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## Civil Rights & Judiciary Committee

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### SSB 5145

**Brief Description:** Clarifying existing law regarding liability protections associated with public recreational use of lands or waters under a hydroelectric license issued by the federal energy regulatory commission.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Short, Salomon, McCune and Warnick).

**Brief Summary of Substitute Bill**

- Exempts a landowner who releases water or flows and makes waterways available for recreational use from liability for injuries sustained by the public while boating, swimming, or fishing.

**Hearing Date:** 3/22/23

**Staff:** Matt Sterling (786-7289).

**Background:**

Generally, any public or private landowners, hydroelectric project owners, or others in lawful possession and control of any lands, including water areas, who allow members of the public to use the areas for the purposes of outdoor recreation are not liable for unintentional injuries to such users.

This exemption does not apply to injuries sustained by users by reason of a known dangerous artificial latent condition for which warnings signs have not been conspicuously posted. Known dangerous artificial latent conditions do not include releasing water or flows and making waterways or channels available for kayaking, canoeing, or rafting purposes pursuant to a hydroelectric license issued by the Federal Energy Regulatory Commission (FERC).

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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 term "recreation" includes:

- the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner;
- hunting, fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding, or other nonmotorized wheel-based activities;
- aviation activities including, the operation of airplanes, ultra-light airplanes, hang gliders, parachutes, and paragliders;
- rock climbing;
- the riding of horses or other animals;
- clam digging;
- pleasure driving of off-road vehicles, snowmobiles, and other vehicles;
- boating, kayaking, canoeing, rafting, nature study, winter or water sports; and
- viewing or enjoying historical, archaeological, scenic, or scientific sites without charging a fee of any kind.

**Summary of Bill:**

A landowner who releases water or flows and makes waterways or channels available for recreational use pursuant to a hydroelectric license issued by the FERC is not liable for injuries sustained by the public while boating, swimming, or fishing.

The exemption from liability for such landowners does not apply to any action filed prior to the effective date of the bill.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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