

---

**Agriculture & Natural Resources  
Committee**

---

**HB 2243**

**Brief Description:** Encouraging private landowners to allow public access to their land.

**Sponsors:** Representatives Blake and Kretz.

**Brief Summary of Bill**

- Directs the State Conservation Commission to work with private landowners in an attempt to establish a network of private lands upon which the public is invited to engage in recreational activities.

**Hearing Date:** 1/21/14

**Staff:** Jason Callahan (786-7117).

**Background:**

Public recreation opportunities.

The Washington Department of Fish and Wildlife (WDFW), Department of Natural Resources (DNR), and the State Parks and Recreation Commission (State Parks) are charged with managing the public lands of the state. The WDFW owns or manages nearly one million acres of public land for fish and wildlife, habitat conservation, and wildlife-related recreation. State Parks oversees a park system that includes over 100 developed parks, and the DNR manages nearly three million acres of uplands and over two million acres of aquatic lands, many of which are open for public recreation.

Private recreational opportunities.

A landowner who allows the public to use his or her land at no cost for certain recreational purposes is immune from liability for unintentional injuries suffered by a recreational user. The

---

*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.*

immunity does not apply to injuries caused by a "known dangerous artificial latent condition" on land where warning signs have not been posted. A landowner must have actual knowledge that a condition that is not readily apparent to a recreational user poses an unreasonable risk of harm in order for it to be considered known, dangerous, and latent.

Both public and private landowners who allow public use without a fee are protected. There are three exceptions to the no-fee requirement:

- Landowners may assess a \$25 administrative fee for the cutting, gathering, and removing of firewood.
- Landowners may charge up to \$20 per person per day for access to public off-road vehicle facilities.
- Certain passes and permits required by state agencies do not qualify as fees.

#### State Conservation Commission.

The State Conservation Commission (SCC) is a state agency with several duties. These include assisting the supervisors of conservation districts, securing cooperation and assistance of federal, state, and local agencies in the work of the conservation districts, administering and distributing certain funds, facilitating the administration of activities dealing with the conservation of renewable natural resources, and disseminating information about the activities and programs of the conservation districts. The SCC has also been assigned tasks that involve landowner outreach, either directly or through the conservation districts.

#### **Summary of Bill:**

The SCC is directed to work with private landowners in an attempt to establish a network of private lands upon which the public is invited to engage in recreational activities such as hunting and fishing (the program). If a sufficient number of landowners agree to participate in the program, a number determined by the SCC, then the SCC must move forward with initiating and managing public access on the volunteered lands.

Participation in the access program must be voluntary and no landowner can be compelled to join. The participating landowners must express their willingness in contract with the SCC. The contract must spell out the responsibilities and expectations of both the participating landowner and the SCC. Participating landowners must agree to allow unlimited recreational access to all parcels included in the program; however, not all of a landowner's parcels need to be included. Participating landowners may close otherwise included parcels on a seasonal or temporary basis when the landowner's use of the land is incompatible with public access.

In order to access private lands that are included in the program, an individual must purchase an annual public-private access permit (permit). The permit costs \$35 and must be made available through the WDFW's retail licensing system. A new account is created to receive revenue from permit sales. The revenue in the account must be divided three ways: 20 percent of the revenue may be used by the SCC to administer the program and conduct outreach to new participants, 20 percent may be used by the WDFW for enhanced enforcement, and the remaining 60 percent must be provided to participating landowners in consideration for their participation in the program.

The process and methodologies for reimbursing participating landowners must be established by the SCC. Any reimbursements received by a participating landowner who pays the state's business and occupation tax may exclude those amounts from being considered income for state tax purposes.

The SCC may also establish rules or policy for public recreationists to follow when using lands enrolled in the program. A violation of any rules established by the SCC may be enforced through a civil natural resources infraction. In addition, any person found recreating on lands owned by a participating landowner that failed to purchase a permit may be prosecuted for criminal trespass. Enforcement on lands owned by participating landowners may be conducted by a local jurisdiction or the WDFW.

A recreationist found to have committed certain acts on land enrolled in the program faces confiscation of his or her permit and is prohibited from possessing another permit for five years. This penalty attaches if the recreationist is found liable for damaging the land or property of another, or guilty of a number of crimes. These include fish and wildlife laws, littering and dumping prohibitions, arson, reckless burning, and tree spiking.

Landowners may continue to enjoy recreational liability immunity even if they receive payments from state or local governments to facilities or manage public access. These payments can include reimbursements from the SCC under the access program. Immunity under the program extends to the intentional, reckless, or negligent acts of those recreating under a permit. Landowners may also exclude access to a member of the public if the rules or conditions of access are violated without jeopardizing the liability immunity status of the landowner.

**Appropriation:** None.

**Fiscal Note:** Available.

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