

FINAL BILL REPORT

SHB 1195

C 16 L 03

Synopsis as Enacted

Brief Description: Limiting the liability of landowners for unintentional injuries incurred while rock climbing.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Delvin, Dunshee, Hinkle, Lovick, Mastin, Armstrong, Sump, Fromhold, Quall, Hatfield, Blake, Lantz, Mielke and McMahan).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

The Legislature has changed the common law on the liability of landowners for injuries incurred by certain recreational users of land. In specified cases, a statute provides that landowner liability exists only for intentional harm.

At common law, on the other hand, a landowner may be liable for unintentionally causing harm through acts of 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. That is, a landowner's duty to a particular person varies depending on whether the person is, for instance, a trespasser or an invitee. 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 recreational purposes without charge, then the landowner is liable only for injuries that the landowner intentionally causes. This insulation from liability does not apply to an injury caused by a "known dangerous artificial latent condition" when the landowner has not posted conspicuous warning signs. In order for this exception to apply, the landowner must have had actual knowledge of an artificial condition that is not readily apparent to a recreational user and that presents an unreasonable risk of harm, and then must have failed to post a warning.

The statute insulating landowners from liability applies to "outdoor recreation" including, but not limited to, certain specified activities. These activities are:

- gathering firewood;
- hunting, fishing, clam digging;
- camping, picnicking;
- swimming, hiking, bicycling;
- riding horses or other animals;
- driving off-road vehicles, snowmobiles, and other vehicles;
- boating and water sports;
- winter sports;
- nature study;
- viewing historical, archaeological, scenic, or scientific sites;
- skateboarding and other nonmotorized wheel-based activities; and
- hanggliding, and paragliding.

Summary:

Rock climbing is added to the list of recreational activities for which a landlord may be immune from civil liability for injury or death caused by the landlord's unintentional acts.

A fixed climbing anchor put in place by someone other than the landowner is not a "known dangerous artificial condition" for which a landowner might be liable.

The Legislature expresses its intent that the specific inclusion of rock climbing does not imply that other related recreational activities are not also covered by these immunity provisions.

Votes on Final Passage:

House 91 0

Senate 47 0

Effective: July 27, 2003