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**SUBSTITUTE HOUSE BILL 2480**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** House Ecology & Parks (originally sponsored by Representatives Blake, Warnick, Takko, Upthegrove, Dunshee, Hinkle, Sells, Kretz, and Ormsby; by request of Commissioner of Public Lands)

READ FIRST TIME 01/18/10.

1       AN ACT Relating to implementing certain recommendations of the  
2 sustainable recreation work group; amending RCW 79.10.140 and 4.24.210;  
3 adding a new section to chapter 79.10 RCW; creating new sections; and  
4 providing an expiration date.

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

6       NEW SECTION.   **Sec. 1.**   (1) The legislature finds that the members  
7 of the sustainable recreation work group created in chapter 195, Laws  
8 of 2008 volunteered numerous hours and dedicated considerable personal  
9 resources and knowledge to aid the legislature with the development of  
10 recommendations aimed at improving recreational opportunities on land  
11 managed by the department of natural resources. Their dedication and  
12 contributions deserve the respect and appreciation of everyone who  
13 enjoys recreating in Washington's great outdoor spaces.

14       (2) The legislature further finds that the input and expertise of  
15 these volunteers, which was presented to the legislature in a final  
16 report dated December 2009, has created an invaluable document that  
17 deserves consideration by state policymakers both today and into the  
18 future.

1 (3) It is the intent of this act to adopt certain policy  
2 recommendations developed by the sustainable recreation work group that  
3 are capable of being implemented in the near term and that may provide  
4 near-term benefits to sustainable recreation or additional information  
5 that may be used to improve recreational activities in Washington.

6 **Sec. 2.** RCW 79.10.140 and 2007 c 241 s 23 are each amended to read  
7 as follows:

8 The department is authorized:

9 (1)(a) To construct, operate, and maintain primitive outdoor  
10 recreation and conservation facilities on lands under its jurisdiction  
11 which are of primitive character when deemed necessary by the  
12 department to achieve maximum effective development of such lands and  
13 resources consistent with the purposes for which the lands are held.  
14 (~~This~~)

15 (b) The authority provided by this section shall be exercised only  
16 after review by the recreation and conservation funding board and  
17 determination by the recreation and conservation funding board that the  
18 department is the most appropriate agency to undertake such  
19 construction, operation, and maintenance. Such review is not required  
20 for campgrounds designated and prepared or approved by the department.

21 (c) The department may convey the responsibility to operate or  
22 maintain recreation facilities to a concessionaire as provided in  
23 section 3 of this act;

24 (2) To acquire right-of-way and develop public access to lands  
25 under the jurisdiction of the department and suitable for public  
26 outdoor recreation and conservation purposes;

27 (3) To receive and expend funds from federal and state outdoor  
28 recreation funding measures for the purposes of this section and RCW  
29 79A.50.110;

30 (4)(a) To assess use charges on individuals or groups for the  
31 privilege of accessing specific improved, dedicated recreation sites or  
32 hosting or attending specific events located on public lands.

33 (b)(i) Prior to assessing use charges under this section, the  
34 department must develop and adopt by rule a detailed structure for the  
35 setting and the efficient collection of the appropriate use charge.  
36 The dollar amount and collection technique of any use charge must be

1 developed in a manner that ensures use charge collections generate more  
2 revenue than the department must expend to collect the use charges.

3 (ii) In addition to the rule-making requirements of chapter 34.05  
4 RCW, when developing rules for the implementation of this subsection,  
5 the department shall initiate a public process that allows for the  
6 formal solicitation of input as to how the department could implement  
7 waivers from use charges for individuals who volunteer their time with  
8 the department and how the department can address strategies for  
9 avoiding the exclusion of certain population segments from recreating  
10 on public lands.

11 (c) All revenues collected through use charges under this section  
12 must be reinvested by the department into the management of, and the  
13 provision of recreational opportunities at, the site where the use  
14 charge was collected.

15 NEW SECTION. Sec. 3. A new section is added to chapter 79.10 RCW  
16 under the subchapter heading "part 2 multiple use" to read as follows:

17 (1) The department shall initiate a pilot project to better  
18 understand how private concessionaires could be compatible with the  
19 department's tradition of providing primitive, relatively dispersed  
20 recreation experiences and whether allowing concessionaires access to  
21 well-suited campgrounds could improve the quality of service provided  
22 while reducing management costs to the department.

23 (2)(a) To accomplish the goals of this section, the department  
24 shall initiate two private concessionaire pilot projects. One project  
25 must be located east of the crest of the Cascade mountains and one  
26 project must be located west of the crest of the Cascade mountains.  
27 The temporal length of each project must be determined by the  
28 department.

29 (b) In structuring the pilot projects, the department shall  
30 maintain the necessary oversight to ensure the continued support for  
31 the needs of recreational users and explore ways to ensure that  
32 potential recreational users are not being precluded by high fees and  
33 costs. The pilot projects must also be structured in a manner that is  
34 consistent with any use charges developed under RCW 79.10.140.

35 (3) In addition to the goals of subsection (1) of this section, the  
36 pilot project may be used to investigate other questions deemed  
37 relevant by the department. These questions may include:

1 (a) How concessionaire contracts can best be developed and  
2 evaluated?

