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**SUBSTITUTE SENATE BILL 5145**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Short, Salomon, McCune, and Warnick)

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; amending RCW 4.24.210; and creating a new  
5 section.

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

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

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

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

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

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

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

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

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

19 NEW SECTION. **Sec. 2.** This act does not apply to any action  
20 filed prior to the effective date of this section.

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