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**HOUSE BILL 2265**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Doglio and Walen

AN ACT Relating to encouraging and protecting the sport of rock climbing by establishing climbing facility regulations and requirements; amending RCW 67.42.010 and 18.235.020; and adding a new chapter to Title 18 RCW.

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

NEW SECTION. **Sec.**  The legislature finds that practicing the sport of rock climbing in a climbing facility helps facilitate equitable and adaptive access to physical activity that significantly contributes to the Washington state recreational activity economy. The legislature further finds that the practice of the sport of rock climbing in a climbing facility contains both inherent risks, regardless of any and all safety measures which can be employed, and other risks that can be hazardous to participants, and that those risks should be managed. Therefore, defining the duties and responsibilities of climbing facility operators and participants is in the public interest.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Climbing facility" means 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.

(2) "Climbing facility operator" means a person or entity who owns, manages, controls, directs, or has operational responsibility for a climbing facility.

(3) "Department" means the department of licensing.

(4) "Participant" means a person in a climbing facility for the purpose of engaging in the sport of climbing. "Participant" includes anyone utilizing a climbing wall or personal protective equipment, belaying, or spectating.

(5) "Personal protective equipment" means harnesses, carabiners, belay devices, auto belay devices, ropes, and other items designed to protect a participant from injury while using a climbing facility.

NEW SECTION. **Sec.**  (1) After January 1, 2026, no climbing facility operator may operate a climbing facility in this state without a license as required under this chapter.

(2) An applicant shall apply for a license with the department upon forms provided by the department that contain such information that the department reasonably requires, which may include affirmative evidence of the ability to comply with rules and regulations as prescribed in this chapter.

(3) Each application for license or renewal of license must be accompanied by a reasonable license fee as established by the department. Any fees or fines collected under the authority of this chapter must be deposited into the business and professions account created in RCW 43.24.150.

(4) Upon receipt of an application for a license and the license fee, the department shall issue a license if the applicant and climbing facility meets the requirements established under this chapter. A license, unless suspended or revoked, must be renewable annually. Applications for renewal must be on forms provided by the department and must be filed with the department not less than 10 days prior to the license's expiration date. Each license may be issued only for the premises and persons named in the application and is not transferable or assignable except with the written approval of the department.

(5) The license must be posted in a conspicuous place at the climbing facility.

NEW SECTION. **Sec.**  Climbing facility operators shall:

(1) Maintain a policy of liability insurance in accordance with section 10 of this act;

(2) Comply with indoor climbing industry custom and practice regarding the operation of indoor climbing facilities, including:

(a) Providing orientations, which may be conducted via prerecorded video or in-person, of the climbing facility for all participants;

(b) Posting clearly legible rules and warnings for participants in a conspicuous location in the climbing facility; and

(c) Maintaining access control to the facility;

(3) Comply with industry custom and practice regarding manufactured climbing walls, including the operation, inspection, repair, modification, or replacement of the wall or a component of the wall;

(4) Comply with industry custom and practice for use of climbing facility-owned personal protective equipment, including the operation, inspection, repair, modification, or replacement of the personal protective equipment;

(5) Maintain the climbing walls, flooring, anchors, holds, ropes, and other facility-owned personal protective equipment in a reasonably safe condition; and

(6) Conduct inspections of the manufactured climbing walls on a regular periodic basis.

NEW SECTION. **Sec.**  (1) Climbing facility operators shall be trained on the following:

(a) The manufactured climbing wall, including any requirements of the climbing wall manufacturer or the climbing facility owner or operator;

(b) The use of climbing facility-owned personal protective equipment;

(c) The location of all safety equipment, such as first aid kits, fire extinguishers, and the nearest telephone for routine or emergency service; and

(d) The climbing facility's emergency procedures.

(2) The climbing facility operator shall:

(a) Require and provide the ability for participants to meet the responsibilities for participants established in section 6 of this act; and

(b) Issue verbal and written warnings, reprimands, or penalties to participants for violations of section 6 of this act.

(3) A climbing facility operator may not supervise participants on the climbing wall until the operator has received training appropriate for the duties established in subsection (1) of this section.

(4) No climbing facility employee may work at the facility while under the influence of alcohol, cannabis, or a controlled substance.

NEW SECTION. **Sec.**  (1) Each participant is deemed as a matter of law to have assumed 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 from height; abrupt contact with persons, structures, or objects, whether fixed, moveable, or dropped, including climbing walls, volumes, holds, ropes, equipment, flooring, and other surfaces; personal protective equipment failure; loose climbing holds; or participant error, including the failure to follow posted signs, warnings, or instructions provided by the climbing facility. Participant error includes error by participants who are preparing to climb, belay, or who are in the process of climbing or belaying. Each participant is, as a matter of law, deemed to have assumed and accepted the inherent risks of indoor rock wall climbing.

