

HOUSE BILL REPORT

HB 2265

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to encouraging and protecting the sport of rock climbing by establishing climbing facility regulations and requirements.

Brief Description: Establishing climbing facility regulations and requirements.

Sponsors: Representatives Doglio and Walen.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/24/24, 1/31/24 [DPS].

Brief Summary of Substitute Bill

- Requires climbing facility operators to comply with industry custom and practice regarding operation of climbing facilities, including by posting rules and warnings and conducting regular inspections.
- Amends the definition of "amusement ride" to exclude any fixed, artificial climbing surface built for the sport of rock climbing used in a climbing facility.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Taylor, Chair; Farivar, Vice Chair; Entenman, Goodman, Peterson, Thai and Walen.

Minority Report: Without recommendation. Signed by 4 members: Representatives Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno and Cheney.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: John Burzynski (786-7133).

Background:

Rock climbing gyms provide an indoor venue for rock climbing on artificial surfaces, and may provide participants with various climbing opportunities, equipment rental, and training. Rock climbing in indoor facilities is not specifically regulated under Washington law.

State law governs amusement rides. The owner or operator of an amusement ride must obtain a permit from the Department of Labor and Industries (Department), have the ride inspected each year, maintain an insurance policy in an amount of not less than \$1 million per occurrence, and file inspection certificates and insurance policies with the Department. The Department is required to adopt rules to administer the chapter of state law regulating amusement rides, and may order in writing the cessation of the operation of an amusement ride for which no valid permit is in effect or for which the owner or operator does not have a qualifying insurance policy. Any person who operates an amusement ride in violation of state law is guilty of a gross misdemeanor.

An "amusement ride" is defined as any vehicle, boat, bungee jumping device, or other mechanical device moving upon or within a structure, along cables or rails, through the air by centrifugal force or otherwise, or across water, that is used to convey one or more individuals for amusement, entertainment, diversion, or recreation. "Amusement ride" includes, but is not limited to, devices commonly known as skyrides, Ferris wheels, carousels, parachute towers, tunnels of love, bungee jumping devices, and roller coasters. "Amusement ride" does not include: (a) conveyances for persons in recreational winter sports activities such as ski lifts, ski tows, j-bars, t-bars, and similar devices subject to regulation under the chapter of state law governing recreational activity conveyances; (b) any single-passenger, coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator; (c) nonmechanized playground equipment, including but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, and physical fitness devices; or (d) water slides.

Summary of Substitute Bill:

Defined Terms.

A "climbing facility" is a facility or premises that contains a fixed, artificial climbing surface used by the public, not located in an amusement park, carnival, family entertainment center, or on public land, that is designed and built for the sport of climbing.

A "climbing facility operator" is a person or entity who owns, manages, controls, directs, or

has operational responsibility for a climbing facility.

A "climbing facility participant" is a person in a climbing facility for the purpose of engaging in the sport of climbing, including anyone utilizing a climbing wall or personal protective equipment, belaying, or spectating.

"Personal protective equipment" means harnesses, carabiners, belay devices, auto belay devices, ropes, and other items designed to protect a participant from injury while using a climbing facility.

Climbing Facility Requirements.

Climbing facility operators must comply with indoor climbing industry custom and practice regarding the operation of indoor climbing facilities, including: (1) posting clearly legible rules and warnings for climbing facility participants in a conspicuous location in the climbing facility; and (2) conducting inspections of the manufactured climbing walls on a regular periodic basis.

Amusement Rides.

The chapter of state law governing amusement rides is modified by amending the definition of "amusement ride" to exclude any fixed, artificial climbing surface built for the sport of rock climbing used in a climbing facility.

Substitute Bill Compared to Original Bill:

The substitute bill retains the following provisions from the original bill.

- Legislative findings regarding the benefits of rock climbing are maintained.
- Requirements for climbing facility operators to comply with industry custom and practice regarding operation of climbing facilities, including by posting rules and warnings and conducting regular inspections, are maintained.
- The amended definition of "amusement ride" that excludes any fixed, artificial climbing surface built for the sport of rock climbing used in a climbing facility is maintained.

The substitute bill removes the following provisions from the original bill.

