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## Civil Rights & Judiciary Committee

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### HB 2265

**Brief Description:** Establishing climbing facility regulations and requirements.

**Sponsors:** Representatives Doglio and Walen.

#### Brief Summary of Bill

- Requires licensure of climbing facilities and authorizes the Department of Licensing to establish application forms and fees, grant and renew licenses, and adopt rules.
- Establishes specific requirements for climbing facility operators and participants.
- Provides that climbing participants are deemed as a matter of law to have assumed and accepted the inherent risks of the sport of indoor rock climbing.
- Provides rock climbing facilities and operators with immunity to civil liability for bodily injury or death of participants engaged in the sport of indoor rock climbing that is caused by the inherent and assumed risks of rock climbing, subject to exceptions for willful or wanton disregard and intentional injury.
- Excludes from the statutory definition of Amusement Ride all fixed artificial climbing surfaces built for the sport of rock climbing and used in a climbing facility.

**Hearing Date:** 1/24/24

**Staff:** John Burzynski (786-7133).

**Background:**

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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 part of the legislation nor does it constitute a statement of legislative intent.*

The Department of Licensing administers laws relating to the licensing and regulation of professions, businesses, vehicles, and other activities.

The Uniform Regulation of Business and Professions Act consolidates disciplinary procedures for licensed businesses and professions under the Department of Licensing by providing standardized procedures for the regulation of businesses and professions and the enforcement of laws.

Generally, when one person harms another through culpable action or inaction, the harmed party can bring a civil action in court against the responsible party for money damages. A statutory grant of immunity to a person or entity can limit or bar most claims of civil liability.

Wanton misconduct is an intentional act or omission in reckless disregard of the risks of substantial harm. Willful misconduct is an intentional act or omission with actual knowledge a harm will result or intent to cause harm.

### **Summary of Bill:**

A "climbing facility" is a facility or premises that contains a fixed, artificial climbing surface used by the public, not located in an amusement park, carnival, family entertainment center, or on public land, that is designed and built for the sport of climbing.

A "climbing facility operator" is a person or entity who owns, manages, controls, directs, or has operational responsibility for a climbing facility.

A "participant" is a person in a climbing facility for the purpose of engaging in the sport of climbing, including anyone utilizing a climbing wall or personal protective equipment, belaying, or spectating.

### Climbing Facility Licensing.

After January 1, 2026, no climbing facility operator may operate a climbing facility in Washington without a license.

Climbing facility license applicants must submit an application on forms provided by the Department of Licensing (Department), and the Department may require the applicant to provide information, including evidence of ability to comply with rules and regulations. Applications must be accompanied by a reasonable license fee established by the Department.

The Department is required to issue licenses to applicants that meet all requirements. Licenses must be renewed annually unless suspended or revoked. Licenses may be issued only for the premises and persons named in the application and may not be transferred or assigned without the approval of the Department. Licenses must be conspicuously posted at a climbing facility.

The Department is authorized to adopt rules that are necessary to implement this act. The

Director of the Department is granted authority in relation to climbing facilities under this act. The Uniform Regulation of Business and Professions Act governs the unlicensed practice, issuance and denial of licenses, and discipline of licensees under this act.

#### Climbing Facility Requirements.

Climbing facility operators must:

- maintain a policy of liability insurance with a limit of not less than \$1 million per occurrence;
- comply with indoor climbing industry custom and practice regarding operation of the facility, manufactured climbing walls, and use of climbing facility-owned personal protective equipment;
- maintain climbing walls, flooring, anchors, holds, ropes, and other facility-owned personal protective equipment in a reasonably safe condition;
- conduct inspections of climbing walls on a regular periodic basis;
- require and provide the ability for participants to meet all participant requirements; and
- issue warnings, reprimands, or penalties to participants who violate participant requirements.

Climbing facility operators must obtain training regarding:

- climbing walls, including any requirements of the manufacturer or facility owner or operator;
- the use of climbing facility-owned personal protective equipment;
- the location of all safety equipment; and
- the climbing facility's emergency procedures.

Climbing facility operators are prohibited from supervising participants on climbing walls until the operator has received all required training. Climbing facility employees are prohibited from working at the facility while under the influence of alcohol, cannabis, or a controlled substance.

#### Climbing Participant Requirements.

Participants must:

- read all warnings and obey all rules of the climbing facility;
- obey all warnings and instructions of climbing facility operators;
- follow instructions for use of personal protective equipment;
- inspect participant-owned personal protective equipment and replace it as needed prior to use;
- refrain from acting in a manner that may cause or contribute to personal injury, inflict harm, or cause injury;
- exercise good judgment and act in a responsible manner; and
- refrain from climbing while under the influence of alcohol, cannabis, or a controlled substance.

#### Assumption of Inherent Risks and Immunity from Liability.

Each climbing participant is deemed, as a matter of law, to have assumed and accepted the

inherent risks associated with participation in the sport of indoor rock climbing, including but not limited to, bodily injury or death caused by falling; abrupt contact with persons, structures, or objects; personal protective equipment failure; loose climbing holds; and participant error.

Climbing facilities and climbing facility operators are not liable for bodily injury to or death of a participant engaged in the sport of indoor rock climbing that is caused by the inherent and assumed risks of climbing.

No climbing participant or their representative may maintain a legal action against or recover from a climbing facility or climbing facility operator for bodily injury or death of a participant engaged in the sport of climbing caused by the inherent and assumed risks of climbing.

The foregoing immunity does not prevent or limit the liability of climbing facility or climbing facility operator if they: (1) commit an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or (2) intentionally injure the climbing participant.

The immunity provided by this act is a complete defense against liability in a tort or other civil action against a climbing facility operator by a participant for bodily injury or death resulting from the inherent and assumed risks of climbing. The contributory fault provisions of state law are not applicable in cases where bodily injury or death is deemed to have been caused by the inherent and assumed risks of climbing.

The immunity provided by this act does not apply to manufacturers of personal protective equipment, parts, or other climbing equipment or structures.

#### Amusement Rides.

The chapter of state law governing amusement rides is modified by amending the definition of "Amusement Ride" to exclude any fixed, artificial climbing surface built for the sport of rock climbing used in a climbing facility.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.