3 (b) Whether the concessionaire model would apply to recreation  
4 sites funded by the recreation and conservation office or other state  
5 agencies? and

6 (c) If user surveys identify a risk of concessionaire utilization  
7 creating an exclusionary effect at campgrounds?

8 (4) The department shall prepare two reports to the appropriate  
9 committees of the legislature, consistent with RCW 43.01.036,  
10 summarizing the information learned during the pilot project process.  
11 The first report must be a progress report and must be delivered by  
12 November 22, 2011. The second report must be delivered after the end  
13 date of both pilot projects.

14 NEW SECTION. **Sec. 4.** (1) The department of natural resources, the  
15 department of fish and wildlife, and the state parks and recreation  
16 commission shall formally explore how the three agencies can develop  
17 and implement a multiagency pass that would allow the holder to access  
18 any fee-based recreational lands or facilities managed by any one of  
19 the agencies in lieu of paying a separate access fee to an individual  
20 agency.

21 (2) The proposed structure for a multiagency recreation pass must:

22 (a) Integrate the new pass with other passes or site or event-  
23 specific fees or charges;

24 (b) Include processes for exploring the inclusion of lands managed  
25 by the federal government;

26 (c) Consider how funds can be efficiently collected and reinvested  
27 into recreational opportunities;

28 (d) Include waivers or reduced charges for individuals who are  
29 active volunteers with either of the agencies; and

30 (e) Consider methods that will avoid excluding segments of the  
31 population from recreating on public lands.

32 (3) In developing the multiagency pass required by this section,  
33 the three agencies involved must recognize that the state parks and  
34 recreation commission is prohibited from charging fees for general  
35 access or parking by RCW 79A.05.070(6). As such, the development or  
36 implementation of a multiagency pass may not be used to create an  
37 expectation or possibility that general access fees, including the

1 purchase of the multiagency pass, will be required for state parks.  
2 Instead, the component of the multiagency pass that affects the state  
3 parks and recreation commission must be focused on the actual use of  
4 specific services or facilities for which fee-restricted use is  
5 permitted.

6 (4) The final result of the agency collaboration required by this  
7 section must be delivered to the appropriate committees of the  
8 legislature by November 22, 2010, consistent with the provisions of RCW  
9 43.01.036. The results must be delivered in the form of proposed  
10 legislation with accompanying documents explaining the approach taken,  
11 the questions remaining unanswered, barriers to success, the positive  
12 and negative attributes associated with the proposed legislation, and  
13 any addition analyses deemed appropriate by the three agencies.

14 (5) This section expires August 1, 2011.

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

17 (1) Except as otherwise provided in subsection (3) or (4) of this  
18 section, any public or private landowners or others in lawful  
19 possession and control of any lands whether designated resource, rural,  
20 or urban, or water areas or channels and lands adjacent to such areas  
21 or channels, who allow members of the public to use them for the  
22 purposes of outdoor recreation, which term includes, but is not limited  
23 to, the cutting, gathering, and removing of firewood by private persons  
24 for their personal use without purchasing the firewood from the  
25 landowner, hunting, fishing, camping, picnicking, swimming, hiking,  
26 bicycling, skateboarding or other nonmotorized wheel-based activities,  
27 hanggliding, paragliding, rock climbing, the riding of horses or other  
28 animals, clam digging, pleasure driving of off-road vehicles,  
29 snowmobiles, and other vehicles, boating, nature study, winter or water  
30 sports, viewing or enjoying historical, archaeological, scenic, or  
31 scientific sites, without charging a fee of any kind therefor, shall  
32 not be liable for unintentional injuries to such users.

33 (2) Except as otherwise provided in subsection (3) or (4) of this  
34 section, any public or private landowner or others in lawful possession  
35 and control of any lands whether rural or urban, or water areas or  
36 channels and lands adjacent to such areas or channels, who offer or  
37 allow such land to be used for purposes of a fish or wildlife

1 cooperative project, or allow access to such land for cleanup of litter  
2 or other solid waste, shall not be liable for unintentional injuries to  
3 any volunteer group or to any other users.

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

8 (4) Nothing in this section shall prevent the liability of a  
9 landowner or others in lawful possession and control for injuries  
10 sustained to users by reason of a known dangerous artificial latent  
11 condition for which warning signs have not been conspicuously posted.  
12 A fixed anchor used in rock climbing and put in place by someone other  
13 than a landowner is not a known dangerous artificial latent condition  
14 and a landowner under subsection (1) of this section shall not be  
15 liable for unintentional injuries resulting from the condition or use  
16 of such an anchor. Nothing in RCW 4.24.200 and this section limits or  
17 expands in any way the doctrine of attractive nuisance. Usage by  
18 members of the public, volunteer groups, or other users is permissive  
19 and does not support any claim of adverse possession.

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

21 (a) A license or permit issued for statewide use under the  
22 authority of chapter 79A.05 RCW or Title 77 RCW; (~~and~~)

23 (b) A use charge issued under the authority of RCW 79.10.140; and

24 (c) A daily charge not to exceed twenty dollars per person, per  
25 day, for access to a publicly owned ORV sports park, as defined in RCW  
26 46.09.020, or other public facility accessed by a highway, street, or  
27 nonhighway road for the purposes of off-road vehicle use.

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