

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5145

Chapter 183, Laws of 2023

68th Legislature
2023 Regular Session

HYDROELECTRIC PROJECTS—OUTDOOR RECREATION LIABILITY—CERTAIN
ACTIVITIES

EFFECTIVE DATE: July 23, 2023

Passed by the Senate March 7, 2023
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 11, 2023
Yeas 97 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved April 25, 2023 3:45 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5145** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

April 26, 2023

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5145

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Senate Law & Justice (originally sponsored by Senators Short, Salomon, McCune, and Warnick)

READ FIRST TIME 02/17/23.

1 AN ACT Relating to clarifying existing law regarding liability
2 protections associated with public recreational use of lands or
3 waters under a hydroelectric license issued by the federal energy
4 regulatory commission; amending RCW 4.24.210; and creating a new
5 section.

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

7 **Sec. 1.** RCW 4.24.210 and 2017 c 245 s 1 are each amended to read
8 as follows:

9 (1) Except as otherwise provided in subsection (3) or (4) of this
10 section, any public or private landowners, hydroelectric project
11 owners, or others in lawful possession and control of any lands
12 whether designated resource, rural, or urban, or water areas or
13 channels and lands adjacent to such areas or channels, who allow
14 members of the public to use them for the purposes of outdoor
15 recreation, which term includes, but is not limited to, the cutting,
16 gathering, and removing of firewood by private persons for their
17 personal use without purchasing the firewood from the landowner,
18 hunting, fishing, camping, picnicking, swimming, hiking, bicycling,
19 skateboarding or other nonmotorized wheel-based activities, aviation
20 activities including, but not limited to, the operation of airplanes,
21 ultra-light airplanes, hang gliders, parachutes, and paragliders,

1 rock climbing, the riding of horses or other animals, clam digging,
2 pleasure driving of off-road vehicles, snowmobiles, and other
3 vehicles, boating, kayaking, canoeing, rafting, nature study, winter
4 or water sports, viewing or enjoying historical, archaeological,
5 scenic, or scientific sites, without charging a fee of any kind
6 therefor, shall not be liable for unintentional injuries to such
7 users.

8 (2) Except as otherwise provided in subsection (3) or (4) of this
9 section, any public or private landowner or others in lawful
10 possession and control of any lands whether rural or urban, or water
11 areas or channels and lands adjacent to such areas or channels, who
12 offer or allow such land to be used for purposes of a fish or
13 wildlife cooperative project, or allow access to such land for
14 cleanup of litter or other solid waste, shall not be liable for
15 unintentional injuries to any volunteer group or to any other users.

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

20 (4)(a) Nothing in this section shall prevent the liability of a
21 landowner or others in lawful possession and control for injuries
22 sustained to users by reason of a known dangerous artificial latent
23 condition for which warning signs have not been conspicuously posted.

24 (i) A fixed anchor used in rock climbing and put in place by
25 someone other than a landowner is not a known dangerous artificial
26 latent condition and a landowner under subsection (1) of this section
27 shall not be liable for unintentional injuries resulting from the
28 condition or use of such an anchor.

29 (ii) Releasing water or flows and making waterways or channels
30 available for boating, swimming, fishing, kayaking, canoeing, or
31 rafting purposes pursuant to and in substantial compliance with a
32 hydroelectric license issued by the federal energy regulatory
33 commission, and making adjacent lands available for purposes of
34 allowing viewing of such activities, does not create a known
35 dangerous artificial latent condition and hydroelectric project
36 owners under subsection (1) of this section shall not be liable for
37 unintentional injuries to the recreational users and observers
38 resulting from such releases and activities.

39 (b) Nothing in RCW 4.24.200 and this section limits or expands in
40 any way the doctrine of attractive nuisance.

1 (c) Usage by members of the public, volunteer groups, or other
2 users is permissive and does not support any claim of adverse
3 possession.

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

5 (a) A license or permit issued for statewide use under authority
6 of chapter 79A.05 RCW or Title 77 RCW;

7 (b) A pass or permit issued under RCW 79A.80.020, 79A.80.030, or
8 79A.80.040;

9 (c) A daily charge not to exceed twenty dollars per person, per
10 day, for access to a publicly owned ORV sports park, as defined in
11 RCW 46.09.310, or other public facility accessed by a highway,
12 street, or nonhighway road for the purposes of off-road vehicle use;
13 and

14 (d) Payments to landowners for public access from state, local,
15 or nonprofit organizations established under department of fish and
16 wildlife cooperative public access agreements if the landowner does
17 not charge a fee to access the land subject to the cooperative
18 agreement.

19 NEW SECTION. **Sec. 2.** This act does not apply to any action
20 filed prior to the effective date of this section.

Passed by the Senate March 7, 2023.

Passed by the House April 11, 2023.

Approved by the Governor April 25, 2023.

Filed in Office of Secretary of State April 26, 2023.

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