

CERTIFICATION OF ENROLLMENT

SENATE BILL 5388

62nd Legislature
2011 Regular Session

Passed by the Senate March 1, 2011
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 1, 2011
YEAS 92 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5388** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5388

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senators Parlette, Regala, Holmquist Newbry, Hatfield, and Honeyford

Read first time 01/24/11. Referred to Committee on Natural Resources & Marine Waters.

1 AN ACT Relating to the liability of owners of recreational land and
2 water areas; and amending RCW 4.24.210.

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

4 **Sec. 1.** RCW 4.24.210 and 2006 c 212 s 6 are each amended to read
5 as follows:

6 (1) Except as otherwise provided in subsection (3) or (4) of this
7 section, any public or private landowners, hydroelectric project
8 owners, or others in lawful possession and control of any lands whether
9 designated resource, rural, or urban, or water areas or channels and
10 lands adjacent to such areas or channels, who allow members of the
11 public to use them for the purposes of outdoor recreation, which term
12 includes, but is not limited to, the cutting, gathering, and removing
13 of firewood by private persons for their personal use without
14 purchasing the firewood from the landowner, hunting, fishing, camping,
15 picnicking, swimming, hiking, bicycling, skateboarding or other
16 nonmotorized wheel-based activities, hanggliding, paragliding, rock
17 climbing, the riding of horses or other animals, clam digging, pleasure
18 driving of off-road vehicles, snowmobiles, and other vehicles, boating,
19 kayaking, canoeing, rafting, nature study, winter or water sports,

1 viewing or enjoying historical, archaeological, scenic, or scientific
2 sites, without charging a fee of any kind therefor, shall not be liable
3 for unintentional injuries to such users.

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

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

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

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

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

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

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

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

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

4 (b) A daily charge not to exceed twenty dollars per person, per
5 day, for access to a publicly owned ORV sports park, as defined in RCW
6 ((~~46.09.020~~)) 46.09.310, or other public facility accessed by a
7 highway, street, or nonhighway road for the purposes of off-road
8 vehicle use.

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