

SB

44

HFIN

FILE

(11)

Date Refer.ed: February 14, 1994

FURTHER REFERRALS:

Date of Committee Action: 4/20/94

The FINANCE Committee considered:

CSSB 44(JUD) am

CS FOR SENATE BILL NO. 44(JUD) am

CIVIL LIABILITY FOR SKIING ACCIDENTS

"An Act relating to civil liability for skiing accidents, operation of ski areas, and duties of ski area operators and skiers; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS CS SB 44 (FIN) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____
Account 2/19/94 DCEB

zero fiscal note labor

zero fiscal note(s) Admin 2/5/94 DNR

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		Ronald J. Larson		X	
		Eileen Machean	DNP	unless	
Mark Hanley	X	Zoe Grussendorf		X	
Terry Martin	X	Mike Navarre		✓	
San Parnell	X	Jay Brown		✓	
Tom Theriault	X	Richard Foster		*	

Eileen P. Machean
Co-CHAIRMAN'S SIGNATURE
Machean Larson

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

to 5
Bill Version: CSSB 44 (JUC)
(3) Public Date: 2-9-94

Revision Date: _____
Title: An Act relating to civil liability for skiing accidents
Sponsor: Senator Kelly
Requestor: Senate Labor and Commerce

Department Affected: Commerce and Economic Development
BRU: Insurance
Component: Operations
COMPONENT SERIAL NO. 354

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: David J. Walsh, Director
Division: Insurance

[Signature]

Phone: 465-2515
Date: 12-2-93

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

[Signature]

Date: 12/3/93

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FISCAL NOTL

Bill Version: SB44 (TUD)
 (S) Publish Date: 2-9-94

STATE OF ALASKA

1994 LEGISLATIVE SESSION

Revision Date: 24-Jan-94

Dept Affected: Natural Resources

Title: "An Act relating to civil liability for skiing accidents, operation of ski areas, and duties of ski area operators and skiers..."

BRU: Resource Development

Component: Land Development

Sponsor: Senator Kelly

Requestor: Senator Kelly

Component Serial No. 431

Expenditures/Revenues

(Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

(Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY00
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

POSITIONS

	FY95	FY96	FY97	FY98	FY99	FY00
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS:

(Attach a separate page if necessary)

The only additional DNR responsibilities proposed under the bill (and this was proposed by DNR) is that DNR employees can enforce the six specific listed violations. No additional fiscal impacts are anticipated if the bill is approved.

Prepared by: Ron Swanson, Director
 Division: Land
 Approved by Commissioner: Harry A. Noah
 Agency: Natural Resources

Phone: 762-2692
 Date: 24-Jan-94
 Date: 24-Jan-94

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FISCAL NOTE

No. 6
 Bill Version: SSSB 44 (Jun)
 (S) Publish Date: 2-9-94

**STATE OF ALASKA
 1994 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Administration
 Title: *An act relating to civil liability for skiing BRU: Risk Management
accidents Component: Risk Management
 Sponsor: Senator Kelly
 Requestor: (S) Rules COMPONENT SERIAL NO. 71

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: 0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS:

(Attach a separate page in necessary)
 This bill is directed to down hill ski areas--the c/s excludes cross country ski trails as sometimes found on State lands. The bill as written will not impact Risk Management budget.

Prepared by: Brad Thompson, Director
 Division: Risk Management

Phone: (907)465-2180
 Date: _____

Approved by Commissioner: Nancy Bear Usura
 Agency: Administration

Date: 1/21/94

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FISCAL NOTE

No. 7
 Bill Version: CSB 44 (Jud)
 (S) Publish Date: 2-9-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: 02/02/94 Dept. Affected: Alaska Court System
 Title: Civil Liability for skiing accidents BRU: Trial Courts
 Sponsor: Sen. Kelly Components: _____
 Requestor: Senate Rules COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/Program Receipts						
1008 GF/MHTA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 99) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: C. S. Christiansen III, Staff Counsel *CSC* Phone: 284-8228
 Agency: Alaska Court System Date: 02/02/94
 Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CSC*
 Agency: Alaska Court System Date: 02/02/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO : CSSB 44 (JUD)am

Revision Date: _____
 Title: Civil liability for skiing accidents
 Sponsor: Senator Kelly
 Requestor: House Finance

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: Mechanical Inspection
 COMPONENT SERIAL NO. 46

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

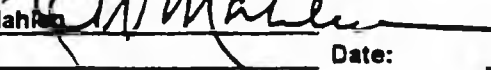
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Donald Study, CSP, Director  Phone: 465-6003
 Division: Labor Standards & Safety Date: 2/18/94

Approved by Commissioner: Charles W. Mahle  Date: 2/18/94
 Agency: Department of Labor

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Back-up

8-LS0340U

Ford

4/20/94

HOUSE CS FOR CS FOR SENATE BILL NO. 44()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): SENATOR KELLY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for skiing accidents, operation of ski areas, and
2 duties of ski area operators and skiers; and providing for an effective date."

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

4 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

5 (1) the sport of skiing is practiced by a large number of citizens of the state
6 and also attracts a large number of nonresidents, providing significant contributions to the
7 economy of the state through construction and operation of skiing facilities, and through the
8 money spent by citizens of the state and nonresidents;

9 (2) the sport of skiing serves important public social and policy goals in the
10 state given the dominance of the winter season; skiing contributes to the health and well-being
11 of Alaskans, including the physically and mentally challenged; it is highly desirable that
12 Alaskans have convenient and inexpensive access to the sport of skiing;

13 (3) skiing is an active sport conducted in the outdoor alpine environment; this
14 environment consists of several elements, including terrain, weather, snow conditions, and

1 amenities created and maintained by the ski area operator;

2 (4) the terrain necessary for downhill skiing is characterized by large areas of
3 land, that vary tremendously in steepness and feature bumps, hillocks, drops, cliffs, gullies,
4 ridges, and knobs of infinite variety; the surface and subsurface include trees, bushes,
5 undergrowth, rocks, boulders, springs, streams, stumps, branches, roots, and other debris;

6 (5) weather that produces the snow necessary for skiing also produces factors
7 that complicate the sport; weather varies from sunny and warm to bitterly cold and windy,
8 with various forms of precipitation, including sleet, hail, rime, varieties of snow, fog, mist,
9 drizzle, rain, and showers; weather complicates the snow surface by constantly altering the
10 snow consistency and snow level, covering, uncovering, and sculpting the terrain features
11 described above;

12 (6) snow is a generic term covering a wide variety of solid precipitation and
13 the frozen state of water as it exists and evolves on the ground; there are many different kinds
14 of snow precipitation; in addition, snow on the ground is constantly changing until it either
15 melts or sublimates; this metamorphism depends on many variable factors and produces snow
16 of substantially different texture and consistency, often in short periods of time; on any given
17 day, the snow conditions vary substantially from location to location and from time to time
18 during the day;

19 (7) in order to facilitate the sport, ski area operators develop facilities,
20 including ski runs, trails, roads, aerial tramways, snowmaking equipment, buildings, lighting,
21 and signs; while these facilities may alter the natural conditions, the facilities are obvious and
22 necessary to the sport;

23 (8) because of the size, power, and variation of the winter alpine environment,
24 ski area operators are financially and physically incapable of controlling all the conditions
25 under which skiing takes place;

26 (9) ski area operators have a limited ability to alter terrain features; some
27 terrain features may offer a hazard to the skier but at the same time offer additional challenge
28 or enjoyment for skiers; there will always be natural and artificial hazards in the sport of
29 skiing and the skier must accept these hazards as a part of the risk of skiing;

30 (10) ski area operators do not have control over natural weather conditions;

31 (11) under the proper weather conditions, ski area operators can and do

1 generate a form of artificial snow and can spread the snow on the surface of the terrain;
2 however, it is not possible nor is it desirable to groom all snow to a particular finish;

3 (12) skiing is an exhilarating sport, the enjoyment of which includes several
4 components: exercise, enjoyment of the outdoor environment, physical and mental challenge
5 of a sporting activity, companionship of family and friends, and the excitement of taking
6 physical risks;

7 (13) falling is an ordinary, obvious, and necessary component of the sport; all
8 skiers, even expert skiers, fall on all kinds of terrain; a particular fall is no indication of the
9 risks of a particular slope or set of conditions; the same factors that offer the excitement of
10 skiing contribute to its inherent risks; skiers may slide when they fall, and they may encounter
11 obstacles or other skiers; skiers can be injured while skiing due to the intrinsic risks of the
12 sport, whether natural or man-made.

13 (b) The purpose of this Act is to repeal and revise state law relating to skiing enacted
14 by ch. 80, SLA 1980, as interpreted by the Alaska Supreme Court in *Hiibschman v. City of*
15 *Valdez*, 821 P.2d 1354, (Alaska 1991). It is also the purpose of this Act to

16 (1) define the responsibilities of ski area operators and their agents and
17 employees;

18 (2) define the responsibilities of skiers using ski areas;

19 (3) define those areas of responsibility and affirmative acts for which ski area
20 operators may be liable for loss, damage, injury, or death, and to define those risks that the
21 skier expressly assumes as an inherent danger and risk of skiing; and

22 (4) provide that where an injury is the result only of an inherent risk of skiing,
23 a comparative negligence or comparative fault analysis does not apply.

24 * Sec. 2. AS 05 is amended by adding a new chapter to read:

25 CHAPTER 45. SKI LIABILITY, SAFETY, AND RESPONSIBILITY.

26 Sec. 05.45.010. LIMITATION ON ACTIONS ARISING FROM SKIING.

27 Notwithstanding any other provision of law, a person may not bring an action against
28 a ski area operator for an injury resulting from an inherent danger and risk of skiing.

29 Sec. 05.45.020. EFFECT OF VIOLATIONS. (a) A ski area operator or other
30 person who violates a requirement of this chapter, a provision of a plan of operation
31 prepared under AS 05.45.040, or a regulation adopted by the Department of Labor

1 under AS 05.20.070 is negligent and civilly liable to the extent the violation causes
2 injury to a person or damage to property.

3 (b) Notwithstanding the provisions of AS 09.17.080,

4 (1) the limitation of liability described under AS 05.45.010 is a
5 complete defense in an action against a ski area operator for an injury if an inherent
6 danger or risk of skiing is determined to be a contributory factor in the resulting
7 injury, unless the ski area operator has violated a requirement of this chapter, a
8 provision of a plan of operation prepared under AS 05.45.040, or a regulation adopted
9 by the Department of Labor under AS 05.20.070;

10 (2) a violation of the passenger duties imposed under AS 05.45.030 or
11 skier duties imposed under AS 05.45.100 is a complete defense in an action against
12 a ski area operator if the violation is determined to be a contributory factor in the
13 resulting injury, unless the ski area operator has violated a requirement of this chapter,
14 a provision of a plan of operation prepared under AS 05.45.040, or a regulation
15 adopted by the Department of Labor under AS 05.20.070.

