

SENATE BILL REPORT

SHB 1464

As Reported by Senate Committee On:
Natural Resources & Parks, March 28, 2017

Title: An act relating to the development of cooperative agreements to expand recreational access on privately owned lands.

Brief Description: Concerning the development of cooperative agreements to expand recreational access on privately owned lands.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Blake, Orcutt, Chapman and Tarleton; by request of Department of Fish and Wildlife).

Brief History: Passed House: 2/27/17, 89-7.

Committee Activity: Natural Resources & Parks: 3/14/17, 3/28/17 [DPA].

Brief Summary of Amended Bill

- Specifies that limited liability protection under the recreational use immunity statute applies to payments under certain public access agreements.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: Do pass as amended.

Signed by Senators Pearson, Chair; Hawkins, Vice Chair; Van De Wege, Ranking Minority Member; Fortunato and McCoy.

Staff: Curt Gavigan (786-7437)

Background: Landowner Duty to Invitees in General. 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 recreational use immunity statute (statute). The stated purpose of the statute is to encourage landowners or others in possession and control

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.

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 landowners who allow public use of their lands for recreation and do not charge a fee. However, the following are not considered a fee for purposes of the statute:

- an administrative charge of up to \$25 to those cutting, gathering, and removing firewood from their land;
- a license or permit issued under the State Parks and Recreation Commission, Department of Fish and Wildlife, and Discover Pass statutes; and
- a daily charge not to exceed \$20 for access to certain public off-road vehicle facilities.

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 Amended Bill: Payments to landowners for public access from state, local, or nonprofit organizations established under a Department of Fish and Wildlife cooperative public access agreement are not considered fees that would disqualify a landowner from limited-liability protection under the statute if the landowner does not charge a fee to access the land subject to the cooperative agreement.

EFFECT OF NATURAL RESOURCES & PARKS COMMITTEE AMENDMENT(S):

- Removes language specifically providing that those who enter into a public access agreement with DFW and do not charge an access fee receive limited liability protection under the statute.
- Provides that payments to landowners for public access from state, local, or nonprofit organizations established under DFW cooperative public access agreements are not considered fees under the statute if the landowner does not charge a fee to access the land subject to the cooperative agreement.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The bill is intended to promote incentives for access and will allow assistance to landowners through DFW access agreements. Helping landowners promote access and avoid lawsuits is key to expanding recreation.

OTHER: The current language allows for financial assistance to landowners while still providing unencumbered access to the public, which strikes a balance that is much appreciated.

Persons Testifying: PRO: Tom Davis, WA Farm Bureau & WA Cattlemen's Association; Raquel Crosier, Dept. of Fish & Wildlife.

OTHER: Larry Shannon, Washington State Association for Justice.

Persons Signed In To Testify But Not Testifying: No one.