

HB

860

WO 7996 ✓
Bradley

Original sponsor: Munson

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 860

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to snow skiing; and providing for an
7 effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that
10 the sport of snow skiing is practiced by a large number of residents of the
11 state and attracts a large number of nonresidents, significantly contributing
12 to the economy of the state. It further finds that insurance carriers are
13 increasingly reluctant to provide liability insurance protection to ski area
14 operators and that the premiums by insurance carriers have risen sharply in
15 recent years due to confusion as to whether a skier assumes the risks in-
16herent in the sport of snow skiing. It is the intent of the legislature in
17enacting this Act to clarify the law in relation to snow skiing injuries and
18the risks inherent in that sport and to provide that, as a matter of public
19policy, a person engaged in that sport may not recover from a ski area opera-
20tor for injuries resulting from those inherent risks.

21 * Sec. 2. AS 09.10 is amended by adding new sections to read:

22 ARTICLE 2. LIMITATIONS ON CLAIMS ARISING FROM
23 INHERENT RISKS OF SNOW SKIING.

24 Sec. 09.10.300. LIMITATIONS ON CLAIMS. A skier may not recover
25 from a ski area operator for injury resulting from an inherent risk of
26 snow skiing unless the injury occurred when the ski area operator was not
27 providing the information required by AS 09.10.310.

28 Sec. 09.10.310. INFORMATION FOR SKIERS. A ski area operator shall
29 post trail signs at prominent locations within a ski area which shall

1 include a list of the inherent risks of snow skiing and the limitation
2 on liability of the ski area operator provided by AS 09.10.300.

3 Sec. 09.10.320. DEFINITIONS. In AS 09.10.300 - 09.10.320

4 (1) "inherent risk of snow skiing" means a danger or con-
5 dition which is an integral part of the sport of snow skiing, including,
6 but not limited to a

7 (A) changing weather condition;

8 (B) variation or steepness in terrain;

9 (C) snow or ice condition unless the proximate cause of
10 an injury is the result of negligent snow grooming practices by the
11 ski area operator;

12 (D) surface or subsurface condition such as bare spots,
13 forest growth, and rocks;

14 (E) collision with lift towers, other structures, and
15 their components unless the collision occurs while the skier is on
16 the lift;

17 (F) collision with other skiers unless the proximate
18 cause of the collision is the result of the failure of the ski
19 operator to post cautionary signs where primary trails merge or
20 where congested areas exist;

21 (G) failure of a skier to ski within his own ability;

22 (2) "injury" means personal injury or property damage or
23 loss;

24 (3) "ski area" means a ski slope or trail or other place
25 under the control of a ski area operator and administered as a single
26 enterprise in the state;

27 (4) "ski area operator"

28 (A) means a person having operational responsibility for
29 a ski area; and

1 (B) includes an agency of the state or of a municipality
2 of the state;

3 (5) "ski slope or trail"

4 (A) means an area designated by the ski area operator by
5 signs or other information to a skier for a use described in (3) of
6 this section by a skier;

7 (B) does not mean an area restricted by the ski area
8 operator to use by certain equipment or closed to skiing by the ski
9 area operator by signs or other information to a skier;

10 (6) "snow skiing" means the use of a ski area for sliding
11 downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob,
12 or other device.

13 * Sec. 3. AS 18 is amended by adding a new chapter to read:

14 CHAPTER 76. SNOW SAFETY.

15 Sec. 18.76.010. SNOW SAFETY AND OPERATION PLAN. (a) A ski area
16 may not be operated except under a snow safety and operation plan ap-
17 proved by the commissioner of public safety under regulations adopted by
18 him.

19 (b) A ski area operated on land owned by the United States shall
20 comply with a snow safety and operation plan required by the agency of
21 the United States that manages the land on which the ski area operates.

22 (c) The responsibilities of a ski area operator for snow safety
23 shall conform to the recognized standards and usages of the snow skiing
24 industry.

