

# HOUSE BILL REPORT

## HB 1796

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### As Reported by House Committee On: Ways & Means

**Title:** An act relating to accessing Washington's heritage.

**Brief Description:** Concerning recreation access on state lands.

**Sponsors:** Representatives Van De Wege, Takko, Upthegrove, Finn, Seaquist, Sullivan, Liias, Jacks, McCoy, Moscoso, Hudgins, Hunt and Reykdal; by request of Parks and Recreation Commission, Department of Natural Resources and Department of Fish and Wildlife.

#### **Brief History:**

##### **Committee Activity:**

Ways & Means: 2/15/11, 4/15/11 [DPS].

#### **Brief Summary of Substitute Bill**

- Creates the Discover Pass and Day-Use Permit and requires these permits to be visible in any vehicle located at a recreation site or recreation lands managed by the Department of Natural Resources (DNR), the Washington Department of Fish and Wildlife, or the State Parks and Recreation Commission.
- Creates the Recreation Access Pass Account.
- Provides liability immunity for landowners if a person acting illegally is injured while recreating on the land.
- Changes the use of money donated to the State Parks and Recreation Commission through the vehicle license renewal process.
- Allows the DNR to charge fees to groups hosting events on land owned by the DNR.

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#### **HOUSE COMMITTEE ON WAYS & MEANS**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa,

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Vice Chair; Carlyle, Cody, Dickerson, Haigh, Hudgins, Hunt, Kagi, Kenney, Ormsby, Pettigrew, Seaquist, Springer and Sullivan.

**Minority Report:** Do not pass. Signed by 10 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler, Haler, Hinkle, Parker, Schmick and Wilcox.

**Staff:** Owen Rowe (786-7391) and Jason Callahan (786-7117).

**Background:**

The Washington Department of Fish and Wildlife (WDFW), Department of Natural Resources (DNR), and the State Parks and Recreation Commission (State Parks) are charged with managing the public lands of the state. The WDFW owns or manages nearly one million acres of public land for fish and wildlife, habitat conservation, and wildlife-related recreation. The DNR protects and manages 5.6 million acres of state-owned land. In addition, the Washington park system includes 119 developed parks.

The DNR and State Parks currently do not charge fees for access to their lands or recreation sites. The WDFW charges \$10 for the annual fish and wildlife lands vehicle use permit, or the permit is included with hunting and fishing licenses.

In 2009 the Legislature created the Opt-Out Donation Program to support the maintenance and operation of State Parks. The donation is \$5, and is made at the time an owner registers a vehicle with the Department of Licensing (DOL).

Public or private landowners are not liable for unintentional injuries to members of the public who use the land for outdoor recreation if no fee is charged. State Parks and the WDFW vehicle use and parking permits are not considered a fee for purposes of recreational immunity.

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**Summary of Substitute Bill:**

Discover Pass.

The Discover Pass is created to allow for vehicle access on designated recreational areas located on state lands owned or managed by the DNR, the WDFW, and State Parks. The Discover Pass is the only pass needed to access recreational sites such as trailheads, parking areas, winter recreation areas, boat launches, and water trails.

The Discover Pass costs \$30 for an annual pass and either \$10 (Washington resident) or \$15 (non-Washington resident) for a day pass. The \$30, \$10, and \$15 price levels must be increased biennially with inflation. The purchasers of certain hunting or fishing licenses are entitled to a 50 percent discount in the price of an annual pass and a pass is not required when camping at a state park or when parked in a designated 15-minute short term parking

area. Snowmobile registrants are considered to have paid the \$30 annual fee upon snowmobile registration. State parks may be made available for access without a Discover Pass or day use permit for up to 12 days a year.

A Discover Pass may be purchased through the DOL at the time of vehicle registration, through the WDFW's automated licensing system, at state liquor stores, at state parks, and through any other appropriate vendors. Each Discover Pass must allow space to write in two vehicle license plate numbers (one space on a Day-Use Permit) and the vehicle parked or driven on state recreational lands must match the plate number on the Discover Pass or Day-Use Permit.

#### The Recreation Access Pass Account.

The Recreation Access Pass Account (Account) is created in the State Treasury. All funds from the sale of Discover Passes and Day-Use Permits must be deposited into the Account.

For the first \$71 million in revenue collected under the provisions of this bill each fiscal biennium:

- 8 percent is deposited into the State Wildlife Account-WDFW;
- 8 percent is deposited into the Park Land Trust Revolving Account-DNR; and
- 84 percent is deposited in the State Parks Renewal and Stewardship Account.

All revenues exceeding \$71 million each fiscal biennium are distributed equally amongst the agencies.

Each agency has different allowed uses for the revenue; however, collectively the revenue may be used for operations and maintenance of recreation areas, administration of recreation programs, enforcement of the Fish and Wildlife Code, and increased public access to hunting and fishing opportunities on private land. State Parks are required to use some of the revenue received to maintain winter recreation funding at approximate historic levels.

#### Natural Resource Infraction.

A Discover Pass and the Day-Use Permit requirements must be visible in a vehicle. Failure to display the Discover Pass or the Day-Use Permit is a natural resource infraction with a penalty of \$99. If an annual Discover Pass is purchased within 15 days after notice of an infraction, the penalty is reduced to \$59. A city or county may assess the same, or reduced, penalty if a local ordinance requires the display of a Discover Pass on local streets adjacent to a state recreational site.

#### Other Provisions.

The uses of the current \$5 opt-out donation program to support the maintenance and operation of State Parks are changed to require the donated money to be used to fund state park capital projects.

A complimentary Discover Pass must be provided to volunteers who performed 24 hours of service on agency-sanctioned volunteer projects in a year.

