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**SENATE BILL 5538**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Braun, Fortunato, and Wilson, L.

Read first time 01/23/19. Referred to Committee on Higher Education & Workforce Development.

1 AN ACT Relating to free speech controls at institutions of higher  
2 education; adding a new section to chapter 28B.10 RCW; and creating a  
3 new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that expressive  
6 activities protected under the First Amendment to the United States  
7 Constitution and Article I, section 5 of the state Constitution  
8 include, but are not limited to: Any lawful oral or written  
9 communication of ideas, including all forms of peaceful assembly,  
10 protests, and speeches; distributing literature; carrying signs;  
11 circulating petitions; and the recording and publication, including  
12 the internet publication, of video or audio recorded in outdoor areas  
13 of campus. The legislature also finds that protected, expressive  
14 activities do not include commercial speech.

15 (2) The legislature finds that a person who wishes to engage in  
16 an expressive activity in outdoor areas of campus at a public or  
17 private institution of higher education may do so freely,  
18 spontaneously, and contemporaneously as long as the person's conduct  
19 is lawful and does not materially and substantially disrupt the  
20 functioning of the public or private institution of higher education

1 or infringe upon the rights of other individuals or organizations to  
2 engage in expressive activities.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10  
4 RCW to read as follows:

5 (1) Restrictions on speech and use of public space at a public or  
6 private institution of higher education must be clear and published  
7 and must provide for ample alternative means of expression.

8 (2) Outdoor areas of campus are considered traditional public  
9 forums for individuals, organizations, and guest speakers. A public  
10 or private institution of higher education may create and enforce  
11 restrictions that are reasonable and content-neutral regarding time,  
12 place, and manner of expression and that are narrowly tailored to a  
13 significant institutional interest.

14 (a) Restrictions of expressive activities to a particular outdoor  
15 area of campus are not reasonable.

16 (b) Restrictions under this section must allow members of the  
17 public or private institution of higher education community to  
18 spontaneously and contemporaneously assemble. Restrictions must be  
19 well-defined and published, at a minimum, on the web site of the  
20 public or private institution of higher education and as part of any  
21 printed materials covering the rules and policies of the public or  
22 private institution of higher education.

23 (3) Students, faculty, or staff of a public or private  
24 institution of higher education may not cause material and  
25 substantial disruption of previously scheduled or reserved activities  
26 on campus occurring at the same time or of the daily orderly  
27 operation of the public or private institution of higher education.

28 (4) For the purposes of this section:

29 (a) "Material and substantial disruption" means any conduct that  
30 intentionally and significantly hinders another person's or group's  
31 expressive rights. "Material and substantial disruption" does not  
32 include conduct that is protected under the First Amendment to the  
33 United States Constitution and Article I of the state Constitution  
34 including, but not limited to, lawful protests and counterprotests in  
35 the outdoor areas of campus or minor, brief, or fleeting nonviolent  
36 disruptions that are isolated or brief in duration.

37 (b) "Outdoor areas of campus" means generally accessible areas of  
38 a campus at a public or private institution of higher education in  
39 which members of the campus community are commonly allowed, including

1 grassy areas, walkways, or other similar common areas. "Outdoor areas  
2 of campus" does not include outdoor areas of campus to which access  
3 is restricted.

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