25 (d) A snow safety and operation plan adopted under this section
26 shall specify the risks and hazards of the particular ski area other
27 than those which constitute the inherent risks of snow skiing under
28 AS 09.10.300 - 09.10.320. The snow safety and operation plan shall
29 specify the preventive and corrective measures to be undertaken by the

1 ski area operator for the safety of skiers using the ski area.

2 (e) As used in this section

3 (1) "ski area" means a ski slope or trail or other place
4 under the control of a ski area operator and administered as a single
5 enterprise in the state;

6 (2) "ski area operator"

7 (A) means a person having operational responsibility for
8 a ski area; and

9 (B) includes an agency of the state or of a municipality
10 of the state;

11 * Sec. 4. AS 05.20.012 is repealed.

12 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).

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Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Legislative Affairs Agency

FROM: Margaret W. Berck, Staff

DATE: April 25, 1980

Please put the attached CS for HB 860 by the House Judiciary Committee
in final version form.

Thank you.

Introduced: 2/18/80
Referred: Judiciary

1 IN THE HOUSE

BY MUNSON

2 HOUSE BILL NO. 860

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the inherent risks of ^{SNOW}skiing; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that
10 the sport of ^{SNOW}skiing is practiced by a large number of residents of the state
11 and attracts a large number of nonresidents, significantly contributing to
12 the economy of the state. It further finds that insurance carriers are
13 increasingly reluctant to provide liability insurance protection to ski area
14 operators and that the premiums by insurance carriers have risen sharply in
15 recent years due to confusion as to whether a skier assumes the risks in-
16 herent in the sport of skiing. It is the intent of the legislature in enact-
17 ing this Act to clarify the law in relation to ^{SNOW}skiing injuries and the risks
18 inherent in that sport and to provide that, as a matter of public policy, a
19 person engaged in that sport may not recover from a ski area operator for
20 injuries resulting from those inherent risks.

21 * Sec. 2. AS 09.10 is amended by adding new sections to read:

22 ARTICLE 2. LIMITATIONS ON CLAIMS ARISING FROM
23 INHERENT RISKS OF SKIING.

24 Sec. 09.10.300. LIMITATIONS ON CLAIMS. ^{SNOW} (a) A skier may not
25 recover from a ski area operator for injury resulting from an inherent
26 risk of skiing provided that the ski AREA operator has complied
27 with section 09.10.310.
28 ~~(b) A claim against a ski area operator arising out of an injury~~
29 ~~to a skier is barred unless the ski area operator is notified of the~~
~~injury within 90 days of its occurrence or within 90 days after the~~

1 ~~skier discovers or through the use of reasonable diligence should have~~
2 ~~discovered the injury~~

3 Sec. 09.10.310. INFORMATION FOR SKIERS. A ski area operator shall
4 post trail signs at prominent locations within a ski area which shall
5 include a list of the inherent risks of skiing and the limitation on
6 liability of the ski area operator provided by AS 09.10.300.

7 *(Insert new section here - see attached)*
8 Sec. 09.10.320. DEFINITIONS. In AS 09.10.300 - 09.10.320

9 (1) "inherent risks of ^{SNOW}skiing" means the dangers or condi-
10 tions which are an integral part of the sport of ^{SNOW}skiing, including, but
11 not limited to,

12 (A) changing weather conditions;

13 (B) variations or steepness in terrain;

14 (C) snow or ice conditions, ^{when} except [^] the proximate cause
15 of an injury is the result of negligent grooming practices

16 (D) surface or subsurface conditions such as bare spots,
17 forest growth, ^{and} rocks, ~~and stumps~~

18 (E) collisions with lift towers, other structures, and
19 their components, ^{except when the collision occurs while the}
20 skier is riding the lift;

21 (F) collisions with other skiers, and, except when the
22 proximate cause of the collision is the result of the ski area operator's

23 (G) a skier's failure to ski within his own ability;

24 (2) "injury" means a personal injury or property damage or
25 loss; ^{post cautionary} signs where
26 primary trails merge or where
27 congested areas near lift or base
28 facilities exist;

29 (3) "skier" means ~~a person in a ski area engaged in the sport~~
30 ~~of skiing~~; any person utilizing a ski area for the purpose
31 sliding downhill on snow or ice on skis, a toboggan, a sled
32 a tube, a ski-bob or other device;

33 (4) "ski area" means ~~an area designated by a ski area opera-~~
34 ~~tor to be used for skiing~~; all ski slopes or trails and other places
35 under the control of a ski area operator and
36 administered as a single enterprise within this
37 state;

38 (5) "ski area operator" means ~~the operator of a ski area~~.