16 (c) If the ski area operator is determined to have violated a requirement of this
17 chapter, a provision of a plan of operation prepared under AS 05.45.040, or a
18 regulation adopted by the Department of Labor under AS 05.20.070, the provisions of
19 AS 09.17.080 apply in an action against a ski area operator for an injury resulting from
20 the violation.

21 Sec. 05.45.030. DUTIES OF PASSENGERS. (a) A passenger may not board
22 a tramway if the passenger does not have

23 (1) sufficient physical dexterity or ability and knowledge to negotiate
24 or use the facility safely; or

25 (2) the assistance of a person authorized by the ski area operator to
26 assist a skier.

27 (b) A passenger may not

28 (1) embark upon or disembark from a tramway except at a designated
29 area unless reasonably necessary to prevent injury to the passenger or others; this
30 paragraph does not apply if the tramway stops and the operator assists the passengers
31 to disembark from the tramway;

1 (2) intentionally throw or expel an object from a tramway while riding
2 on the tramway, except as permitted by the operator;

3 (3) act while riding on a tramway in a manner that may interfere with
4 proper or safe operation of the tramway;

5 (4) engage in conduct that may contribute to or cause injury to a
6 person;

7 (5) intentionally place in an uphill track of a J-bar, T-bar, platter pull,
8 rope tow, or another surface lift an object that could cause another skier to fall;

9 (6) embark upon a tramway marked as closed;

10 (7) disobey instructions posted in accordance with this chapter or oral
11 instructions by the ski area operator regarding the proper or safe use of a tramway
12 unless the oral instructions are contrary to this chapter or contrary to posted
13 instructions.

14 Sec. 05.45.040. REQUIRED PLAN AND PATROL BY SKI AREA
15 OPERATORS. (a) A ski area operator shall prepare a plan of operation for each ski
16 season and shall implement the plan throughout the ski season. A plan of operation
17 must include written provisions for ski patrol, avalanche control, avalanche rescue,
18 grooming procedures, tramway evacuation, hazard marking, missing person procedures,
19 and first aid. Before the operation of the ski area for that season, the plan shall be
20 reviewed and approved by the commissioner of natural resources except that if an
21 agency of the United States manages the land on which the ski area operates, the plan
22 shall be reviewed and approved by that agency. The commissioner of natural
23 resources may require a ski area operator to pay a fee not to exceed the department's
24 cost of reviewing the plan, and may adopt regulations to implement this subsection.

25 (b) A ski area operator shall provide a ski patrol whose members meet or
26 exceed the training standards of the National Ski Patrol System, Inc. This subsection
27 does not apply to a ski area if the operator transports skiers using only a single
28 tramway consisting of a rope tow, the rope tow does not transport skiers more than
29 500 vertical feet, and the ski area is operated by a nonprofit corporation or a
30 municipality. In this subsection, "nonprofit corporation" means a corporation that
31 qualifies for exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal

1 Revenue Code).

2 (c) Notwithstanding any other law, the state and the commissioner of natural
3 resources are not civilly liable for damages resulting from an act or omission in
4 reviewing, approving, or disapproving a plan of operation under (a) of this section.

5 Sec. 05.45.050. REQUIRED SIGNS FOR TRAMWAYS; DUTIES OF
6 OPERATORS. (a) A ski area operator who operates a tramway shall maintain a sign
7 system with concise, simple, and pertinent information for the protection and
8 instruction of passengers. Signs shall be prominently placed on each tramway,
9 readable in conditions of ordinary visibility, and where applicable adequately lighted
10 for nighttime passengers. Signs shall be posted

11 (1) at or near the loading point of each tramway, regardless of the type,
12 advising that a person not familiar with the operation of the device must ask the
13 operator of the device for assistance and instruction;

14 (2) in the interior of each two-car and multicar tramway showing

15 (A) the maximum capacity in pounds of the car and the
16 maximum number of passengers allowed;

17 (B) instructions for procedures in emergencies;

18 (3) in a conspicuous place at each loading area of two-car and multicar
19 tramways stating the maximum capacity in pounds of the car and the maximum
20 number of passengers allowed;

21 (4) at all chair lifts stating the following:

22 (A) "Prepare to Unload," which shall be located not less than
23 50 feet ahead of the unloading area;

24 (B) "Keep Ski Tips Up," which shall be located ahead of any
25 point where the skis may come in contact with a platform or the snow surface;

26 (C) "Unload Here," which shall be located at the point
27 designated for unloading;

28 (D) "Stop Gate," which shall be located where applicable;

29 (E) "Remove Pole Straps from Wrists," which shall be located
30 prominently at each loading area;

31 (F) "Check for Loose Clothing and Equipment," which shall be

1 located before the "Prepare to Unload" sign;

2 (5) at all J-bars, T-bars, platter pulls, rope tows, and any other surface
3 lift, stating the following:

4 (A) "Remove Pole Straps from Wrists," which shall be placed
5 at or near the loading area;

6 (B) "Stay in Tracks," "Unload Here," and "Safety Gate," which
7 shall be located where applicable;

8 (C) "Prepare to Unload," which shall be located not less than
9 50 feet ahead of each unloading area;

10 (6) near the boarding area of all J-bars, T-bars, platter pulls, rope tows,
11 and any other surface lift, advising passengers to check to be certain that clothing,
12 scarves, and hair will not become entangled with the lift;

13 (7) at or near the boarding area of all lifts, stating the skier's duty set
14 out in AS 05.45.100(c)(2).

15 (b) Signs not specified by (a) of this section may be posted at the discretion
16 of the ski area operator.

17 (c) A ski area operator, before opening the tramway to the public each day,
18 shall inspect the tramway for the presence and visibility of the signs required by (a)
19 of this section.

20 (d) A ski area operator shall post and maintain signs that are required by (a)
21 of this section in a manner that they may be viewed during conditions of ordinary
22 visibility.

23 Sec. 05.45.060. REQUIRED SIGNS FOR TRAILS AND SLOPES; DUTIES
24 OF OPERATORS. (a) A ski area operator shall maintain a sign and marking system
25 as required in this section in addition to that required by AS 05.45.050. All signs
26 required by this section shall be maintained so as to be readable and recognizable
27 under conditions of ordinary visibility.

28 (b) A ski area operator shall post a sign recognizable to skiers proceeding to
29 the uphill loading point of each base area lift that depicts and explains signs and
30 symbols that the skier may encounter at the ski area. The sign must include the
31 following:

1 (1) the least difficult trails and slopes, designated by a green circle and
2 the word "easier";

3 (2) the most difficult trails and slopes, designated by a black diamond
4 and the words "most difficult"; trails intended for expert skiers may be marked with
5 a double black diamond and the words "expert only";

6 (3) the trails and slopes that have a degree of difficulty that falls
7 between the green circle and the black diamond designation, designated by a blue
8 square and the words "more difficult";

9 (4) danger areas designated by a red exclamation point inside a yellow
10 triangle with a red band around the triangle and the word "danger" printed beneath the
11 emblem;

12 (5) closed trails or slopes designated by a sign with a circle or octagon
13 around a figure in the shape of a skier with a band running diagonally across the sign
14 from the upper right-hand side to the lower left-hand side and with the word "closed"
15 printed beneath the emblem.

16 (c) If applicable, a sign shall be placed at or near the loading point of each
17 tramway as follows:

18 WARNING: This lift services (most difficult) or
19 (most difficult and more difficult) or (more
20 difficult) slopes only.

21 (d) If a particular trail or slope or portion of a trail or slope is closed to the
22 public by a ski area operator, the operator shall place a sign notifying the public of
23 that fact at each identified entrance of each portion of the trail or slope involved. A
24 slope without an entrance defined by terrain or forest growth may be closed with a line
25 of signs in a manner readily visible to skiers under conditions of ordinary visibility.
26 This subsection does not apply if the trail or slope is closed with ropes or fences.

27 (e) A ski area operator shall

28 (1) place a sign at or near the beginning of each trail or slope, which
29 must contain the appropriate symbol of the relative degree of difficulty of that
30 particular trail or slope as described in (b) of this section; this paragraph does not
31 apply to a slope or trail designated "easier" that to a skier is substantially visible in its

1 entirety under conditions of ordinary visibility before beginning to ski the slope or
2 trail;

3 (2) mark the ski area boundaries in a fashion readily visible to skiers
4 under conditions of ordinary visibility;

5 (3) mark that portion of the bounda. ; with signs as required by (b)(5)
6 of this section if the owner of land adjoining a ski area closes all or part of the land
7 and notifies the ski area operator of the closure;

8 (4) mark hydrants, water pipes, and all other man-made structures on
9 slopes and trails that are not readily visible to skiers under conditions of ordinary
10 visibility from a distance of at least 100 feet and adequately and appropriately cover
11 man-made structures that create obstructions with a shock absorbent material that will
12 lessen injuries; any type of marker is sufficient, including wooden poles, flags, or
13 signs, if the marker is visible from a distance of 100 feet and if the marker itself does
14 not constitute a serious hazard to skiers; in this paragraph, "man-made structures" does
15 not include variations in steepness or terrain, whether natural or as a result of slope
16 design, snow making, grooming operations, roads and catwalks, or other terrain
17 modifications;

18 (5) mark exposed forest growth, rocks, stumps, streambeds, trees, or
19 other natural objects that are located on a slope or trail that is regularly used by skiers
20 or that is regularly packed and prepared by a ski area operator using a snow vehicle
21 and attached implements and that are not readily visible to skiers under conditions of
22 ordinary visibility from a distance of at least 100 feet;

23 (6) mark roads, catwalks, cliffs, or other terrain modifications that are
24 not readily visible to skiers under conditions of ordinary visibility from a distance of
25 at least 100 feet;

26 (7) post and maintain signs that contain the warning notice specified
27 in (g) of this section; the notice shall be placed in a clearly visible location at the ski
28 area where lift tickets and ski school lessons are sold and in a position to be
29 recognizable as a sign to skiers proceeding to the uphill loading point of each base
30 area lift; the signs may not be smaller than three feet by three feet and must be white
31 with black and red letters as specified in this paragraph; the word "WARNING" must

1 appear on the sign in red letters; the warning notice specified in this paragraph must
2 appear on the sign in black letters with each letter to be a minimum of one inch in
3 height.

4 (f) A ski lift ticket sold or made available for sale to skiers by a ski area
5 operator must contain in clearly readable print the warning notice specified in (g) of
6 this section.

7 (g) The signs described in (e)(7) of this section and the lift tickets described
8 in (f) of this section must contain the following warning notice:

9 **WARNING**

10 Under Alaska law, the risk of an injury to person or property
11 resulting from any of the inherent dangers and risks of skiing
12 rests with the skier. A skier may not recover from a ski area
13 operator for an injury resulting from any of the inherent dangers
14 and risks of skiing, including changing weather conditions;
15 existing and changing snow conditions; bare spots, rocks,
16 stumps and trees; collisions with natural objects, man-made
17 objects, or other skiers; variations in terrain; and the failure of
18 skiers to ski within their own abilities.