This Discover Pass or Day-Use Permit is not required for persons who use, possess, or enter lands owned or managed by the WDFW, the DNR, and State Parks for purposes consistent with a written authorization from the WDFW, the DNR, or State Parks, including but not limited to leases, contracts, and easements.

The Discover Pass and the Day-Use Permit are not considered a fee under the recreational immunity statute for purposes of liability and a landowner cannot be found liable for an injury caused to a person engaging in an illegal act. Local governments are prohibited from charging a local admissions sales tax on Discover Pass and Day-Use Permit sales.

The three agencies are authorized to delegate and accept enforcement authority under the Interlocal Cooperation Act.

The DNR is authorized to charge a fee to groups hosting events on land owned by the DNR.

**Substitute Bill Compared to Original Bill:**

The original bill: (1) repealed the \$5 opt-out donation; (2) did not charge non-Washington residents extra for a Day-Use Permit; (3) did not offer a 50 percent on a Discover Pass to hunters and fishers; (4) required snowmobilers to buy a Discover Pass and a sno-park permit; (5) did not allow sales at liquor stores; (6) did not address the local admissions sales tax; (7) did not contain provisions related to landowner liability for illegal acts; (8) provided 0.5 percent less of the revenue to the DNR and the WDFW and 1 percent more to the State Parks; (9) required volunteers to spend 40 hours in service before receiving a free Discover Pass; (10) was silent on how many license plate spaces must be provided on the Discover Pass; (11) did not allow for pass-free short-term parking; (12) did not contain a grant of authority for agency rulemaking; (13) did not allow the DNR to charge separately for events; and (14) did not contain language requiring the Discover Pass to be the only permit required for access to state recreational lands.

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**Appropriation:** None.

**Fiscal Note:** Available on original bill. New fiscal note requested on April 14, 2011.

**Effective Date of Substitute Bill:** This bill contains an emergency clause and takes effect on July 1, 2011, except for section 13, relating to provisions regarding to the license renewal system at the Department of Licensing, which takes effect on October 1, 2011.

**Staff Summary of Public Testimony:**

(In support) The DNR supports stable, long-term funding for access to public lands for hunters, fishers, and foragers. This bill will help to maintain popular trails and facilities and will keep trust lands open to the public. State Parks will lose two-thirds of its State General Fund under the Governor's budget proposal. This bill is the best vehicle to keep state parks open. Forty-one states have a parks access fee; the majority of these states charge over \$40

for an annual pass. Other options do not generate enough revenue to keep state parks open. The assumptions in the fiscal note were based on a survey conducted by Washington State University that looked at how park users would react to annual and day-use fees. Budget reductions have had extensive impacts on the management of state lands, and closures of public lands are likely without the revenue generated in this bill. Public lands create significant economic revenue for the state. Hunters, anglers, and wildlife watchers spend \$4.5 billion annually in the state and support over 60,000 jobs. An annual pass will not work without a corresponding day-use pass as well. Fees are a better alternative than closing parks. The \$30 annual fee is a reasonable solution to the budget problem, even though it is not popular.

(In support with concerns) There are 200,000 to 240,000 hunters that buy licenses every year. Hunters have been historically supportive of access fees. This bill needs to be equitable to the hunting community. Hunters cannot hunt in state parks so they should not be charged a \$30 fee.

(With concerns) Sno-park fees should not be included in this bill; do not double charge snowmobilers. The \$30 annual pass in this bill is too expensive. Consider making the permit eligible for up to two vehicles. Recreational anglers are the largest financial supporters of the WDFW; do not force anglers to support state parks as well.

(Opposed) The use of parks will decrease if a fee is enacted. Alternatively, increase the current opt-out vehicle donation program for all vehicles. Off-road vehicle users already pay fees for public land access. It is unfair that this bill provides 85 percent of the generated revenue to State Parks, as off-road vehicle users are recreating on the DNR land. Gas tax refunds should go to DNR lands and not to State Parks. Please exempt off-road vehicles from the bill. The public is saying this is a bad bill. Off-road vehicle users will be double charged. Cut other government functions rather than access to public lands. Parks are an affordable get-away for working families during tough economic times; please do not reduce funding and replace it with fees.

(Commented) Day-use parking fees for park access were already instituted a few years ago. The fees only raised \$3.6 million after collection costs. It is hard to imagine how this pass is going to generate \$72 million in revenue. The park fees reduced the ability of low income and seniors to access state parks. Under this bill, the only people who pay the fee are those who cannot walk in to a park. Do not eliminate the current opt-out donation program; instead, let people donate \$5 or more. The fees proposed in this bill will exclude more people from our parks than anytime during the history of our state.

**Persons Testifying:** (In support) Representative Van de Wege, prime sponsor; Lenny Young, Washington Department of Natural Resources; Ilene Frisch, Washington State Parks; Jennifer Quan, Washington Department of Fish and Wildlife; Ted Jackson, Sky Valley Recreation and Tourism Group; Jim King, Citizens for Parks and Recreation; Stet Palmer; Mike Bowen; Brian Yearout and Jed Varney, Washington Federation of State Employees; Bill Robinson, The Nature Conservancy; Tom Brandt; and Jonathan Guzzo, Washington Trails Associations.

(In support with concerns) Ed Owens, Hunters Heritage Council.

(With concerns) Dale Cooper, Southwest Washington Offroad Riders Association; George Yount; Dan Boholt; and Scott Sigmon and Carl Burke, Coastal Conservation Association and Puget Sound Anglers.

(Opposed) Daniel Fallstrom, Washington State Snowmobile Association; Teri Nomura; Patrick Wadsworth; and Kevin McGrath, Jennifer Briggs, and Andy Seitz, Washington Off Highway Vehicle Alliance.

(Commented) Lynn Kessler.

**Persons Signed In To Testify But Not Testifying:** None.