

FINAL BILL REPORT

HB 2244

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Synopsis as Enacted

Brief Description: Concerning the liability of landowners for unintentional injuries that result from certain public or private airstrip operations.

Sponsors: Representatives Hargrove, Sullivan and Moeller.

House Committee on Judiciary
Senate Committee on Energy, Natural Resources & Marine Waters

Background:

Landowner Duties, Generally.

Under Washington tort law, a landowner's duty of care to persons entering his or her land depends on the status of the entering party: invitee, licensee, or trespasser. Generally, landowners owe trespassers and licensees only a duty to refrain from willfully or wantonly injuring them. Landowners owe invitees an affirmative duty to keep the land in reasonably safe condition. This includes an affirmative duty to inspect the premises in order to discover any dangerous conditions, and landowners may be held liable for unintentionally causing harm through acts of negligence, gross negligence, or recklessness.

Recreational Use Immunity Statute.

The Recreational Use Immunity Statute prescribes an alternative framework for determining landowner liability in certain cases. A landowner who allows the public to use his or her land for certain recreational purposes is immune from liability for unintentional injuries suffered by a recreational user. The immunity does not apply, however, to injuries caused by a "known dangerous artificial latent condition" on land where warning signs have not been posted. Immunity extends to landowners allowing the following (non-exhaustive) list of activities:

- cutting/gathering/removing firewood;
- hunting, fishing, and clam digging;
- camping, and picnicking;
- swimming, hiking, rock climbing, and horseback riding;
- bicycling, skateboarding, and other nonmotorized wheel-based activities;
- driving off-road vehicles, snowmobiles, and other vehicles;

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- boating, kayaking, canoeing, rafting, and other water sports;
- viewing historical, archeological, or scenic sites;
- winter sports; and
- hangliding and paragliding.

The statute applies to both public and private landowners who allow public use without a fee, although the statute does identify three exceptions to the no-fee requirement: (1) private landowners may extract a \$25 administrative fee for the cutting, gathering, and removing of firewood; (2) landowners may charge up to \$20 per person per day for access to public offroad vehicle facilities; and (3) certain passes and permits required by state agencies do not qualify as fees.

Summary:

Aviation activities generally, in addition to hangliding and paragliding, are added to the list of recreational activities for which a landowner may be immune from liability for unintentional injury to a recreational user of the property.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: June 7, 2012