19 Sec. 05.45.070. OTHER DUTIES OF SKI AREA OPERATORS. (a) A ski
20 area operator shall equip a motorized snow-grooming vehicle with a light visible at any
21 time the vehicle is moving on or in the vicinity of a ski slope or trail.

22 (b) When maintenance equipment is being employed to maintain or groom a
23 ski slope or trail while the ski slope or trail is open to the public, the ski area operator
24 shall place a conspicuous notice regarding the maintenance or grooming at or near the
25 top of that ski slope or trail.

26 (c) A motor vehicle operated on the ski slope or trails of a ski area shall be
27 equipped with at least

- 28 (1) one lighted head lamp;
29 (2) one lighted red tail lamp;
30 (3) a brake system maintained in operable condition; and
31 (4) a fluorescent flag at least 40 square inches mounted at least six feet

1 above the bottom of the tracks.

2 (d) A ski area operator shall make available at reasonable fees, instruction and
3 education regarding the inherent danger and risk of skiing and the duties imposed on
4 skiers under this chapter. Notice of the availability of the instruction and education
5 required under this subsection shall be placed in a clearly visible location at the ski
6 area where lift tickets and ski school lessons are sold, in a position to be recognizable
7 as a sign to skiers proceeding to the uphill loading point of each base area lift, and
8 printed on equipment rental agreements.

9 Sec. 05.45.080. **SKIERS OUTSIDE MARKED BOUNDARIES.** A ski area
10 operator does not have a duty arising out of the operator's status as a ski area operator
11 to a skier skiing beyond the area boundaries if the boundaries are marked as required
12 by AS 05.45.060(e)(2).

13 Sec. 05.45.090. **RECKLESS SKIERS; REVOCATION OF SKIING**
14 **PRIVILEGES.** (a) A ski area operator shall develop and maintain a written policy
15 covering situations involving reckless skiers, including a definition of reckless skiing,
16 procedures for approaching and warning skiers regarding reckless conduct, and
17 procedures for taking action against reckless skiers, including revocation of ski
18 privileges. A ski area operator shall designate ski patrol personnel responsible for
19 implementing the ski area operator's policy regarding reckless skiers.

20 (b) A ski area operator, upon finding a person skiing in a careless and reckless
21 manner, may revoke that person's skiing privileges. This section may not be construed
22 to create an affirmative duty on the part of the ski area operator to protect skiers from
23 their own or from another skier's carelessness or recklessness.

24 Sec. 05.45.100. **DUTIES AND RESPONSIBILITIES OF SKIERS.** (a) A
25 skier is responsible for knowing the range of the skier's own ability to negotiate a ski
26 slope or trail and to ski within the limits of the skier's ability. A skier is responsible
27 for an injury to a person or property resulting from an inherent danger and risk of
28 skiing, except that a skier is not precluded under this chapter from suing another skier
29 for an injury to person or property resulting from the other skier's acts or omissions.
30 Notwithstanding any other provision of law, the risk of a skier's collision with another
31 skier is not an inherent danger or risk of skiing in an action by one skier against

1 another.

2 (b) A skier has the duty to maintain control of the skier's speed and course at
3 all times when skiing and to maintain a proper lookout so as to be able to avoid other
4 skiers and objects. However, a person skiing downhill has the primary duty to avoid
5 collision with a person or object below the skier.

6 (c) A skier may not

7 (1) ski on a ski slope or trail that has been posted as "closed" under
8 AS 05.45.060(b)(5) and (d);

9 (2) use a ski unless the ski is equipped with a strap or other device
10 capable of stopping the ski should the ski become unattached from the skier;

11 (3) cross the uphill track of a J-bar, T-bar, platter pull, or rope tow
12 except at locations designated by the operator, or place an object in an uphill track;

13 (4) move uphill on a tramway or use a ski slope or trail while the
14 skier's ability is impaired by the influence of alcohol or a controlled substance as
15 defined in AS 11.71.900 or other drug;

16 (5) knowingly enter upon public or private land from an adjoining ski
17 area when the land has been closed by an owner and is posted by the owner or by the
18 ski area operator under AS 05.45.060(e)(3).

19 (d) A skier shall stay clear of snow grooming equipment, vehicles, lift towers,
20 signs, and other equipment on the ski slopes and trails.

21 (e) A skier has the duty to heed all posted information and other warnings and
22 to refrain from acting in a manner that may cause or contribute to the injury of the
23 skier or others. Evidence that the signs required by AS 05.45.050 and 05.45.060 were
24 present, visible, and readable at the beginning of a given day creates a presumption
25 that all skiers using the ski area on that day have seen and understood the signs.

26 (f) Before beginning to ski from a stationary position or before entering a ski
27 slope or trail from the side, a skier has the duty to avoid moving skiers already on the
28 ski slope or trail.

29 (g) Except for the purpose of securing aid for a person injured in the collision,
30 a skier involved in a collision with another skier or person that results in an injury may
31 not leave the vicinity of the collision before giving the skier's name and current

1 address to the other person involved in the collision and to an employee of the ski area
2 operator or a member of the voluntary ski patrol. A person who leaves the scene of
3 a collision to obtain aid shall give the person's name and current address as required
4 by this subsection after obtaining aid.

5 (h) A person who violates a provision of (c) or (g) of this section is guilty of
6 a violation as defined in AS 11.81.900. The commissioner of natural resources or an
7 employee of the Department of Natural Resources authorized by the commissioner may
8 issue a citation in accordance with the provisions of AS 41.21.960 to a person who
9 violates (c) or (g) of this section on state land.

10 Sec. 05.45.110. COMPETITION; IMMUNITY FOR SKI AREA OPERATOR.

11 (a) The ski area operator shall, before the beginning of a ski competition, allow an
12 athlete who will ski in the competition a reasonable visual inspection of the course or
13 area where the competition is to be held.

14 (b) An athlete skiing in competition assumes the risk of all course or area
15 conditions, including weather and snow conditions, course construction or layout, and
16 obstacles that a visual inspection would have revealed. A ski area operator is not
17 liable for injury to an athlete who skis in competition and who is injured as a result
18 of a risk described in this subsection.

19 Sec. 05.45.120. USE OF LIABILITY RELEASES. (a) A ski area operator
20 may not require a skier to sign an agreement releasing the ski area operator from
21 liability in exchange for the right to ride a ski area tramway and ski in the ski area.
22 A release that violates this subsection is void and may not be enforced.

23 (b) Notwithstanding (a) of this section, a ski area operator may

24 (1) require a special event coach, participant, helper, spectator, or rental
25 customer to sign an agreement releasing the ski area operator from liability in
26 exchange for the right to coach, participate, assist in, or observe the special event; or

27 (2) use a release agreement required by a third party as a condition of
28 operating a rental program or special event at the ski area.

29 (c) In this section, "special event" means an event, pass, race, program, rental
30 program, or service that offers competition or other benefits in addition to a ticket
31 representing the right to ride a ski area tramway and ski on the ski slopes or trails.

1 whether or not additional consideration is paid.

2 Sec. 05.45.200. DEFINITIONS. In this chapter,

3 (1) "base area lift" means a tramway that skiers ordinarily use without
4 first using some other tramway;

5 (2) "conditions of ordinary visibility" means daylight or, where
6 applicable, nighttime, in nonprecipitating weather;

7 (3) "inherent danger and risk of skiing" means a danger or condition
8 that is an integral part of the sport of skiing, including changing weather conditions;
9 snow conditions as they exist or may change, including ice, hard pack, powder, packed
10 powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface
11 or subsurface conditions including bare spots, forest growth, rocks, stumps, streams,
12 streambeds, and trees, or other natural objects, and collisions with natural objects;
13 impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes, other
14 man-made structures, and their components; variations in steepness or terrain, whether
15 natural or as a result of slope design, snowmaking or grooming operations, including
16 roads and catwalks or other terrain modifications; collision with other skiers; and the
17 failure of skiers to ski within their own abilities; the term "inherent danger and risk of
18 skiing" does not include the negligence of a ski area operator under AS 05.45.020, or
19 acts or omissions of a ski area operator involving the use or operation of ski lifts;

20 (4) "injury" means property damage, personal injury, or death;

21 (5) "passenger" means a person who is lawfully using a tramway;

22 (6) "ski area" means all downhill ski slopes or trails and other places
23 under the control of a downhill ski area operator; "ski area" does not include a cross-
24 country ski trail;

25 (7) "ski area operator" means a person having operational responsibility
26 for a downhill ski area, and includes an agency of the state or a political subdivision
27 of the state;

28 (8) "skier" means an individual using a downhill ski area for the
29 purpose of

30 (A) skiing;

31 (B) sliding downhill on snow or ice on skis, a toboggan, a sled,

1 a tube, a ski-bob, a snowboard, or another skiing or sliding device; or
2 (C) using any of the facilities of a ski area, including ski slopes
3 and trails;

4 (9) "ski slopes or trails" means those areas designated by a ski area
5 operator to be used by a skier;

6 (10) "tramway" means a device that is a passenger tramway, aerial or
7 surface lift, ski lift, or rope tow regulated under AS 05.20.

8 Sec. 05.45.210. SHORT TITLE. This chapter may be cited as the Alaska Ski
9 Safety Act of 1994.

10 * Sec. 3. AS 09.65.135 and AS 18.60.822 are repealed.

11 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

8-LS0340R
Ford
4/18/94

HOUSE CS FOR CS FOR SENATE BILL NO. 44()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR KELLY

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to civil liability for skiing accidents, operation of ski areas, and
2 duties of ski area operators and skiers; and providing for an effective date."

