and Sheldon)

READ FIRST TIME 02/05/09.

1       AN ACT Relating to the liability of owners of recreational land and  
2 water areas; and amending RCW 4.24.210.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4       **Sec. 1.** RCW 4.24.210 and 2006 c 212 s 6 are each amended to read  
5 as follows:

6       (1) Except as otherwise provided in subsection (3) or (4) of this  
7 section, any public or private landowners, hydroelectric project  
8 owners, or others in lawful possession and control of any lands whether  
9 designated resource, rural, or urban, or water areas or channels and  
10 lands adjacent to such areas or channels, who allow members of the  
11 public to use them for the purposes of outdoor recreation, which term  
12 includes, but is not limited to, the cutting, gathering, and removing  
13 of firewood by private persons for their personal use without  
14 purchasing the firewood from the landowner, hunting, fishing, camping,  
15 picnicking, swimming, hiking, bicycling, skateboarding or other  
16 nonmotorized wheel-based activities, hanggliding, paragliding, rock  
17 climbing, the riding of horses or other animals, clam digging, pleasure  
18 driving of off-road vehicles, snowmobiles, and other vehicles, boating,  
19 kayaking, canoeing, rafting, nature study, winter or water sports,

1 viewing or enjoying historical, archaeological, scenic, or scientific  
2 sites, without charging a fee of any kind therefor, shall not be liable  
3 for unintentional injuries to such users.

4 (2) Except as otherwise provided in subsection (3) or (4) of this  
5 section, any public or private landowner or others in lawful possession  
6 and control of any lands whether rural or urban, or water areas or  
7 channels and lands adjacent to such areas or channels, who offer or  
8 allow such land to be used for purposes of a fish or wildlife  
9 cooperative project, or allow access to such land for cleanup of litter  
10 or other solid waste, shall not be liable for unintentional injuries to  
11 any volunteer group or to any other users.

12 (3) Any public or private landowner, or others in lawful possession  
13 and control of the land, may charge an administrative fee of up to  
14 twenty-five dollars for the cutting, gathering, and removing of  
15 firewood from the land.

16 (4)(a) Nothing in this section shall prevent the liability of a  
17 landowner or others in lawful possession and control for injuries  
18 sustained to users by reason of a known dangerous artificial latent  
19 condition for which warning signs have not been conspicuously posted.

20 (i) A fixed anchor used in rock climbing and put in place by  
21 someone other than a landowner is not a known dangerous artificial  
22 latent condition and a landowner under subsection (1) of this section  
23 shall not be liable for unintentional injuries resulting from the  
24 condition or use of such an anchor.

25 (ii) Releasing water or flows and making waterways or channels  
26 available for kayaking, canoeing, or rafting purposes pursuant to a  
27 hydroelectric license issued by the federal energy regulatory  
28 commission, and making adjacent lands available for purposes of  
29 allowing viewing of such activities, does not create a known dangerous  
30 artificial latent condition and hydroelectric project owners under  
31 subsection (1) of this section shall not be liable for unintentional  
32 injuries to the recreational users and observers resulting from such  
33 releases and activities, unless the injury results from the  
34 hydroelectric project owner's gross negligence.

35 (b) Nothing in RCW 4.24.200 and this section limits or expands in  
36 any way the doctrine of attractive nuisance.

37 (c) Usage by members of the public, volunteer groups, or other

1 users is permissive and does not support any claim of adverse  
2 possession.

3 (5) For purposes of this section, the following are not fees:

4 (a) A license or permit issued for statewide use under authority of  
5 chapter 79A.05 RCW or Title 77 RCW; and

6 (b) A daily charge not to exceed twenty dollars per person, per  
7 day, for access to a publicly owned ORV sports park, as defined in RCW  
8 46.09.020, or other public facility accessed by a highway, street, or  
9 nonhighway road for the purposes of off-road vehicle use.

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