

SENATE BILL REPORT

HB 2244

As of February 15, 2012

Title: An act relating to aircraft and ultra-light operations on public or private airstrips.

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.

Brief History: Passed House: 2/09/12, 94-0.

Committee Activity: Energy, Natural Resources & Marine Waters: 2/15/12.

SENATE COMMITTEE ON ENERGY, NATURAL RESOURCES & MARINE WATERS

Staff: Angeline Thomas (786-7470)

Background: Landowner Duty to Invitees Generally. Under Washington tort law, landowners generally owe persons invited to enter their land a duty to use ordinary care to keep that land in a reasonably safe condition. This includes an affirmative duty to inspect the premises and discover dangerous conditions.

Protection Under the Recreational Use Immunity Statute. The Legislature modified this general rule through what is known as the Recreation Use Immunity Statute (statute). The stated purpose of the statute is to encourage landowners, or others in possession and control of land (collectively landowners), to make their land accessible to the public for recreational purposes by limiting their tort liability.

The statute generally provides protection from tort liability for both public and private landowners who allow public use of their lands for certain recreational purposes and do not charge a fee. Examples of activities covered by the statute include, but are not limited to, gathering firewood, camping, swimming, driving off-road vehicles, and hanggliding.

Landowners may charge an administrative fee of up to \$25 to those cutting, gathering, and removing firewood from their land. Additionally, the following are not considered a fee for purposes of the statute: (1) a license or permit issued under the State Parks and Recreation Commission or the Fish and Wildlife statutes; and (2) a daily charge not to exceed \$20 for access to certain public off-road vehicle facilities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Limitations on the Protection Offered by the Statute. The liability protection offered under the statute is not absolute. The statute does not protect landowners from certain dangerous conditions for which warning signs have not been conspicuously posted. Additionally, landowners who intentionally injure recreational users receive no protection.

Summary of Bill: General aviation activities, 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.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is supported by a large variety of recreational aircraft owners and organizations, as well as private airstrip owners. The current recreational use immunity statute unintentionally restricts public access to private airstrips because private airstrip owners are uncertain about whether they are covered or not. Ten states have already modified their recreational use immunity statute, including Idaho, Montana, and Kansas for example. Another 17 states are considering this change. In addition, adding aviation activities to the statute will encourage out-of-state tourism increasing money spent in Washington.

Persons Testifying: PRO: Representative Hargrove, prime sponsor; Robert Kay, Recreational Aviation Foundation.