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

4 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

5 (1) the sport of skiing is practiced by a large number of citizens of the state
6 and also attracts a large number of nonresidents, providing significant contributions to the
7 economy of the state through construction and operation of skiing facilities, and through the
8 money spent by citizens of the state and nonresidents;

9 (2) the sport of skiing serves important public social and policy goals in the
10 state given the dominance of the winter season; skiing contributes to the health and well-being
11 of Alaskans, including the physically and mentally challenged; it is highly desirable that
12 Alaskans have convenient and inexpensive access to the sport of skiing;

13 (3) skiing is an active sport conducted in the outdoor alpine environment; this
14 environment consists of several elements, including terrain, weather, snow conditions, and

1 amenities created and maintained by the ski area operator;

2 (4) the terrain necessary for downhill skiing is characterized by large areas of
3 land, that vary tremendously in steepness and feature bumps, hillocks, drops, cliffs, gullies,
4 ridges, and knobs of infinite variety; the surface and subsurface include trees, bushes,
5 undergrowth, rocks, boulders, springs, streams, stumps, branches, roots, and other debris;

6 (5) weather that produces the snow necessary for skiing also produces factors
7 that complicate the sport; weather varies from sunny and warm to bitterly cold and windy,
8 with various forms of precipitation, including sleet, hail, rime, varieties of snow, fog, mist,
9 drizzle, rain, and showers; weather complicates the snow surface by constantly altering the
10 snow consistency and snow level, covering, uncovering, and sculpting the terrain features
11 described above;

12 (6) snow is a generic term covering a wide variety of solid precipitation and
13 the frozen state of water as it exists and evolves on the ground; there are many different kinds
14 of snow precipitation; in addition, snow on the ground is constantly changing until it either
15 melts or sublimates; this metamorphism depends on many variable factors and produces snow
16 of substantially different texture and consistency, often in short periods of time; on any given
17 day, the snow conditions vary substantially from location to location and from time to time
18 during the day;

19 (7) in order to facilitate the sport, ski area operators develop facilities,
20 including ski runs, trails, roads, aerial tramways, snowmaking equipment, buildings, lighting,
21 and signs; while these facilities may alter the natural conditions, the facilities are obvious and
22 necessary to the sport;

23 (8) because of the size, power, and variation of the winter alpine environment,
24 ski area operators are financially and physically incapable of controlling all the conditions
25 under which skiing takes place;

26 (9) ski area operators have a limited ability to alter terrain features; some
27 terrain features may offer a hazard to the skier but at the same time offer additional challenge
28 or enjoyment for skiers; there will always be natural and artificial hazards in the sport of
29 skiing and the skier must accept these hazards as a part of the risk of skiing;

30 (10) ski area operators do not have control over natural weather conditions;

31 (11) under the proper weather conditions, ski area operators can and do

1 generate a form of artificial snow and can spread the snow on the surface of the terrain:
2 however, it is not possible nor is it desirable to ~~spread~~ all snow to a particular finish;

3 (12) skiing is an exhilarating sport, the enjoyment of which includes several
4 components: exercise, enjoyment of the outdoor environment, physical and mental challenge
5 of a sporting activity, companionship of family and friends, and the excitement of taking
6 physical risks;

7 (13) falling is an ordinary, obvious, and necessary component of the sport; all
8 skiers, even expert skiers, fall on all kinds of terrain; a particular fall is no indication of the
9 risks of a particular slope or set of conditions; the same factors that ~~offer~~ the excitement of
10 skiing contribute to its inherent risks; skiers may slide when they fall, and they may encounter
11 obstacles or other skiers; skiers can be injured while skiing due to the intrinsic risks of the
12 sport, whether natural or man-made.

13 (b) The purpose of this Act is to repeal and revise state law relating to skiing enacted
14 by ch. 80, SLA 1980, as interpreted by the Alaska Supreme Court in *Hiibschman v. City of*
15 *Valdez*, 821 P.2d 1354, (Alaska 1991). It is also the purpose of this Act to

16 (1) define the responsibilities of ski area operators and their agents and
17 employees;

18 (2) define the responsibilities of skiers using ski areas;

19 (3) define those areas of responsibility and affirmative acts for which ski area
20 operators may be liable for loss, damage, injury, or death, and to define those risks that the
21 skier expressly assumes as an inherent danger and risk of skiing; and

22 (4) provide that where an injury is the result only of an inherent risk of skiing,
23 a comparative negligence or comparative fault analysis does not apply.

24 * Sec. 2. AS 05 is amended by adding a new chapter to read:

25 CHAPTER 45. SKI LIABILITY, SAFETY, AND RESPONSIBILITY.

26 Sec. 05.45.010. LIMITATION ON ACTIONS ARISING FROM SKIING.

27 Notwithstanding any other provision of law, a person may not bring an action against
28 a ski area operator for an injury resulting from an inherent danger and risk of skiing.

29 Sec. 05.45.020. VIOLATIONS THAT CONSTITUTE NEGLIGENCE. A
30 person who violates a requirement of this chapter or a regulation adopted by the
31 Department of Labor under AS 05.20.070 is negligent and civilly liable to the extent

1 the violation causes injury to a person or damage to property.

2 Sec. 05.45.030. DUTIES OF PASSENGERS. (a) A passenger may not board
3 a tramway if the passenger does not have

4 (1) sufficient physical dexterity or ability and knowledge to negotiate
5 or use the facility safely; or

6 (2) the assistance of a person authorized by the ski area operator to
7 assist a skier.

8 (b) A passenger may not

9 (1) embark upon or disembark from a tramway except at a designated
10 area unless reasonably necessary to prevent injury to the passenger or others; this
11 paragraph does not apply if the tramway stops and the operator assists the passengers
12 to disembark from the tramway;

13 (2) intentionally throw or expel an object from a tramway while riding
14 on the tramway, except as permitted by the operator;

15 (3) act while riding on a tramway in a manner that may interfere with
16 proper or safe operation of the tramway;

17 (4) engage in conduct that may contribute to or cause injury to a
18 person;

19 (5) intentionally place in an uphill track of a J-bar, T-bar, platter pull,
20 rope tow, or another surface lift an object that could cause another skier to fall;

21 (6) embark upon a tramway marked as closed;

22 (7) disobey instructions posted in accordance with this chapter or oral
23 instructions by the ski area operator regarding the proper or safe use of a tramway
24 unless the oral instructions are contrary to this chapter or contrary to posted
25 instructions.

26 Sec. 05.45.040. REQUIRED PLAN AND PATROL BY SKI AREA
27 OPERATORS. (a) A ski area operator shall prepare a plan of operation for each ski
28 season and shall implement the plan throughout the ski season. A plan of operation
29 must include provisions for ski patrol, avalanche control, avalanche rescue, grooming
30 procedures, tramway evacuation, hazard marking, missing person procedures, and first
31 aid. Before the operation of the ski area for that season, the plan shall be reviewed

1 and approved by the commissioner of natural resources except that if an agency of the
2 United States manages the land on which the ski area operates, the plan shall be
3 reviewed and approved by that agency. The commissioner of natural resources may
4 require a ski area operator to pay a fee not to exceed the department's cost of
5 reviewing the plan, and may adopt regulations to implement this subsection.

6 (b) A ski area operator shall provide a ski patrol whose members meet or
7 exceed the training standards of the National Ski Patrol System, Inc. This subsection
8 does not apply to a ski area if the operator transports skiers using only a single
9 tramway consisting of a rope tow, the rope tow does not transport skiers more than
10 500 vertical feet, and the ski area is operated by a nonprofit corporation or a
11 municipality. In this subsection, "nonprofit corporation" means a corporation that
12 qualifies for exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal
13 Revenue Code).

14 (c) Notwithstanding any other law, the state and the commissioner of natural
15 resources are not civilly liable for damages resulting from an act or omission in
16 reviewing, approving, or disapproving a plan of operation under (a) of this section.

17 Sec. 05.45.050. REQUIRED SIGNS FOR TRAMWAYS; DUTIES OF
18 OPERATORS. (a) A ski area operator who operates a tramway shall maintain a sign
19 system with concise, simple, and pertinent information for the protection and
20 instruction of passengers. Signs shall be prominently placed on each tramway,
21 readable in conditions of ordinary visibility, and where applicable adequately lighted
22 for nighttime passengers. Signs shall be posted

23 (1) at or near the loading point of each tramway, regardless of the type,
24 advising that a person not familiar with the operation of the device must ask the
25 operator of the device for assistance and instruction;

26 (2) in the interior of each two-car and multicar tramway showing

27 (A) the maximum capacity in pounds of the car and the
28 maximum number of passengers allowed;

29 (B) instructions for procedures in emergencies;

30 (3) in a conspicuous place at each loading area of two-car and multicar
31 tramways stating the maximum capacity in pounds of the car and the maximum

1 number of passengers allowed:

2 (4) at all chair lifts stating the following:

3 (A) "Prepare to Unload," which shall be located not less than
4 50 feet ahead of the unloading area:

5 (B) "Keep Ski Tips Up," which shall be located ahead of any
6 point where the skis may come in contact with a platform or the snow surface;

7 (C) "Unload Here," which shall be located at the point
8 designated for unloading;

9 (D) "Stop Gate," which shall be located where applicable:

10 (E) "Remove Pole Straps from Wrists," which shall be located
11 prominently at each loading area;

12 (F) "Check for Loose Clothing and Equipment," which shall be
13 located before the "Prepare to Unload" sign;

14 (5) at all J-bars, T-bars, platter pulls, rope tows, and any other surface
15 lift, stating the following:

16 (A) "Remove Pole Straps from Wrists," which shall be placed
17 at or near the loading area;

18 (B) "Stay in Tracks," "Unload Here," and "Safety Gate," which
19 shall be located where applicable;

20 (C) "Prepare to Unload," which shall be located not less than
21 50 feet ahead of each unloading area;

22 (6) near the boarding area of all J-bars, T-bars, platter pulls, rope tows,
23 and any other surface lift, advising passengers to check to be certain that clothing,
24 scarves, and hair will not become entangled with the lift;

25 (7) at or near the boarding area of all lifts, stating the skier's duty set
26 out in AS 05.45.100(c)(2).

27 (b) Signs not specified by (a) of this section may be posted at the discretion
28 of the ski area operator.

29 (c) A ski area operator, before opening the tramway to the public each day,
30 shall inspect the tramway for the presence and visibility of the signs required by (a)
31 of this section.

1 (d) A ski area operator shall post and maintain signs that are required by (a)
2 of this section in a manner that they may be viewed during conditions of ordinary
3 visibility.

4 Sec. 05.45.060. REQUIRED SIGNS FOR TRAILS AND SLOPES; DUTIES
5 OF OPERATORS. (a) A ski area operator shall maintain a sign and marking system
6 as required in this section in addition to that required by AS 05.45.050. All signs
7 required by this section shall be maintained so as to be readable and recognizable
8 under conditions of ordinary visibility.

9 (b) A ski area operator shall post a sign recognizable to skiers proceeding to
10 the uphill loading point of each base area lift that depicts and explains signs and
11 symbols that the skier may encounter at the ski area. The sign must include the
12 following:

13 (1) the least difficult trails and slopes, designated by a green circle and
14 the word "easier";

15 (2) the most difficult trails and slopes, designated by a black diamond
16 and the words "most difficult"; trails intended for expert skiers may be marked with
17 a double black diamond and the words "expert only";

18 (3) the trails and slopes that have a degree of difficulty that falls
19 between the green circle and the black diamond designation, designated by a blue
20 square and the words "more difficult";

21 (4) danger areas designated by a red exclamation point inside a yellow
22 triangle with a red band around the triangle and the word "danger" printed beneath the
23 emblem;

24 (5) closed trails or slopes designated by a sign with a circle or octagon
25 around a figure in the shape of a skier with a band running diagonally across the sign
26 from the upper right-hand side to the lower left-hand side and with the word "closed"
27 printed beneath the emblem.

28 (c) If applicable, a sign shall be placed at or near the loading point of each
29 tramway as follows:

30 WARNING: This lift services (most difficult) or
31 (most difficult and more difficult) or (more

1 difficult) slopes only.

2 (d) If a particular trail or slope or portion of a trail or slope is closed to the
3 public by a ski area operator, the operator shall place a sign notifying the public of
4 that fact at each identified entrance of each portion of the trail or slope involved. A
5 slope without an entrance defined by terrain or forest growth may be closed with a line
6 of signs in a manner readily visible to skiers under conditions of ordinary visibility.
7 This subsection does not apply if the trail or slope is closed with ropes or fences.

