
SENATE BILL 5145

State of Washington

68th Legislature

2023 Regular Session

By Senators Short and Salomon

Prefiled 01/04/23.

1 AN ACT Relating to clarifying existing law regarding liability
2 protections associated with public recreational use of lands or
3 waters under a hydroelectric license issued by the federal energy
4 regulatory commission; and amending RCW 4.24.210.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 4.24.210 and 2017 c 245 s 1 are each amended to read
7 as follows:

8 (1) Except as otherwise provided in subsection (3) or (4) of this
9 section, any public or private landowners, hydroelectric project
10 owners, or others in lawful possession and control of any lands
11 whether designated resource, rural, or urban, or water areas or
12 channels and lands adjacent to such areas or channels, who allow
13 members of the public to use them for the purposes of outdoor
14 recreation, which term includes, but is not limited to, the cutting,
15 gathering, and removing of firewood by private persons for their
16 personal use without purchasing the firewood from the landowner,
17 hunting, fishing, camping, picnicking, swimming, hiking, bicycling,
18 skateboarding or other nonmotorized wheel-based activities, aviation
19 activities including, but not limited to, the operation of airplanes,
20 ultra-light airplanes, hang gliders, parachutes, and paragliders,
21 rock climbing, the riding of horses or other animals, clam digging,

1 pleasure driving of off-road vehicles, snowmobiles, and other
2 vehicles, boating, kayaking, canoeing, rafting, nature study, winter
3 or water sports, viewing or enjoying historical, archaeological,
4 scenic, or scientific sites, without charging a fee of any kind
5 therefor, shall not be liable for unintentional injuries to such
6 users.

7 (2) Except as otherwise provided in subsection (3) or (4) of this
8 section, any public or private landowner or others in lawful
9 possession and control of any lands whether rural or urban, or water
10 areas or channels and lands adjacent to such areas or channels, who
11 offer or allow such land to be used for purposes of a fish or
12 wildlife cooperative project, or allow access to such land for
13 cleanup of litter or other solid waste, shall not be liable for
14 unintentional injuries to any volunteer group or to any other users.

15 (3) Any public or private landowner, or others in lawful
16 possession and control of the land, may charge an administrative fee
17 of up to twenty-five dollars for the cutting, gathering, and removing
18 of firewood from the land.

19 (4)(a) Nothing in this section shall prevent the liability of a
20 landowner or others in lawful possession and control for injuries
21 sustained to users by reason of a known dangerous artificial latent
22 condition for which warning signs have not been conspicuously posted.

23 (i) A fixed anchor used in rock climbing and put in place by
24 someone other than a landowner is not a known dangerous artificial
25 latent condition and a landowner under subsection (1) of this section
26 shall not be liable for unintentional injuries resulting from the
27 condition or use of such an anchor.

28 (ii) Releasing water or flows and making waterways or channels
29 available for kayaking, canoeing, ~~((or))~~ rafting, boating, or other
30 water access purposes within minimum and maximum water levels
31 pursuant to and in substantial compliance with a hydroelectric
32 license issued by the federal energy regulatory commission, and
33 making adjacent lands available for purposes of allowing viewing of
34 such activities, does not create a known dangerous artificial latent
35 condition and hydroelectric project owners under subsection (1) of
36 this section shall not be liable for unintentional injuries to the
37 recreational users and observers resulting from such releases and
38 activities.

39 (b) Nothing in RCW 4.24.200 and this section limits or expands in
40 any way the doctrine of attractive nuisance.

1 (c) Usage by members of the public, volunteer groups, or other
2 users is permissive and does not support any claim of adverse
3 possession.

4 (5) For purposes of this section, the following are not fees:

5 (a) A license or permit issued for statewide use under authority
6 of chapter 79A.05 RCW or Title 77 RCW;

7 (b) A pass or permit issued under RCW 79A.80.020, 79A.80.030, or
8 79A.80.040;

9 (c) A daily charge not to exceed twenty dollars per person, per
10 day, for access to a publicly owned ORV sports park, as defined in
11 RCW 46.09.310, or other public facility accessed by a highway,
12 street, or nonhighway road for the purposes of off-road vehicle use;
13 and

14 (d) Payments to landowners for public access from state, local,
15 or nonprofit organizations established under department of fish and
16 wildlife cooperative public access agreements if the landowner does
17 not charge a fee to access the land subject to the cooperative
18 agreement.

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