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**SUBSTITUTE SENATE BILL 5553**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senator Hunt)

READ FIRST TIME 02/20/19.

1 AN ACT Relating to safety and sanitation of fitness centers;  
2 adding a new chapter to Title 70 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this  
5 section apply throughout this chapter unless the context clearly  
6 requires otherwise.

7 (1) "Board" means the state board of health.

8 (2) "Department" means the department of health.

9 (3)(a) "Fitness center" means any premises used for recreation,  
10 instruction, training, physical exercise, body building, weight loss,  
11 figure development, the martial arts, or other similar activity,  
12 including fitness centers, athletic clubs, and private gyms, that  
13 provide shower facilities and a swimming pool, hot tub, cold plunge  
14 pool, steam room, sauna, or similar water amenity.

15 (b) "Fitness center" does not include: (i) Public common schools,  
16 private schools approved under RCW 28A.195.010, and public or private  
17 institutions of higher education; (ii) facilities operated by bona  
18 fide nonprofit organizations which have been granted tax-exempt  
19 status by the internal revenue service, the functions of which as  
20 fitness centers are only incidental to their overall functions and  
21 purposes; (iii) facilities operated by bona fide nonprofit

1 corporations organized under chapter 24.03 RCW which have members and  
2 whose members have meaningful voting rights to elect and remove a  
3 board of directors which is responsible for the operation of the  
4 health club and the corporation; and (iv) private facilities operated  
5 out of a home that do not offer memberships.

6 (4) "Local health officer" means the health officer of the city,  
7 county, or city-county department or district, or a representative  
8 authorized by the local health officer.

9 (5) "Person" means an individual, firm, partnership,  
10 copartnership, corporation, company, association, club, government  
11 entity, or organization of any kind operating a fitness center.

12 (6) "Secretary" means the secretary of health.

13 NEW SECTION. **Sec. 2.** ADOPTION OF RULES GOVERNING SAFETY AND  
14 SANITATION. The board must adopt rules under the administrative  
15 procedure act, chapter 34.05 RCW, governing safety and sanitation for  
16 fitness centers. The rules must include, but not be limited to,  
17 requirements for design; operation; injury and illness reporting;  
18 inspection; permit application and issuance; and enforcement  
19 procedures.

20 NEW SECTION. **Sec. 3.** ENFORCEMENT. (1) The secretary shall  
21 enforce the rules adopted under this chapter. The secretary may  
22 develop joint plans of responsibility with any local health  
23 jurisdiction to administer this chapter.

24 (2) Nothing in this chapter prohibits any local board of health  
25 from establishing and enforcing any provisions governing safety or  
26 sanitation for fitness centers in addition to those rules established  
27 by the state board of health under this chapter.

28 NEW SECTION. **Sec. 4.** FEES. (1) The department may establish and  
29 collect fees sufficient to cover the department's costs incurred in  
30 carrying out its duties under this chapter. The fees must be  
31 deposited in the state general fund.

32 (2) Local health officers may establish and collect fees  
33 sufficient to cover the costs incurred in carrying out their duties  
34 under this chapter and the rules adopted under this chapter.

35 (3) A person may not be required to submit fees at both the state  
36 and local levels.

1        NEW SECTION.    **Sec. 5.**    OPERATING PERMIT. An operating permit from  
2 the department or local health officer, as determined in rule, is  
3 required for each fitness center operated in this state. The permit  
4 must be renewed annually. The permit must be conspicuously displayed  
5 at the fitness center.

6        NEW SECTION.    **Sec. 6.**    STATE AND LOCAL HEALTH JURISDICTION  
7 LIABILITY. (1) Nothing in this chapter or the rules adopted under  
8 this chapter creates or forms the basis for any liability:

9            (a) On the part of the state and local health jurisdictions, or  
10 their officers, employees, or agents, for any injury or damage  
11 resulting from the failure of the owner or operator of fitness  
12 centers to comply with this chapter or the rules adopted under this  
13 chapter; or

14            (b) By reason or in consequence of any act or omission in  
15 connection with the implementation or enforcement of this chapter or  
16 the rules adopted under this chapter on the part of the state and  
17 local health jurisdictions, or by their officers, employees, or  
18 agents.

19            (2) All actions of local health officers and the secretary under  
20 this chapter or the rules adopted under this chapter must be deemed  
21 an exercise of the state's police power.

22        NEW SECTION.    **Sec. 7.**    REPORTING OF INJURY, DISEASE, OR DEATH.  
23 Any person operating a fitness center shall report to the local  
24 health officer or the department, as determined in rule, any serious  
25 injury, communicable disease, or death occurring at or caused by the  
26 fitness center.

27        NEW SECTION.    **Sec. 8.**    CIVIL PENALTIES. County, city, or town  
28 legislative authorities and the secretary, as applicable, may  
29 establish civil penalties for a violation of this chapter or the  
30 rules adopted under this chapter, not to exceed five hundred dollars.  
31 Each day upon which a violation occurs constitutes a separate  
32 violation. A person violating this chapter may be enjoined from  
33 continuing the violation.

34        NEW SECTION.    **Sec. 9.**    ADJUDICATIVE PROCEEDING—NOTICE. (1) Any  
35 person aggrieved by an order of the department or by the imposition  
36 of a civil fine by the department has the right to an adjudicative

1 proceeding. RCW 43.70.095 governs department notice of a civil fine  
2 and a person's right to an adjudicative proceeding.

3 (2) Any person aggrieved by an order of a local health officer or  
4 by the imposition of a civil fine by the officer has the right to  
5 appeal. The hearing is governed by the local health jurisdiction's  
6 administrative appeals process. Notice must be provided by the local  
7 health jurisdiction consistent with its due process requirements.

8 NEW SECTION. **Sec. 10.** INSURANCE. (1) A fitness center owner or  
9 operator shall purchase insurance in an amount not less than one  
10 hundred thousand dollars against liability for bodily injury to or  
11 death of one or more persons in any one accident arising out of the  
12 use of the fitness center.

13 (2) The board may require a fitness center operator to purchase  
14 insurance in addition to the amount required in subsection (1) of  
15 this section.

16 NEW SECTION. **Sec. 11.** Any provision of a contract, agreement,  
17 or waiver that limits the liability of a fitness center owner or  
18 operator for physical injuries sustained at the owner or operator's  
19 fitness center resulting from the owner or operator failing to  
20 provide a reasonably safe facility violates public policy and is void  
21 and unenforceable.

22 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act  
23 constitute a new chapter in Title 70 RCW.

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