8 (e) A ski area operator shall

9 (1) place a sign at or near the beginning of each trail or slope, which
10 must contain the appropriate symbol of the relative degree of difficulty of that
11 particular trail or slope as described in (b) of this section; this paragraph does not
12 apply to a slope or trail designated "easier" that to a skier is substantially visible in its
13 entirety under conditions of ordinary visibility before beginning to ski the slope or
14 trail;

15 (2) mark the ski area boundaries in a fashion readily visible to skiers
16 under conditions of ordinary visibility;

17 (3) mark that portion of the boundary with signs as required by (b)(5)
18 of this section if the owner of land adjoining a ski area closes all or part of the land
19 and notifies the ski area operator of the closure;

20 (4) mark hydrants, water pipes, and all other man-made structures on
21 slopes and trails that are not readily visible to skiers under conditions of ordinary
22 visibility from a distance of at least 100 feet and adequately and appropriately cover
23 man-made structures that create obstructions with a shock absorbent material that will
24 lessen injuries; any type of marker is sufficient, including wooden poles, flags, or
25 signs, if the marker is visible from a distance of 100 feet and if the marker itself does
26 not constitute a serious hazard to skiers; in this paragraph, "man-made structures" does
27 not include variations in steepness or terrain, whether natural or as a result of slope
28 design, snow making, grooming operations, roads and catwalks, or other terrain
29 modifications;

30 (5) mark exposed forest growth, rocks, stumps, streambeds, trees, or
31 other natural objects that are located on a groomed slope or trail and that are not

1 readily visible to skiers under conditions of ordinary visibility from a distance of at
2 least 100 feet:

3 (6) mark roads, carwalks, cliffs, or other terrain modifications that are
4 not readily visible to skier, under conditions of ordinary visibility from a distance of
5 at least 100 feet:

6 (7) post and maintain signs that contain the warning notice specified
7 in (g) of this section; the notice shall be placed in a clearly visible location at the ski
8 area where lift tickets and ski school lessons are sold and in a position to be
9 recognizable as a sign to skiers proceeding to the uphill loading point of each base
10 area lift; the signs may not be smaller than three feet by three feet and must be white
11 with black and red letters as specified in this paragraph; the word "WARNING" must
12 appear on the sign in red letters; the warning notice specified in this paragraph must
13 appear on the sign in black letters with each letter to be a minimum of one inch in
14 height.

15 (f) A ski lift ticket sold or made available for sale to skiers by a ski area
16 operator must contain in clearly readable print the warning notice specified in (g) of
17 this section.

18 (g) The signs described in (e)(7) of this section and the lift tickets described
19 in (f) of this section must contain the following warning notice:

20 WARNING

21 Under Alaska law, the risk of an injury to person or property
22 resulting from any of the inherent dangers and risks of skiing
23 rests with the skier. A skier may not recover from a ski area
24 operator for an injury resulting from any of the inherent dangers
25 and risks of skiing, including changing weather conditions;
26 existing and changing snow conditions; bare spots, rocks,
27 stumps and trees; collisions with natural objects, man-made
28 objects, or other skiers; variations in terrain; and the failure of
29 skiers to ski within their own abilities.

30 Sec. 05.45.070. OTHER DUTIES OF SKI AREA OPERATORS. (a) A ski
31 area operator shall equip a motorized snow-grooming vehicle with a light visible at any

1 time the vehicle is moving on or in the vicinity of a ski slope or trail.

2 (b) When maintenance equipment is being employed to maintain or groom a
3 ski slope or trail while the ski slope or trail is open to the public, the ski area operator
4 shall place a conspicuous notice regarding the maintenance or grooming at or near the
5 top of that ski slope or trail.

6 (c) A motor vehicle operated on the ski slope or trails of a ski area shall be
7 equipped with at least:

8 (1) one lighted head lamp;

9 (2) one lighted red tail lamp;

10 (3) a brake system maintained in operable condition; and

11 (4) a fluorescent flag at least 40 square inches mounted at least six feet
12 above the bottom of the tracks.

13 (d) A ski area operator shall make available at reasonable fees, instruction and
14 education regarding the inherent danger and risk of skiing and the duties imposed on
15 skiers under this chapter. Notice of the availability of the instruction and education
16 required under this subsection shall be placed in a clearly visible location at the ski
17 area where lift tickets and ski school lessons are sold, in a position to be recognizable
18 as a sign to skiers proceeding to the uphill loading point of each base area lift, and
19 printed on equipment rental agreements.

20 Sec. 05.45.080. SKIERS OUTSIDE MARKED BOUNDARIES. A ski area
21 operator does not have a duty arising out of the operator's status as a ski area operator
22 to a skier skiing beyond the area boundaries if the boundaries are marked as required
23 by AS 05.45.060(e)(2).

24 Sec. 05.45.090. RECKLESS SKIERS; REVOCATION OF SKIING
25 PRIVILEGES. (a) A ski area operator shall develop and maintain a written policy
26 covering situations involving reckless skiers, including a definition of reckless skiing,
27 procedures for approaching and warning skiers regarding reckless conduct, and
28 procedures for taking action against reckless skiers, including revocation of ski
29 privileges. A ski area operator shall designate ski patrol personnel responsible for
30 implementing the ski area operator's policy regarding reckless skiers.

31 (b) A ski area operator, upon finding a person skiing in a careless and reckless

1 manner, may revoke that person's skiing privileges. This section may not be construed
2 to create an affirmative duty on the part of the ski area operator to protect skiers from
3 their own or from another skier's carelessness or recklessness.

4 Sec. 05.45.100. DUTIES AND RESPONSIBILITIES OF SKIERS. (a) A
5 skier is responsible for knowing the range of the skier's own ability to negotiate a ski
6 slope or trail and to ski within the limits of the skier's ability. A skier is responsible
7 for an injury to a person or property resulting from an inherent danger and risk of
8 skiing, except that a skier is not precluded under this chapter from suing another skier
9 for an injury to person or property resulting from the other skier's acts or omissions.
10 Notwithstanding any other provision of law, the risk of a skier's collision with another
11 skier is not an inherent danger or risk of skiing in an action by one skier against
12 another.

13 (b) A skier has the duty to maintain control of the skier's speed and course at
14 all times when skiing and to maintain a proper lookout so as to be able to avoid other
15 skiers and objects. However, a person skiing downhill has the primary duty to avoid
16 collision with a person or object below the skier.

17 (c) A skier may not

18 (1) ski on a ski slope or trail that has been posted as "closed" under
19 AS 05.45.060(b)(5) and (d);

20 (2) use a ski unless the ski is equipped with a strap or other device
21 capable of stopping the ski should the ski become unattached from the skier;

22 (3) cross the uphill track of a J-bar, T-bar, platter pull, or rope tow
23 except at locations designated by the operator, or place an object in an uphill track;

24 (4) move uphill on a tramway or use a ski slope or trail while the
25 skier's ability is impaired by the influence of alcohol or a controlled substance as
26 defined in AS 11.71.900 or other drug;

27 (5) knowingly enter upon public or private land from an adjoining ski
28 area when the land has been closed by an owner and is posted by the owner or by the
29 ski area operator under AS 05.45.060(e)(3).

30 (d) A skier shall stay clear of snow grooming equipment, vehicles, lift towers,
31 signs, and other equipment on the ski slopes and trails.

1 (e) A skier has the duty to heed all posted information and other warnings and
2 to refrain from acting in a manner that may cause or contribute to the injury of the
3 skier or others. Evidence that the signs required by AS 05.45.050 and 05.45.060 were
4 present, visible, and readable at the beginning of a given day creates a presumption
5 that all skiers using the ski area on that day have seen and understood the signs.

6 (f) Before beginning to ski from a stationary position or before entering a ski
7 slope or trail from the side, a skier has the duty to avoid moving skiers already on the
8 ski slope or trail.

9 (g) Except for the purpose of securing aid for a person injured in the collision,
10 a skier involved in a collision with another skier or person that results in an injury may
11 not leave the vicinity of the collision before giving the skier's name and current
12 address to the other person involved in the collision and to an employee of the ski area
13 operator or a member of the voluntary ski patrol. A person who leaves the scene of
14 a collision to obtain aid shall give the person's name and current address as required
15 by this subsection after obtaining aid.

16 (h) A person who violates a provision of (c) or (g) of this section is guilty of
17 a violation as defined in AS 11.81.900. The commissioner of natural resources or an
18 employee of the Department of Natural Resources authorized by the commissioner may
19 issue a citation in accordance with the provisions of AS 41.21.960 to a person who
20 violates (c) or (g) of this section on state land.

21 Sec. 05.45.110. COMPETITION; IMMUNITY FOR SKI AREA OPERATOR.

22 (a) The ski area operator shall, before the beginning of a ski competition, allow an
23 athlete who will ski in the competition a reasonable visual inspection of the course or
24 area where the competition is to be held.

25 (b) An athlete skiing in competition assumes the risk of all course or area
26 conditions, including weather and snow conditions, course construction or layout, and
27 obstacles that a visual inspection would have revealed. A ski area operator is not
28 liable for injury to an athlete who skis in competition and who is injured as a result
29 of a risk described in this subsection.

30 Sec. 05.45.120. USE OF LIABILITY RELEASES. (a) A ski area operator
31 may not require a skier to sign an agreement releasing the ski area operator from

1 liability in exchange for the right to ride a ski area tramway and ski in the ski area.
2 A release that violates this subsection is void and may not be enforced.

3 (b) Notwithstanding (a) of this section, a ski area operator may

4 (1) require a special event coach, participant, helper, spectator, or rental
5 customer to sign an agreement releasing the ski area operator from liability in
6 exchange for the right to coach, participate, assist in, or observe the special event; or

7 (2) use a release agreement required by a third party as a condition of
8 operating a rental program or special event at the ski area.

9 (c) In this section, "special event" means an event, pass, race, program, rental
10 program, or service that offers competition or other benefits in addition to a ticket
11 representing the right to ride a ski area tramway and ski on the ski slopes or trails,
12 whether or not additional consideration is paid.