(2) Each participant shall:

(a) Read all warnings and obey all rules of the climbing facility;

(b) Obey all written and oral warnings and instructions of climbing facility operators;

(c) Follow the instructions for use of personal protective equipment;

(d) Prior to each use, inspect any participant-owned personal protective equipment used by the participant, and replace the equipment as needed and according to the manufacturer's instructions;

(e) Refrain from acting in a manner that may cause or contribute to personal injury, inflict harm, or cause injury to any other person; and

(f) Exercise good judgment and act in a responsible manner while in the climbing facility.

(3) No participant may climb while under the influence of alcohol, cannabis, or a controlled substance.

NEW SECTION. **Sec.**  (1) Except as provided in subsection (2) of this section, a climbing facility or a climbing facility operator is not liable for bodily injury or death of a participant engaged in the sport of indoor rock climbing caused by the inherent and assumed risks of climbing enumerated in section 6 of this act, and, except as provided in subsection (2) of this section, no participant nor participant's representative may maintain an action against or recover from a climbing facility or a 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 enumerated in section 6 of this act or otherwise.

(2) Nothing in this section prevents or limits the liability of the climbing facility or a climbing facility operator:

(a) If the climbing facility or a climbing facility operator commits 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

(b) If the climbing facility or a climbing facility operator intentionally injures the participant.

NEW SECTION. **Sec.**  The express limitations on liability established in section 7 of this act serve as 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 as enumerated in section 6 of this act. The contributory fault provisions of chapter 4.22 RCW are not applicable in cases where bodily injury or death is deemed to have been caused by the inherent and assumed risks of climbing.

NEW SECTION. **Sec.**  The express limitations on liability established in sections 7 and 8 of this act do not apply to manufacturers of personal protective equipment, parts, or other climbing equipment or structures.

NEW SECTION. **Sec.**  Every climbing facility shall maintain liability insurance with a limit of not less than $1,000,000 per occurrence.

NEW SECTION. **Sec.**  The uniform regulation of the business and professions act, chapter 18.235 RCW, governs the unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. **Sec.**  The department may adopt rules that are necessary to implement the provisions of this chapter.

NEW SECTION. **Sec.**  Sections 1 through 12 of this act constitute a new chapter in Title 18 RCW.

**Sec.**  RCW 67.42.010 and 1993 c 203 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Amusement structure" means electrical or mechanical devices or combinations of devices operated for revenue and to provide amusement or entertainment to viewers or audiences at carnivals, fairs, or amusement parks. "Amusement structure" also means a bungee jumping device regardless of where located. "Amusement structure" does not include games in which a member of the public must perform an act, nor concessions at which customers may make purchases.

(2) "Amusement ride" means any vehicle, boat, bungee jumping device, or other mechanical device moving upon or within a structure, along cables or rails, through the air by centrifugal force or otherwise, or across water, that is used to convey one or more individuals for amusement, entertainment, diversion, or recreation. "Amusement ride" includes, but is not limited to, devices commonly known as skyrides, ferris wheels, carousels, parachute towers, tunnels of love, bungee jumping devices, and roller coasters. "Amusement ride" does not include: (a) Conveyances for persons in recreational winter sports activities such as ski lifts, ski tows, j-bars, t-bars, and similar devices subject to regulation under chapter ((~~70.88~~)) 79A.40 RCW; (b) any single-passenger coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator; (c) nonmechanized playground equipment, including but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, and physical fitness devices; ((~~or~~)) (d) water slides; or (e) a fixed, artificial climbing surface built for the sport of rock climbing used in a climbing facility. For purposes of this subsection, "climbing facility" means 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.

(3) "Department" means the department of labor and industries.

(4) "Insurance policy" means an insurance policy written by an insurer authorized to do business in this state under Title 48 RCW.

**Sec.**  RCW 18.235.020 and 2017 c 281 s 37 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.45 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

(xvii) Security guards under chapter 18.170 RCW;

(xviii) Sellers of travel under chapter 19.138 RCW;

(xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xx) Whitewater river outfitters under chapter 79A.60 RCW;

(xxi) Climbing facilities under chapter 18.--- RCW (the new chapter created in section 13 of this act);

(xxii) Home inspectors under chapter 18.280 RCW;

((~~(xxii)~~)) (xxiii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

((~~(xxiii)~~)) (xxiv) Appraisal management companies under chapter 18.310 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

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