
Civil Rights & Judiciary Committee

HB 1341

Brief Description: Concerning the professional rescue doctrine.

Sponsors: Representatives Bronoske, Walen and Berry.

Brief Summary of Bill

- Abolishes the professional rescue doctrine that precludes a professional rescuer from recovering for injuries inherently within the scope of a particular rescue activity.
- Provides that contractors and subcontractors of public service companies are liable for any loss, damage, or injury caused by a violation of state law or regulations.
- Adds rescuers as a group to whom public service companies, their contractors, or subcontractors may be liable for loss, damage, or injury caused by a violation of state law or regulations.

Hearing Date: 2/2/21

Staff: Yelena Baker (786-7301).

Background:

The Professional Rescue Doctrine.

The general rule in Washington is that a person who is injured while rescuing or attempting to rescue another may recover from the party whose negligence created the need for rescue. Because professional rescuers assume certain risks as part of their profession, the general rule does not apply to them.

Under the professional rescue doctrine, when a professional rescuer is injured by a known hazard

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associated with a particular rescue activity, the rescuer may not recover from the party whose negligence caused the rescuer's presence at the scene. Where the negligent acts of multiple parties cause the public safety issue that necessitates the professional rescuer's presence, the doctrine bars recover from each of these parties.

The professional rescue doctrine does not bar a professional rescuer from recovering for injuries:

- stemming from hidden, unknown, or extra hazardous dangers that are not inherently associated with the particular rescue activity; or
- caused by an intervening person who was not responsible for bringing the rescuer to the scene.

Similarly to other workers injured on the job, professional rescuers injured in a rescue are entitled to workers' compensation benefits.

Workers' Compensation and Recovery in Third-Party Legal Actions.

Under the state industrial insurance laws, workers injured on the job are entitled to receive workers' compensation benefits. In return for the no-fault nature of industrial insurance, injured workers may not sue their employers or a co-worker. However, in cases where a third party may liable for the injury, the injured worker or their beneficiary may sue the third party for damages. The injured worker may also assign the cause of action to the Department of Labor and Industries (Department) or self-insured employer.

State law provides a specific formula to be used when distributing any third-party recovery, and damages for loss of consortium are excluded from the distribution formula. The Department and the self-insurer are entitled to be reimbursed for the benefits paid and estimated to be paid in the future. Any compromise or settlement of the third-party cause of action by the injured worker which results in less than the entitlement is void unless the Department or self-insurer approves of the compromise or settlement in writing.

Liability of Public Service Companies.

State law allows a claim against any public service company that violates any law or regulation of the Utilities and Transportation Commission (UTC) by either affirmative action or by omission and causes loss, damage, or injury to a person or a corporation. If a court finds that the act or omission was willful, the court may award reasonable attorneys' fees.

"Public service company" is defined to include every gas, electrical, telecommunications, wastewater, and water company.

Summary of Bill:

The professional rescue doctrine is abolished. A public safety employee who suffers any injury, disease, or death while in the lawful discharge of his or her official duties may seek recovery and damages from the person or entity whose neglect, willful omission, or willful or culpable conduct resulted, directly or indirectly, in the employee's injury, disease, or death.

Contractors and subcontractors of public service companies are liable for any loss, damage, or injury caused by a violation of state law or UTC regulations.

Rescuers are added as a group to whom public service companies, their contractors, or subcontractors may be liable for loss, damage, or injury caused by a violation of state law or UTC regulations.

Appropriation: None.

Fiscal Note: Requested on January 27, 2021.

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