

SENATE BILL REPORT

SHB 2150

As Reported by Senate Committee On:
Natural Resources & Parks, February 27, 2014

Title: An act relating to encouraging recreational access to private property.

Brief Description: Encouraging recreational access to private property.

Sponsors: House Committee on Judiciary (originally sponsored by Representative Blake).

Brief History: Passed House: 2/17/14, 97-0.

Committee Activity: Natural Resources & Parks: 2/25/14, 2/27/14 [DP].

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: Do pass.

Signed by Senators Pearson, Chair; Liias, Ranking Member; Dansel, Hargrove, Hewitt, Kline and Parlette.

Staff: Richard Rodger (786-7461)

Background: Under Washington tort law, a landowner's duty of care to persons entering the owner's 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.

The Recreational Use Immunity statute was enacted to encourage public and private landowners to make land and water areas available to the public for recreational purposes by limiting landowner liability. The statute generally provides protection from tort liability for landowners who allow the public to use their lands for outdoor recreation without charging a fee.

There are three exceptions to the no-fee requirement: (1) private landowners may charge 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.

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.

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 posted. Additionally, landowners who intentionally injure recreational users receive no protection.

Summary of Bill: Landowners may exclude individuals from their land if they violate the landowner's rules or conditions of access.

Landowner recreational use immunity is expanded with the addition of two more exceptions to the no-fee provision:

- Landowners may receive payments from state or local governments to facilitate or manage public access; and
- Private landowners may annually charge up to \$25 per person, per year for recreational use, including hunting and fishing access, on adjoining parcels owned by a single landowner as long as (1) the land is subject to current use valuation for property tax purposes under either the program for forest lands or the program for open space lands, farm lands, agricultural lands, and timber lands, and (2) no limits are placed on the number of participants granted recreational access to the parcels.

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 provides an incentive for large timberland owners to keep their lands open to the public, in that it eases their liability, when they charge a nominal fee for recreational access. The bill would also potentially help fish and wildlife groups onto these timber properties to help with habitats. However, liability in such cases is unclear and further amendatory language is necessary. The bill should also restore the immunity for injuries to third parties caused by recreational users, as was included in the original bill.

Persons Testifying: PRO: Dave Ware, WA Dept. of Fish and Wildlife; Kathleen Collins, PacifiCorp.