

HOUSE BILL REPORT

HB 1666

As Reported by House Committee On:
Judiciary

Title: An act relating to limiting the liability of owners of irrigation canal rights of way for injuries to certain users.

Brief Description: Limiting the liability of owners irrigation canal rights of way for injuries to certain users.

Brief History:

Committee Activity:

Judiciary: 2/18/03, 2/25/03 [DP].

Brief Summary of Bill

- Clarifies that landowners are protected from civil liability for certain injuries sustained by recreational users of irrigation canal rights of way and adjacent areas.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Derek Green (786-5793), Bill Perry (786-7123).

Background:

At common law, a landowner may be liable for unintentional harms occurring upon the landowner's land as a result of the landowner's negligence, gross negligence or recklessness as well as through intentional acts. A landowner's liability at common law depends in part on the status of the injured party. For example, generally a landowner's duty to a trespasser is only to refrain from willfully or wantonly injuring the person, while the duty owed an invitee is to use ordinary care to keep the property reasonably safe.

A statute prescribes a different rule in the case of a landowner who allows members of the public to use his or her land for certain recreational purposes. This statutory provision applies to both private and public landowners. Generally, if a landowner allows the public to use the land for outdoor recreational purposes without charge, then the landowner is liable only for injuries that the landowner intentionally causes. There is an exception for injuries caused by a "known dangerous artificial latent condition" that the landowner has not posted conspicuous warning signs about.

The landowner's immunity extends by statute to "any lands" used for outdoor recreation by the public, whether that land is designated resource, rural or urban, or water areas or channels and lands adjacent to such areas.

Summary of Bill:

Irrigation canal rights of way and areas adjacent to such canals specifically are added to the types of land covered by the landowner's protection from civil liability from recreational users. The immunity covers only unintentional injuries sustained by persons using a landowner's property with the landowner's consent for recreational purposes, fish or wildlife cooperative projects, or cleanup of solid waste by volunteers or other users. Except in limited circumstances, the immunity extends only to instances in which a landlord does not charge a fee for the use of the land.

References to a chapter and title are also amended to reflect the chapter and title's recodification.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: This bill is a slight modification to current law, but it will have a significant impact on some communities. Canal rights of way offer an opportunity for recreation, but liability is a major concern. This bill would effectively extend park district land.

Testimony Against: None.

Testified: Phil Watkins and Robert Kelly, City of Kennewick.