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## Judiciary Committee

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### SSB 6207

**Title:** An act relating to fee immunity for certain water facilities.

**Brief Description:** Providing fee immunity for certain water facilities.

**Sponsors:** Senate Committee on Natural Resources & Parks (originally sponsored by Senator Angel).

<p style="text-align: center;"><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Permits, under the Recreational Land Use Act, the charging of no more than \$20 per day or \$100 annually for the docking or launching of boats.</li></ul>
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**Hearing Date:** 2/20/14

**Staff:** Jenna Zwang (786-7290) and Cece Clynch (786-7195).

**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 Land Use Act.

Originally enacted in 1967, the Recreational Land Use Act prescribes an alternative framework for determining landowner liability in certain cases. The purpose of the recreational use statute is to "encourage property owners to provide free recreational areas for public use by limiting a property owner's liability for injuries to recreational users."

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*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.*

A landowner who allows the public to use his or her land for certain recreational purposes will be 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. A landowner must have actual (as opposed to constructive) 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.

Immunity extends to landowners who allow activities that include the following:

- cutting, gathering, and removing firewood;
- hunting, fishing, and clam digging;
- camping, and picnicking;
- swimming, hiking, rock climbing, and horseback riding;
- bicycling, skateboarding, and other non-motorized wheel-based activities;
- driving off-road vehicles, snowmobiles, and other vehicles;
- boating, kayaking, canoeing, rafting, and other water sports;
- viewing historical, archeological, or scenic sites;
- winter sports; and
- hang-gliding and paragliding.

Both public and private landowners who allow public use without a fee are protected. There are three exceptions to the no-fee requirement: (1) landowners may assess 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 off-road vehicle facilities; and (3) certain passes and permits required by state agencies do not qualify as fees.

Definitions.

The term "moorage facility" has slightly different meanings in different contexts. When concerning the powers of port districts, moorage facilities mean any properties or facilities owned or operated by a moorage facility operator which are capable of use for the moorage or storage of vessels. Moorage facility operator means any port district, city, town, metropolitan park district, or county owning or operating a moorage facility.

In rules adopted by the Department of Natural Resources (DNR) governing the management of state-owned aquatic lands, moorage facility means marina, open water moorage and anchorage area, pier, dock, mooring buoy, or any other similar fixed moorage site. Aquatic lands mean all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters. Aquatic lands are part of the public lands of Washington.

### **Summary of Bill:**

Two more exceptions to the no-fee requirement are specified:

- Charges up to \$20 per day or \$100 annually may be assessed for the docking or moorage of vessels at a moorage facility as that term is defined in statute regarding port districts and in rules adopted by the DNR with respect to aquatic lands.
- Charges may be assessed at a rate of up to \$20 per day or \$100 annually for the launching of boats at a boat ramp, or the parking of boat trailers and attached vehicles in a parking lot adjacent to the boat ramp.

Every two years the maximum daily charge of \$20 will increase by \$1, and the maximum annual charge of \$100 will increase by \$5.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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