- Legislative findings regarding the inherent risks of rock climbing and the duties and responsibilities of climbing facility operators and participants are removed.
- Provisions regarding assumption of risk, immunity and immunity exceptions, and restrictions on contributory fault rules are removed.
- Provisions requiring and governing licensing, authorizing the Department of Licensing to adopt rules, and applying the Uniform Regulation of Business and Professions Act are removed.
- Provisions requiring operators to maintain liability insurance, provide orientations, maintain access control, comply with certain industry customs and practices; and maintain walls, flooring and equipment are removed.

- Provisions governing operator training and conduct, and participant conduct, are removed.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Indoor rock climbing is a great way to get exercise, a great activity for kids, can increase self-confidence and provide a sense of empowerment, plays a vital role in the outdoor community, and introduces people to the sport of rock climbing. The physical and mental challenge of climbing is a puzzle to be solved. The sport offers profound mental, physical, and life-changing benefits. Rock climbing can change lives and open doors, climbing programs can facilitate physical and psychological therapy, and climbing gyms have done great work to make the sport accessible to all people. Rock climbing is an Olympic sport with many Olympic hopefuls coming from Washington and training daily in climbing gyms across the state.

There are about 30 climbing gyms around the state. These gyms employ over 800 people and have an economic impact of over \$70 million. The limited number of gyms throughout the state may make the licensing portion of this bill difficult to implement.

Recently an indoor rock climbing gym was closed by the Washington Department of Labor and Industries because it was deemed an amusement park and issues with the gym were identified. This bill will clarify the regulation of indoor climbing spaces. Employees at climbing facilities are not carnival workers and climbing gyms are not amusement parks.

The bill provides the stability and predictability that climbing gyms need to ensure their long-term survival in Washington. It is important to protect indoor rock climbing facilities from liability due to inherent risks, which this legislation does. Requirements for orientation, posting clear rules, maintaining access controls, and equipment inspections are all tried and true practices for the industry. Supporters of the bill do not want to weaken safety regulations or interfere with safety regulators in keeping climbing communities out of harm's way. This bill is a commonsense measure to ensure climbing facilities have strong risk management programs and are regulated to protect participants.

Climbing organization community building occurs in the common space of indoor climbing gyms. Without these gyms, there would be no focal point for training. Partnerships with gyms create welcoming affinity spaces and have introduced thousands of Washingtonians to

the sport over the years. Climbing programs can only continue if climbing opportunities are within travel range of the people they serve, and this is only possible through climbing gyms.

It is in the public interest to acknowledge the risks involved in climbing and also recognize what indoor climbing does to manage those risks. Risk management is core to being a participant in this sport and that distinguishes it from being an amusement. Rock climbing empowers people to make their own decisions and have autonomy. Some risks can be controlled in indoor rock climbing, but others cannot. Participants can be trained to make good decisions and be aware of the decisions they make, but climbing gyms cannot control exactly what a climber is doing without taking away the sport. The ability to make good judgments and actively choose risks is a critical part of climbing. The bill asks Washington to recognize and regulate rock climbing in a climbing facility as a sport with inherent risks that must be managed by both climbing facility operators and the participants. Washington recognizes the need for participants to assume risks in other activities. Designation as a sport with inherent risks is essential for rock climbing to continue thriving.

(Opposed) This bill is both unnecessary and also subverts public safety. The bill contains blanket immunity provisions in sections 6 and 7. Climbing gyms already protect themselves by requiring participants to waive any claim based on the gym's negligence. A gym operator's negligence, particularly gross negligence, is not an inherent risk in the operation of a rock climbing gym. The goal should be to minimize risks. This is a for-profit industry.

Persons Testifying: (In support) Representative Beth Doglio, prime sponsor; Kai Lightner; Tom Vogl, The Mountaineers; Michael Lary, Washington Indoor Climbing Coalition; Michele Lang, Insight Climbing and Movement; Tod Bloxham, Edgeworks Climbing; Marc Norman, USA Climbing; Garnet Moore, Climbing Wall Association; and Don Nguyen, Climbers of Color.

(Opposed) Darrell Cochran, Washington State Association for Justice.

Persons Signed In To Testify But Not Testifying: None.