39 * Sec. 3. AS 05.20.012 is repealed (see attached definition)
40 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.- #6)

41 070(c).

- (5) "ski area operator" means any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision of this state;
- (6) "ski slopes or trails" means those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (3) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection or in subsection (3) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (3) of this section.

Sec. 09.10.315. SNOW SAFETY PLAN. A ski area operator shall adopt a snow safety plan, approved by the appropriate land owner or manager. The snow safety plan shall specify ^{the} ~~those~~ risks and hazards ~~which are~~ ^{of} ~~not an integral part of the sport of skiing for~~ that particular ski area ^{other than those constituting the inherent risks of skiing.} and shall specify the preventive and corrective measures to be assumed by the ski area operator regarding these risks and hazards. The responsibilities of the ski area operator shall conform to the generally recognized standards and usages of the ^{snow skiing} industry or trade.

Alaska RESORT



P.O. BOX 249

GIRDWOOD, ALASKA 99587

April 26, 1980

Representative Charles Parr
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Parr:

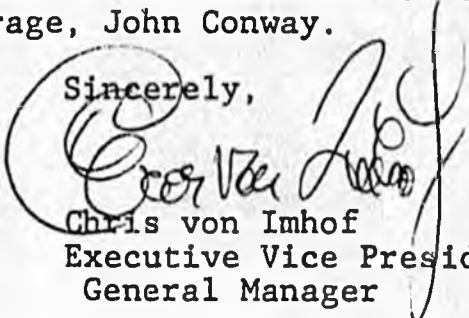
Thank you for scheduling a committee meeting on H.B. 860. I know some of the members of your committee have reservations on the intent of the bill; however, I hope the rewording of this will will satisfy all concerns.

Many states have adopted similar legislation, and we are just trying to get similar protection from unwarranted lawsuits. I hope your committee will tackle the reworded bill soon and recommend a "dc pass" to the House floor.

Attached are two letters of support I did not have with me for my presentation, one from Martin Sherman of the Sourdough Ski Patrol, a member patrol of the National Ski Patrol System; and the other from Duane Luedke, Operator, Arctic Valley Ski Area. I can assure you that this bill has the support of all facets of the ski industry.

Please thank your staff members for me for all their help. Let me know if and when the bill comes up on the floor. If you have any further questions, please do not hesitate to call either myself or our attorney in Anchorage, John Conway.

Sincerely,


Chris von Imhof
Executive Vice President and
General Manager

CVI/bbp
Attachments 2

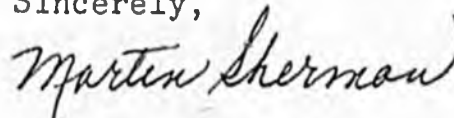
ALASKA'S LARGEST YEAR-ROUND RESORT & SKI FACILITY

(907) 783-2222

April 22, 1980

We of the Sourdough Ski Patrol fully support Senate Bill No. 470 and House Bill No. 860. We also feel that this legislation is long overdue and is necessary for the well being of the financial structure of the ski area. The inherent risk of skiing should be the responsibility of the skier. Without this legislation we feel it is becoming increasingly difficult for the ski areas to continue in their operations due to financial stress.

Sincerely,

A handwritten signature in cursive script that reads "Martin Sherman".

Martin Sherman
Patrol Leader
Sourdough Ski Patrol

To; Senate State Affairs and House Judiciary Committees

Ski areas nationwide have and are being sued for injuries which are inherent to the sport of skiing and all too often these injuries involve no negligence on the part of the ski areas. Consequently, liability insurance rates have steadily risen to where these costs now make up a significant portion of the cost of skiing. Only two major ski area liability insurance firms remain in the United States.

