

SENATE BILL REPORT

SB 6508

As of February 11, 2014

Title: An act relating to encouraging private landowners to allow public access to their land.

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

Sponsors: Senators Liias and Rolfes.

Brief History:

Committee Activity: Natural Resources & Parks: 2/04/14.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Staff: Curt Gavigan (786-7437)

Background: State Land Recreation Opportunities. A number of state agencies manage lands either solely or in part for public recreational access. The Department of Natural Resources (DNR) manages a number of different categories of land, including approximately 3 million acres of federally granted lands and state forest lands which DNR manages to support common schools, counties, and other public institutions. The Department of Fish and Wildlife (DFW) manages approximately 900,000 acres of conservation and recreation lands, including more than 30 wildlife areas as well as approximately 700 water access sites. Additionally, the state park system includes 117 developed parks stretching across approximately 120,000 acres throughout the state.

Private Recreational Opportunities. The recreational use immunity statute generally provides protection from tort liability for landowners who allow public use of their lands and do not charge a fee. However, the statute does identify 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.

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.

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.

Role of the State Conservation Commission (SCC). 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. SCC has also been assigned tasks that involve landowner outreach, either directly or through the conservation districts.

Role of DFW. In addition to its land management function, DFW serves as manager of the state's fish and wildlife resources. Among other duties, DFW must protect and manage fish and wildlife including establishing the time, place, manner, and methods used to harvest or enjoy fish and wildlife.

Summary of Bill: SCC must conduct outreach to private landowners in an attempt to establish a voluntary network of private lands available for recreational activities, including hunting and fishing. If SCC determines that enough landowners have committed to participate, it must initiate and manage public access on those volunteered lands.

Participation in the access program must be memorialized in a contract, which states the responsibilities and expectations of both the participating landowner and SCC. Participating landowners must agree to allow unlimited recreational access to parcels included in the program, but not all of a landowner's parcels must be included. Additionally, participating landowners may close lands seasonally or temporarily to avoid use conflicts.

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 DFW's retail licensing system. Permit review is deposited into a new account and must be used in three ways: (1) 20 percent of the revenue for SCC to administer the program and conduct outreach; (2) 20 percent for DFW to provide enforcement on participating lands; and (3) 60 percent to reimburse participating landowners in consideration for their participation in the program. SCC must develop and process and methodology for reimbursements, to which the state's business and occupation tax does not apply.

SCC may establish rules or policy applicable to users of participating lands, which are punishable as a civil natural resources infraction. Any person found recreating on lands owned by a participating landowner that failed to purchase a permit may be prosecuted for criminal trespass. Additionally, a user found to have committed certain acts on participating lands faces confiscation of the user's permit.

Landowners receive protection under the recreational use immunity statute even if they receive payments from state or local governments to provide public access, including from the SCC program. Participating landowners are immune from liability to third parties for the intentional, reckless, or negligent acts of recreational users.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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