13 Sec. 05.45.200. DEFINITIONS. In this chapter,

14 (1) "base area lift" means a tramway that skiers ordinarily use without
15 first using some other tramway;

16 (2) "conditions of ordinary visibility" means daylight or, where
17 applicable, nighttime, in nonprecipitating weather,

18 (3) "inherent danger and risk of skiing" means a danger or condition
19 that is an integral part of the sport of skiing, including changing weather conditions;
20 snow conditions as they exist or may change, including ice, hard pack, powder, packed
21 powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface
22 or subsurface conditions including bare spots, forest growth, rocks, snumps, streams,
23 streambeds, and trees, or other natural objects, and collisions with natural objects;
24 impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes, other
25 man-made structures, and their components; variations in steepness or terrain, whether
26 natural or as a result of slope design, snowmaking or grooming operations, including
27 roads and catwalks or other terrain modifications; collision with other skiers; and the
28 failure of skiers to ski within their own abilities; the term "inherent danger and risk of
29 skiing" does not include the negligence of a ski area operator under AS 05.45.020(b),
30 or acts or omissions of a ski area operator involving the use or operation of ski lifts;

31 (4) "injury" means property damage, personal injury, or death;

1 (5) "passenger" means a person who is lawfully using a tramway;

2 (6) "ski area" means all downhill ski slopes or trails and other places
3 under the control of a downhill ski area operator; "ski area" does not include a cross-
4 country ski trail;

5 (7) "ski area operator" means a person having operational responsibility
6 for a downhill ski area, and includes an agency of the state or a political subdivision
7 of the state;

8 (8) "skier" means an individual using a downhill ski area for the
9 purpose of

10 (A) skiing;

11 (B) sliding downhill on snow or ice on skis, a toboggan, a sled,
12 a tube, a ski-bob, a snowboard, or another skiing or sliding device; or

13 (C) using any of the facilities of a ski area, including ski slopes
14 and trails;

15 (9) "ski slopes or trails" means those areas designated by a ski area
16 operator to be used by a skier;

17 (10) "tramway" means a device that is a passenger tramway, aerial or
18 surface lift, ski lift, or rope tow regulated under AS 05.20.

19 Sec. 05.45.210. SHORT TITLE. This chapter may be cited as the Alaska Ski
20 Safety Act of 1994.

21 * Sec. 3. AS 09.65.135 and AS 18.60.822 are repealed.

22 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

A M E N D M E N T

Ⓢ1 failed

Offered in the House
SB 44 (R version)

By Rep. MacLean

On page ¹⁶~~13~~, lines ¹⁷⁻~~18~~ - 30 :

Delete all material, and insert :

"(3) "inherent danger and risk of skiing" means a necessary condition that is an integral part of the sport of skiing and that may not be eliminated or mitigated; the term "inherent danger and risk of skiing" does not include the negligence of a ski area operator under AS 05.45.020, or acts or omissions of a ski area operator involving the use or operation of ski lifts;"

A M E N D M E N T

(#2)

failed

Offered in the House
SB 44 (R version)

By Rep. MacLean

On page 9, line 22 :

After "resulting" :

Insert : "solely"

On page 9, line 24 :

After : "resulting"

Insert : "solely"

On page 9, line 29 :¹⁰₈

After : "abilities."

Insert : "A ski area operator is responsible if the ski area operator's own negligence is a cause of an injury or death."

A M E N D M E N T

#3

wd

Offered in the House
SB 44 (R version)

By Rep. MacLean

On page 8, line 31 :

Delete : "a groomed slope or trail"

Insert : "open slopes or trails"

AMENDMENT

#4

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

A)

TO: HCS CSSB 44() 4/18/94 WORK DRAFT

13 6

Page ~~12~~, line ~~17~~, after "resources":

(FAILED)

Insert ", a member of a ski patrol designated by the ski operator who is
qualified as described under AS 05.45.040(b) and authorized by the
commissioner,"

B)

13 9

Page ~~12~~, line ~~20~~:

Delete "on state land"

adopted.

Insert "within a ski area over which the state has jurisdiction"

AMENDMENT #5

Connected

Facial

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 44 ()

Page 13, line 10:

Insert a new subsection to read:

"⁽¹³⁷⁾
(g) In relation to a child below the age of 10, it shall be up to the fact finder to determine whether the duties of AS 05.45.100 are owed by the child given the age, experience, and judgment of the child."

A M E N D M E N T

#6 (adopted)

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 44() 4/18/94 "U"

Page 13, line 6, after "resources":

Insert ", a person designated by the ski operator who is authorized by the commissioner,"

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

State of Alaska

DIVISION OF LAND
SOUTHCENTRAL REGION

TO: Ron Swanson
Director

DATE: March 26, 1993

TELEPHONE NO.: 762-2253

FROM: Richard B. Thompson
Regional Manager

SUBJECT: Alyeska Title
Transfer

The Division of Land learned of the possible transfer of title to the Alyeska Resort several years ago. The regional office started the preparation process by convening a meeting with resort officials to discuss the transfer of management responsibility and to answer their questions. A similar meeting was arranged separately with U.S. Forest Service personnel.

These initial meetings revealed a variety of concerns issued by the resort owners over the methods and practices the state would use in administering the lease. Since those days many meetings have taken place to discuss and resolve concerns.

In the mean time I took the lead on negotiating a development lease for the proposed \$230 million development of a four-season resort at Hatcher Pass with a large Japanese trading company. I recently completed negotiations with a new developer, the Hatcher Pass Development Company, to construct and operate a destination resort at Hatcher Pass. I attended construction contract administration training; received individualized ski area management training from highly qualified U.S. Forest Service managers in Lakewood, Colorado; and have spent considerable amounts of time acquiring knowledge about the ski industry.

The southcentral region has joined a national organization of ski area managers and operators. I attended last years convention and intend to go again this year. This organization sponsors training workshops and seminars on many aspects of ski area management. They compile a wide variety of statistics which are invaluable to management and decisionmaking. They provide access to a multitude of training devices such as manuals, videos, books and object achievement kits. Through networking the membership we have direct access to actual people who are considered experts, or at the least extremely knowledgeable about virtually every aspect of ski area operation.

I have assigned Mike Sullivan the primary responsibility for administering the Alyeska Ski Area lease. Mike is a senior adjudicator with an excellent understanding of the state's interest in the management of this area. He is dependable, works well with others and has already established himself as a credible manager.

MEMO FROM DNR

Ron Swanson
Ski Bill
March 26, 1993
Page 2

Mike has been shadowing the forest service person currently responsible for administering the Alyeska forest service permit. Mike has been brought in on all management actions and decisionmaking meetings. He has received avalanche control training which involves snow safety as well as munitions handling. Mike has accompanied forest service and resort personnel on many of the avalanche control (firing) missions over the past winter. He has become knowledgeable on the process and procedures necessary to provide a smooth transition with the military which is critical to the resort's avalanche control program.

Mike recently attended a tram and aerial lift operation training school at Keystone, Colorado. Besides being well qualified to administer this project on behalf of the state, Mike is an excellent skier. He routinely skis with members of the National Ski Patrol to learn first hand about the many kinds of management problems faced by resort owners and employees.

The southcentral region wishes to create a Ski Area Operations Unit. Mike will be the sole member of this unit initially and will concentrate on drafting the lease and implementing this management transition as smoothly as possible. Mike will also handle the initial implementation tasks associated with the Hatcher Pass ski area development lease. This unit will be expanded as needed and can operate on a program receipts basis.

Current projections appear to suggest that we can handle our ski area personnel and management costs from revenues to be generated by state leases (Alyeska, and eventually the Hatcher Pass). This revenue will also support moderate responsibilities for any management actions undertaken by the state for ski areas on private lands. If the state's role on private lands increases significantly, additional funding may be necessary.

Alaska State Legislature

Senator Tim Kelly, Chair
Senator Steve Rieger, Vice Chair
Senator Bert Sharp
Senator Judy Salo
Senator Georgianna Lincoln



STATE CAPITOL SUITE 101
JUNEAU, ALASKA 99501-1182
PHONE: (907) 465-3822
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SENATE LABOR AND COMMERCE COMMITTEE

716 W 4TH, SUITE 400
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-3180
FAX: (907) 258-4524

MEMORANDUM

Date: March 1, 1994

To: Representative Ron Larson, Co-Chair
Representative Eileen MacLean, Co-Chair
House Finance Committee

From: Senator Tim Kelly

RE: CS SB 44 (JUD) am - Alaska Ski Safety Act of 1994

I respectfully request that you schedule SB 44, the Alaska Ski Safety Act of 1994, for a hearing before the House Finance Committee at the Committee's earliest convenience.

This legislation attempts to strike a balance between protecting skiers and ski resort operators by clearly defining the inherent dangers and risks of skiing assumed by the skier, as well as the duties and responsibilities the ski resort operator has to the skiing consumer.

While SB 44 would remove ski resort operators from liability for injuries caused solely by the inherent risks and dangers of skiing, it does not absolve ski operators from negligence or civil liability for violations of provisions outlined in this legislation.

SB 44 would require ski area operators to:

- Prepare and obtain approval from the Commissioner of Natural Resources or managing U.S. agency (land manager) for a plan of operation for each ski season, which must include hazard marking, missing persons procedures, avalanche control and rescue, tramway evacuation, and grooming procedures;
- Provide a qualified ski patrol with qualifications meeting or exceeding the standards of the National Ski Patrol System;



Alaska State Legislature

Representative Larson
Official Representative MacLean
March 1, 1994
Page 2

State Capitol
Juneau, AK 99801-1182

- Establish and maintain a tramway sign system for the protection and instruction of passengers; and
- Establish and maintain a sign system for ski trails and slopes intended to instruct skiers on the difficulty of the trail or slope.

SB 44 should result in safer skiing conditions for skiers and provide a legal climate that encourages ski resort operators currently in Alaska to expand, and those who are not now in Alaska to consider Alaska equally with the western United States and Canada when determining where next to expand.

This legislation is supported by the Department of Natural Resources, the Alaska Ski Areas Association, the Alaska Visitors Association, the Alaska Hotel & Motel Association, the Municipality of Anchorage, the Anchorage Convention & Visitors Bureau, the Anchorage Economic Development Corporation, and the United Brotherhood of Carpenters and Joiners of America Local Union No. 1281 among others.

SB 44 has zero fiscal notes from the Court System and the Departments of Commerce & Economic Development, Labor, and Administration.

For your reference, I've attached the above mentioned letters of support and a sectional analysis.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 27, 1993

SUBJECT: Sectional analysis (CSSB 44(JUD))

TO: Senator Tim Kelly

FROM: Michael F. Ford *M.F.*
Legislative Counsel

The following is a section by section analysis of CSSB 44(JUD):

Section 1 - Legislative Findings and Purpose.

Section 2 -

Sec. 05.45.010 - Prohibits a person from bringing a lawsuit against a ski area operator, if the lawsuit results from an injury that constitutes an inherent danger and risk of skiing.

Sec. 05.45.020 - Provides that a person or a ski area operator who violates a requirement of AS 05.45 is negligent as a matter of law, and is civilly liable to the extent the violation causes injury to a person or damage to property.

Sec. 05.45.030 - Imposes specific duties on tramway passengers intended to promote safe use of a tramway.

Sec. 05.45.040 - Requires ski area operators to prepare and obtain approval for a plan of operation for each ski season and requires certain ski areas to provide a qualified ski patrol. Provides that the state is not liable for reviewing and approving a ski area plan of operation.

Sec. 05.45.050 - Requires ski area operators to establish and maintain a tramway sign system for protection and instruction of passengers.

Sec. 05.45.060 - Requires ski area operators to establish and maintain a sign system for ski trails and slopes intended to instruct skiers on signs and symbols and to warn skiers of the difficulty of the trail or slope.