Several of the States have already passed legislation which sets out the responsibility of the skier towards himself and others. Proper legislation can help control unnecessary and unwarranted law suits and keep insurance rates at a reasonable level. Ski areas, through engineering standards, lift-codes and safe practices have made skiing a reasonably safe sport.

I support Senate Bill 470 and House Bill 860 and urge you to give favorable consideration to these bills.

Duane C. Luedke

Duane C. Luedke
Operator
Anchorage Ski Club
Arctic Valley
2710 Juneau St.,
Anchorage, Ak. 99504
4-22-80



UNITED STATES SKI ASSOCIATION - ALASKA DIVISION
P. O. BOX 4-2126
ANCHORAGE, ALASKA 99509

April 22, 1980

Alaska State Legislator
Juneau, Alaska

Dear Alaska State Legislator:

I am writing this letter and basing my request for action both as President of the Alaska Division, U.S. Ski Association and having been on the National Board of Directors of the U.S. SKI Association for the past two years.

Ski areas across the United States are forced with skyrocketing insurance costs which contributes to price increase in lift tickets. Both locally and nationally the ski clubs and associations have seen a need for years for some type of protective legislation to help stem the rise of unwarranted and ridiculous liability suits against ski areas. There is inherent risk in skiing and is it not time we all recognize this?

While I support in concept SB 470 and HB 860, I must add there should also be a requirement on ski areas to maintain their equipment and train their personnel to operate said equipment in a safe and sane manner.

As I said, I could support this type of legislation limiting ski area responsibility if areas were also required to have approved "Snow Safety Plans" in operation; speaking to avalanche control, personnel training, emergency evacuation, and other common sense type of safety precautions. The ski areas should also be required to operate their lifts in compliance with the National Lift and Tramway Code as regulated by the American National Standards Institute.

In conclusion, I urge consideration for legislation speaking to the inherent risk of skiing.

Sincerely,

Sam Hayes

Sam Hayes, President
U.S. Ski Association - Alaska Division

SH/mg

3. (F). THE INTENT OF THIS PROVISION IS PROBABLY TO RECOGNIZE THAT ANY SKIER IS RESPONSIBLE FOR HIS OR HER OWN RECKLESSNESS; HOWEVER, THERE ARE RECOGNIZED DANGEROUS LOCATIONS ON SLOPES THAT SKI AREA OPERATORS SHOULD BE RESPONSIBLE TO SIGN FOR CAUTIONARY PURPOSES. THESE INCLUDE WHERE PRIMARY TRAILS MERGE, CONGESTED AREAS NEAR BASE FACILITIES, ETC. THE DETAILS COULD BE SPECIFIED IN AN APPROVED SNOW SAFETY PLAN FOR THE AREA.

4. ADD AN ITEM PERTAINING TO SNOW AVALANCHES, WITH WORDING SUCH AS "SNOW AVALANCHES WHERE CONTROL MEASURES HAVE BEEN TAKEN IN ACCORDANCE WITH AN APPROVED SNOW SAFETY PLAN FOR THE AREA".

LASTLY, WE SUGGEST ADDING A NEW SECTION, AS FOLLOWS: SEC. 09.10.330 SNOW SAFETY PLAN. "FOR THE PROTECTION OF SKIERS, A SKI AREA OPERATOR SHALL ADOPT A SNOW SAFETY PLAN THAT CONSIDERS THOSE RISKS AND HAZARDS WHICH ARE NOT AN INTEGRAL PART OF THE SPORT OF SKIING FOR THAT PARTICULAR AREA. THE PLAN WILL SPECIFY PREVENTION AND/OR CORRECTIVE MEASURES TO DEAL WITH SUCH RISKS AND HAZARDS".

WITH THE ABOVE SUGGESTED CHANGES IN MIND, WE URGE EARLY PASSAGE OF THIS IMPORTANT PROPOSED LEGISLATION.


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