Senator Tim Kelly
April 27, 1993
Page 2

Sec. 05.45.070 - Imposes additional duties on ski area operators regarding snow-grooming equipment and snowmobiles.

Sec. 05.45.080 - Provides that a ski area operator has no duty to a person who skis outside the ski area boundaries, if the area is properly marked.

Sec. 05.45.090 - Requires a ski area operator to develop and maintain a reckless skier policy. Permits a ski area operator to revoke skiing privileges of a skier who skis in a reckless and careless manner.

Sec. 05.45.100 - Imposes duties and responsibilities on skiers, including the duty to ski within the limits of the skier's ability. Provides that a skier is not precluded from suing another skier for an injury resulting from the other skier's act or omission. Makes a violation of subsection (c) or (g) an offense punishable by a fine. Allows the Department of Natural Resources to issue citations for violations of (c) or (g) of this section.

Sec. 05.45.110 - Prohibits ski area operators from requiring a skier to sign a release of liability in exchange for the right to ski.

Sec. 05.45.200 - Definitions.

Section 3 - Repeals AS 09.65.135, an statute that limits claims arising from skiing, and AS 18.60.822, a statute that requires ski area operators to prepare a plan of operation.

Section 4 - Effective date.

MFF:gc
93-376.glc

**LETTERS OF SUPPORT FOR SB 44 RECEIVED BY THE
SENATE LABOR & COMMERCE COMMITTEE**

Anchorage Convention & Visitors Bureau
Anchorage Economic Development Corporation
Alaska Ski Areas Association
Alaska Visitors Association
Alaska Hotel & Motel Association
Days Inn
Leslye H. Randall
United Brotherhood of Carpenters and Joiners of America
Local Union No. 1281
Westmark Hotels
Municipality of Anchorage
Department of Natural Resources

#93-01

Resolution in Support of Ski Safety and
Inherent Risks of Skiing Legislation

Whereas, skiing in Alaska has inherent risks caused by terrain, weather, equipment and individual skiers, and

Whereas, financially sound ski areas are a significant part of Alaska's winter tourism industry and resident recreation, and

Whereas, the steady growth of winter tourism provides jobs for residents and revenue to the state, and

Whereas, the rising cost of insurance and increasing threat of lawsuits as a result of not recognizing the sport's inherent risk could force the price of skiing to grow so much that the majority of Alaskans and visitors could not afford the sport, threatening the continued operation of many ski areas, and

Whereas, this issue has been recognized by other states, primarily in the western United States, where skiing is an important part of their winter tourism industry, through the enactment of appropriate liability laws, and

Whereas, if the inherent risk of skiing is not recognized and controlled in the state of Alaska, the state will remain non-competitive in its efforts to attract winter visitors who would utilize established ski resorts and winter recreational areas,

Now Therefore Be It Resolved, that the Anchorage Convention and Visitors Bureau Board of Directors, on behalf of its more than 900 members, unanimously supports the passage of Senate Bill 44 and House Bill 41.

Adopted by the Anchorage Convention & Visitors Bureau
Board of Directors March 26, 1992

Larry G. Anderson
Chairman
Anchorage Convention & Visitors Bureau

Anchorage!
Convention & Visitors
Bureau

*Our Community's Way
of Attracting and
Serving Visitors*

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*Anchorage International
Airport*
MAX LUWE
Regent Alaska Hotel
BILL MACKAY
Alaska Airlines
SUZANNE SLOAN-RUST
Rust's Flying Service, Inc.





ANCHORAGE
ECONOMIC
DEVELOPMENT
CORPORATION

January 18, 1992

Honorable Tim Kelly
111 Capitol
PO Box V
Juneau, AK 99811

Dear Senator Kelly:

The Anchorage Economic Development Corp. (AEDC) supports SB44, Civil Liability for Skiing Accidents.

As you know, the AEDC's mission is to stimulate economic development. One industry we focus on because of its tremendous potential is tourism. We have fully supported Seibu Alaska's Alyeska Resort expansion and support development of the Glacier/Winner Creek areas as well.

Alaska's ski resort success will depend on how effectively we compete with other developable areas in the northwest United States and Canada. Passing SB44 is critical to Alaska's winter tourism because it will put Alaska on equal footing with its competitors on the issue of skier liability.

Because this bill will so greatly benefit an industry still in its infancy in Alaska, and will only harm a small sector of the economy (trial lawyers) in Alaska, the AEDC fully supports passing SB44.

Sincerely,

Scott E. Hawkins
President

*Alaska Ski Areas Association*

7015 ABBOTT ROAD
ANCHORAGE, ALASKA 99516
(907) 346-1446

Alaska State Senate
Senate Labor & Commerce
Juneau, Alaska
Attention: Tim Kelly, Chair

1-20-93

Dear Mr Kelly:

I was at Tuesdays public hearing but did not get a chance to testify so I am writing in support of SB 44. I am the Chairman of the Alaska Ski Areas Association and also the General Manager of Hilltop Ski Area here in Anchorage.

There are 13 downhill ski areas in Alaska: Cleary Summit, Ski Land, Ravenwood and Birch Hill all near Fairbanks. Black Rapids near Delta Junction. Hilltop, Hillberg, Arctic Valley and Alpenglow in Anchorage. Alyeska Resort in Girdwood. The Coast Guard Hill in Kodiak. Mt. Zyak in Cordova, and Eaglecrest near Juneau. In addition there are numerous organizations that prepare and operate Nordic trails: Chena Hot Springs Resort, Hatchers Pass Lodge and Anchorage Nordic Ski Club just to name a few.

There are many inherent risks in any sport. Skiing is no exception. Ski area operators sell access to a winter alpine or nordic environment not to a perfectly groomed danger free slope. This environment includes all manner of risks: weather, slopes, forest growth, snow conditions as well as some man made obstacles. All skiers should recognize that ski area operators and track setters can not modify even a small portion of this environment. There is no way to make skiing absolutely "safe". Individual skiers must bear some of the responsibility for their participation in the sport.

Since 1980 Alaska has had a statute relieving ski area operators of liability for injuries or property damage which arise from the inherent risks of skiing. The purpose of this statute was to recognize that a ski area operator could not eliminate these risks, and to ensure that a ski areas could obtain insurance and continue to provide skiers the opportunity to enjoy their favorite winter outdoor recreation. An effective law will continue to be important in providing the legal climate necessary to further development of winter tourism facilities in Alaska.

In December of 1991 the Alaska Supreme Court interpreted the statute as not preventing suits by injured skiers. Claiming an operator had failed to make the slopes "safe" for patrons. This ruling defeats the purpose of the statute and leaves operators and skiers in substantial danger that Alaska ski areas will not be able to obtain insurance at reasonable rates. Assuming that a ski area can still operate, ticket prices will have to increase substantially in order to cover the increased insurance premiums.

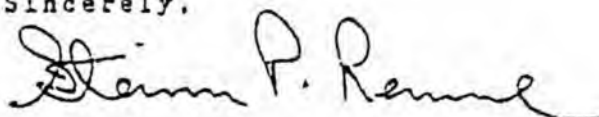
As a result of that Supreme Court decision the City of Valdez can no longer offer it's residents the recreation of downhill skiing. If this legislation does not pass perhaps other ski areas around the state will fall under the load of escalating premiums and frivolous law suits.

There is a segment of the community that believes that this legislation is proceeding only to protect a multinational corporation (Seibu) from liability. Most of the ski areas within the state are very small and most are products of the communities that they are located in. This legislation will affect all of them not just one of them and in most cases if insurance premiums rise as a result of poor legislative protection it will become cost prohibitive to operate. The ski areas are not trying to hide from their responsibilities to provide safety for the skiing public because we recognize that if we fail to do that soon we will be out of business.

Alaska has a lot to be proud of. Last year an Alaskan skier by the name of Hilary Lindh came home from the Olympics with a Silver Medal. If we fail to support this legislation where will the Hilary Lindh's of the future get a chance to practice and excel in this sport?

I urge you to please support this legislation!!

Sincerely,



Steven P. Renne
ASAA Chairman



ALASKA VISITORS ASSOCIATION

501 West Northern Lights, Suite 201 • Anchorage, Alaska 99503

Tel: (907) 276-6663 • Fax: (907) 258-4036

1991-92

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- Tim Warden
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Executive Director

1992-93

RESOLUTION IN SUPPORT OF INHERENT RISKS OF SKIING LEGISLATION

WHEREAS, the sport of skiing is practiced by a large number of Alaskans and attracts visitors to the state who provide significant contributions to the state economy through the construction and operation of skiing facilities, and

WHEREAS, skiing is a critical element of efforts to increase fall/winter/spring visitation, and

WHEREAS, skiing is an exhilarating sport, the enjoyment of which includes several components: exercise, enjoyment of the outdoors, physical and mental challenges, and the excitement of taking risk, and

WHEREAS, skiing is conducted in an environment that includes natural variations of terrain, weather, and snow conditions and necessary man-made amenities created and maintained by ski area operators, and

WHEREAS, the sport of skiing is accompanied by inherent risks of accident and injury, and

WHEREAS, the Alaska Legislature in 1980 recognized these inherent risks and the individual skiers responsibility to assume them by enacting AS 09.65.135, "Limitations on Claims Arising From Skiing," and

WHEREAS, the Alaska Supreme Court, in *Hübbschman vs. City of Valdez et al.*, rendered an opinion that undermines the intent and effectiveness of the act, and

WHEREAS, the cost of insurance and defense from suits involving the inherent risks of skiing are certain to rise dramatically as a result of the ruling, causing increases in ticket prices and threatening the continued operation of some areas, and

WHEREAS, legislation has been introduced to clarify provisions of the act and restore its effectiveness,

NOW THEREFORE BE IT RESOLVED, that the Alaska Visitors Association Board of Directors, on behalf of the membership and tourism industry party represents, endorses adoption of revision to AS 09.65.135, "Limitations on Claims Arising From Skiing," and will join public and private organizations seeking passage of Senate Bill 403 and House Bill 491.

Adopted by the Alaska Visitors Association
Board of Directors
February 21, 1992
Nenana, Alaska

Post-It

To
C

11-11-92



Alaska Hotel & Motel Association

PO BOX 102900 • ANCHORAGE, ALASKA 99510 • (907) 244-1778

January 19, 1993

Subject: SB-44, Civil Liability for Skiing Accidents

The Alaska Hotel and Motel Association supports SB-44 as written. The Alaska Hotel and Motel Association believes that many individual sports, including skiing, have inherent dangers which vary depending upon the individual participants judgement and skills. It would be impossible for a ski area operator to fully guarantee the total safety of every individual skier in every circumstance because of the natural varying inherent dangers of the sport.

The Alaska Hotel and Motel Association believes that ski area operators in the State of Alaska should be permitted to compete fairly with other ski areas throughout the USA and the world. To handicap Alaskan ski area operators through unfair or unnecessary legislation, will only serve to reduce the number of skiers who choose to ski in Alaska. This would certainly have a negative effect on the many supporting businesses of the ski industry, such as hotels and lodges, restaurants, transportation etc...

Max J. Lowe, CHA
Past Chairman
Alaska Hotel and Motel Association

SENT BY: ANCHORAGE HILTON HOTEL: 1-19-93 112:08PM

9072657175-

111



Alaska Hotel & Motel Association

P.O. BOX 104860 • ANCHORAGE, ALASKA 99510 • (907) 344-7778

January 13, 1993

Senator Tim Kelly
State Capitol
Room 101
Juneau, AK 99801-1182

Dear Senator Kelly:

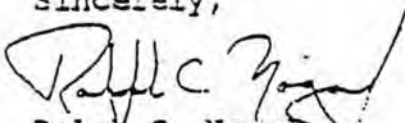
As President of the Alaska Hotel Motel Association, I would like to clarify our position as being POSITIVE in regards to Senate Bill #44 pertaining to civil liability for skiing accidents.

This bill will definitely increase economic development in tourism in our State because it will put our skier liability laws on equal footing with the laws in other Western ski areas in the United States. We will then be able to compete with these States and Canada. Even our own hotel, the Anchorage Hilton, of which I am the General Manager, will benefit because guests will come to ski Alyeska and possibly stay at our property, or any one of the other properties in the downtown area, on their way to or from Alyeska.

On behalf of all our membership, we firmly believe this bill should definitely be passed as quickly as possible to assist Alyeska.

Thank you for your assistance.

Sincerely,


Ralph C. Nogai

RCN/eh

Post-It™ brand fax transmittal memo 7671 # of pages > 1
From DAVID WARD

JAN 19 1992 11:32 DAYS INN

P.1.1



Plaza Inn Hotels, Inc. d/b/a Days Inn - Anchorage
121 East Fifth Avenue
Anchorage, Alaska 99501-2654
(907) 278-7226
Fax (907) 278-6041

January 18, 1992

Senator Tim Kelly
Capitol Building
Juneau, AK 99801

Dear Senator Kelly:

RE: SB44

Unfortunately due to prior commitments I will be unable to attend the hearing on the Skier liability law. In lieu of not attending I would like to advise you of my concerns on this law.

As an avid skier and frequent user of the ski trails not only at Alyeska, but Alpenglow and Hilltop, I recommend that Alaska's skier liability law be brought into conformance with laws in other western states. Alaska can not afford to have laws more restrictive than it's competition. The potential for a world class resort, and the further development that it could bring, must be addressed at all levels. This development could be the start of winter tourism to rival other western states and Canada. Please Let's do what we can to remove any barricades to future development.

Thank You.

Dennis J. Lavey
Managing Partner

copy to
Senator Kelly, Alaska

2552 Susitna Drive
Anchorage, AK 99517
January 19, 1990

Senator Drew Pearce
Alaska State Capitol
Juneau, AK 99901-1182

Dear Senator Pearce.

After several hours attendance of today's teleconference with your committee concerning SR 44, I was quite disappointed that I and many others listening were unable to testify in favor of this bill. As a twenty-four year resident and skier, there are several reasons I favor this slightly improved status for Alaskan ski areas.

First there is the important factor of the inherent risk involved in downhill skiing. Any responsible athlete will readily admit that the nature of downhill skiing involves the chance of injury just as any sport does which uses physical skill, proper equipment and movement. Fortunately I have never been injured in my twenty-four years of skiing at Mt. Alyeska. In my husband's thirty years of skiing in the Anchorage area, he has had two injuries, neither of which were in any way caused by negligence of the local ski area. The key here is that we consider ourselves responsible skiers who always consider our own and others safety through proper physical conditioning, proper working equipment and through continual adherence to safety rules published by our ski area. We feel skiing is as safe as any other sport our two daughters have participated in and we are proud to say that they have enjoyed skiing as a safe and fun sport since they were three years old. Now as teenagers, they are presently attending downhill races at another fine Alaskan resort, Eaglecrest.

Obviously, my husband and I have watched Mt. Alyeska grow over the years to what we now consider a world class resort. Throughout these years, Alyeska Resort has consistently shown a successful effort to maintain an area for safe, public exercise. In our travels to other major ski areas in the lower 48, we have been able to compare our home resort and have found that Alyeska Resort is every bit as safety conscious as any other resort. I strongly feel that Alaska law should be no more restrictive than in other states which have ski areas.

In conclusion on the safety issue, I'd like to emphasize that I feel that downhill skiing is a wonderful sport which I've always felt was more than safe enough for my daughters'

participation. We are a responsible skiing family who is proud to claim Mt. Alyeska as our world-class ski resort.

My second major concern is about the promotion of successful business and tourism in our state. As a proud Alaskan I always try to promote our wonderful state as the greatest place to live, work and visit. Allowing unnecessary restrictions which would discourage future business development and which would hurt our major tourism income is unacceptable by our lawmakers. Therefore it appears that SR44 allows the safe and proper management of Alaska ski areas which will encourage future development, jobs and increased tourism. Please do not let the one tragic death of the boy in 1991 influence you and other lawmakers to make undue restrictions on our ski resorts. I have personally seen Siabu develop Mt. Alyeska into a safe, successful business, adding many jobs and increasing state tourism, and therefore I am in favor of SR44.

Finally, I am also appalled as a taxpayer and voter, that our lawmakers would allow an increase of jury trials to determine responsibility of risk at our ski areas. I do not want to continue to pay the rising fees of litigation when I feel that once I get off the lift I am responsible for my own actions while skiing down the slope. By allowing unnecessary and costly legal fees, all voters and taxpayers will become increasingly angered. Apparently SR44 would disallow reckless skiers their ridiculous claims.

As your constituent and supporter over the years, Senator Pearce, I really appreciate you taking time to read what has become an over-long statement in favor of SR44.

Sincerely,


Leslie H. Randall

copy to Senator Kelly, committee chairperson



UNITED BROTHERHOOD OF
Carpenters and Joiners of America

LOCAL UNION NO. 1281

407 DENALI

PHONE 276-3533

ANCHORAGE, ALASKA 99501
FAX: 275-7962



January 18, 1993

Dear Alaska Legislator:

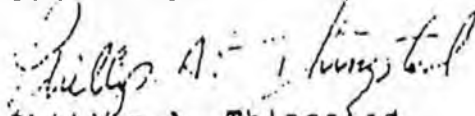
This is a statement of support for SB 44, as submitted by Sen. Kelly

If Alaska is to grow and prosper in the clean, ecologically sound and renewable area of Tourism this bill should be supported.

The bill would put Alaska on even footing with the rest of the western United States. That, coupled with our natural beauty and long winters, should give Alaska a leg up for future economic development.

The only people that I can imagine not supporting SB 44 would be those people not willing to take responsibility for their own actions or lawyers looking for a little action.

Sincerely,


Phillip A. Thingstad
Business Manager
Carpenters Local 1281

PAT/we



Westmark
HOTELS
 ALASKA/YUKON

January 19, 1993

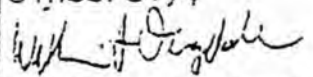
Senator Tim Kelly
Alaska State Legislature
Juneau, AK 99801

Dear Senator Kelly:

Please accept this letter as Westmark Hotels support of Bill
SA 44 pertaining to civil liability for skiing accidents.

This bill will increase the economic development of tourism
in our state during the Winter months and bring our state
skiers liability laws on equal footing with those laws in
other Western States.

Sincerely,



William J. Dugdale
General Manager
WESTMARK ANCHORAGE HOTEL

Municipality of Anchorage



P.O. JX 196650
ANCHORAGE, ALASKA 99519-6650

TOM FINK
MAYOR

DEPARTMENT OF CULTURAL AND RECREATIONAL SERVICES

March 1, 1993

Senator Robin Taylor, Chair
Senate Judiciary Committee
Room 30
Juneau, Alaska 99801-1182

RE: CSSB44 & CSHB41 - Civil Liability for Skiing Accidents "Alaska
Ski Safety Act of 1993"

Dear Senator Taylor:

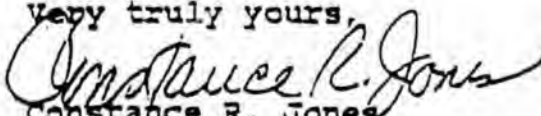
After careful review of both of the above pieces of legislation, our department supports passage of CSSB44 entitled the "Alaska Ski Safety Act of 1993".

Most of our primary concerns have been satisfactorily addressed, however, we would like to see Sec. 05.45.040 expanded to contain an exclusion for single rope tow operations with less than a 500' vertical drop as it pertains to providing ski patrols and meeting the standards of the National Ski Patrol System, Inc. and a reduced signage requirement. These requirements could be onerous for small, single rope tow operations. The same result may be achieved through alternate provisions of the ski area operators annual plan through the use of local paramedics, first-aid givers and the effective use of signage.

CSHB41 does not allow property owner input on the annual plan which we feel should be included. The House's substitute adds to Sec. 05.45.070 a new sub-section (d) describing requirements for policies covering reckless skiers, definitions, and procedures for correction. This shifts the enforcement of reckless skiing disciplines to the ski patrol. Our position is the enforcement should be with the ski area operators and their designated personnel, which may or may not be ski patrol.

We support your efforts in limiting ski area liability and recreation tort reforms.

Very truly yours,


Constance R. Jones
Director

cc: Anne Williams

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

January 28, 1993

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

The Honorable Robin Taylor, Chair
Senate Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Subject: CSSB 44

Dear Senator Taylor:

The department supports this bill as amended in CSSB(L&C). The bill is necessary to protect both the owner and operators of ski areas from civil liability claims from accidents and the operation of ski areas where these accidents are the result of actions or activities that are part of the inherent risks of skiing. The CS contains minor changes such as adding language under AS 05.45.100 (h) that allows the commissioner to designate employees of the department to enforce provisions of this section. The CS clarifies the definition of ski area operator to include the owners and the operators of ski areas.

This bill is similar to existing laws in many other states that protect ski area operators from civil liability claims resulting from accidents not caused by negligence on the part of the operator but the result of the inherent risks of skiing. This bill supports the ski industry and protects ski area owners and operators from potential liability lawsuits for accidents which are inherent in the sport. Skiing involves changing conditions and terrain due to natural conditions beyond the control of the ski operator, for which the operator should not be held liable in civil court. The intent is to support the skiing industry in the state from potential claims that could cause ski operators to close their business because of numerous and/or expensive liability suits against them.

This bill will also protect the state as an owner of the ski area and the ski operator. This is important because of the pending state acquisition of the ski area in Girdwood and proposed ski areas in Hatcher Pass. The department does not anticipate the expenditure of additional funds. A staff person will be dedicated to working on ski areas in Southcentral Alaska and will be funded by payments made to the state by ski area lessees. The enforcement actions authorized under the bill will be accomplished by the staff person that monitors the leases.

Cordially,



Glenn A. Olds
Commissioner

cc: Ron Swanson, Director, DOL
Janet Burleson, DOL