

1187

SSA

SB 395

-

SB 470

1187

Corps asks priority for Alaska

Times Washington Bureau

Washington — The U.S. Army Corps of Engineers asked Congress today to give high priority to the potential for further development of hydroelectric resources in Alaska.

In testimony before a House subcommittee, Brig. Gen. Richard M. Wells, a division engineer, placed special emphasis on the Bradley Lake project, near the western end of the Kenai Peninsula, for which

\$1,315,000 is sought in fiscal year 1981.

Power from the project, which is still in pre-construction planning, would serve Anchorage and the Kenai Peninsula.

Wells also sought funds to continue studies on the feasibility of small hydropower facilities throughout Alaska, flood control projects and navigation improvements at several harbors in Alaska.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

5/2/80

Senator Mulcahy:

Keith Specking tried to reach you yesterday to ask you to consider scheduling SB 395, liability for flood control, for hearing by the State Affairs Committee. Keith is away from the office today but is planning to return Monday.

I've attached a copy of Governor Hammond's transmittal letter which explains the need for the bill. Thank you for your consideration.

Rebecca Engen

February 6, 1980

53
395

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill repealing AS 44.80.020 - 44.80.050, relating to state liability for flood control and similar projects.

The statutes to be repealed now require the state to assume liability for damages resulting from the construction of federal flood control, river, channel, or harbor projects. These statutes were originally passed by the Territorial Legislature in 1940. No legislative history has been found, but it appears that the statutes were enacted in response to the federal Flood Control Act of 1936, 33 USC 701, et seq., which requires a state or political subdivision of a state to assume the federal government's liability for damages resulting from Corps of Engineer flood control projects.

There has been no judicial interpretation of the main liability statute, AS 44.80.020. Of special concern is the sentence "The liability of a private person is the measure of liability of the state for these damages." This creates the possibility of alternative measures or standards of state liability; the statute may have been intended to assume only the liability of the federal government for damages occurring as the result of a project. Alternatively, the statute could be construed to

encompass strict liability for all damages as if the project had been constructed by a private, profit-motivated entity rather than by a governmental entity acting in the broad interests of the public. If the second alternative were to be accepted by a court, the state could incur enormous liability upon construction of flood control projects.

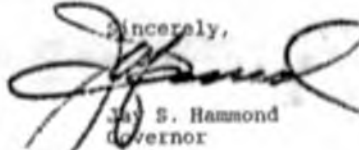
Flood control projects have as their main purpose, protection of public and private property in the vicinity of local municipalities. It is the local municipalities within known flood plains which generally request federal Corps assistance in flood control projects to protect local property values.

SB
395

A main criteria for seeking federal assistance should be a balancing of benefits against expenses incurred. Federally financed construction removes the cost of development as a concern to the local municipality involved. The present state statutes, AS 44.80.020 - 44.80.050 place on the shoulders of the state taxpayer the attendant property damage consequences of any local project. The result is that local municipalities need not consider the costs, only the benefits, and thus can be expected to seek local improvements in situations where costs to the statewide citizenry may far out-balance the local benefit to be derived from those projects.

Repeal of AS 44.80.020 - 44.80.050 will more equitably align local benefits with the attendant local costs and will assure that wise economic considerations be the predicate for local federal flood control projects and that the state will not be forced to incur multi-million dollar damage expenses whenever local municipalities obtain federal flood control assistance. Of course, there may well be occasions when flood control projects are necessary for the protection of life and property but, because of high costs, state assistance to the local municipality will be necessary. Under such circumstances, special state aid legislation, tailored to the special circumstances of each situation, can be considered, or the present AS 35.05.040(7), authorizing the Department of Transportation and Public Facilities to contract with the federal government on public works projects, could perhaps be employed to assume an appropriate level of state liability.

Sincerely,



Jay S. Hammond
Governor

SB SENATE BILL NO. 396 by the Rules Committee by request
396 of the Governor, entitled:

"An Act making supplemental appropriations to the Department of Health and Social Services, Division of Corrections; and providing for an effective date."

was read the first time and referred to the Finance Committee.

Article 2. Federal Construction of Flood Control Projects.

Section	Section
20. Liability for damages	40. Payment of awards or judgments
30. Hearing and determination of claims for damages	50. Policy

Sec. 44.80.020. Liability for damages. The state assumes liability for damages arising out of the construction by the federal government of a flood control, river, channel or harbor project. The liability of a private person is the measure of liability of the state for these damages. The submission to and rejection by the Department of Administration of a claim is a condition precedent to the maintenance of suit against the state for the recovery of these damages. (§ 2 ch 110 SLA 1949)

Revisor's note. — The last sentence of this section as enacted read: "Provided further, that the submission to any rejection by the Territorial Board shall be a condition precedent." "Any" is assumed to be a typographical error and is changed to "and".
Am. Jur. reference. — 45 Am. Jur., States, Territories and Dependencies, §§ 72 to 79

Sec. 44.80.030. Hearing and determination of claims for damages. The Department of Administration may hear and determine claims for damages arising under § 20 of this chapter and may award fair and just compensation. The department may adopt procedure consistent with law for hearing and determining claims. (§ 3 ch 110 SLA 1949)

§ 44.80.040

ALASKA STATUTES

§ 44.80.070

Sec. 44.80.040. Payment of awards or judgments. The payment of an award or judgment made under §§ 20 — 50 of this chapter shall be made from an appropriation for that purpose. (§ 4 ch 110 SLA 1949)

Sec. 44.80.050. Policy. It is the policy of the state to cooperate with the federal government in protecting the lives and property of the residents of the state by flood control and river and harbor improvements undertaken by an agency of the federal government and to save the federal government free from liability for damages arising from the construction of a flood control or river or harbor improvement. (§ 1 ch 110 SLA 1949)

February 6, 1980

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill repealing AS 44.80.020 - 44.80.050, relating to state liability for flood control and similar projects.

The statutes to be repealed now require the state to assume liability for damages resulting from the construction of federal flood control, river, channel, or harbor projects. These statutes were originally passed by the Territorial Legislature in 1949. No legislative history has been found, but it appears that the statutes were enacted in response to the federal Flood Control Act of 1936, 33 USC 701, et seq., which requires a state or political subdivision of a state to assume the federal government's liability for damages resulting from Corps of Engineer flood control project

There has been no judicial interpretation of the main liability statute, AS 44.80.020. Of special concern is the sentence "The liability of a private person is the measure of liability of the state for these damages." This creates the possibility of alternative measures or standards of state liability: the statute may have been intended to assume only the liability of the federal government for damages occurring as the result of a project. Alternatively, the statute could be construed to

encompass strict liability for all damages as if the project had been constructed by a private, profit-motivated entity rather than by a governmental entity acting in the broad interests of the public. If the second alternative were to be accepted by a court, the state could incur enormous liability upon construction of flood control projects.

Flood control projects have as their main purpose, protection of public and private property in the vicinity of local municipalities. It is the local municipalities within known flood plains which generally request federal Corps assistance in flood control projects to protect local property values. A main criteria for seeking federal assistance should be a balancing of benefits against expenses incurred. Federally financed construction removes the cost of development as a concern to the local municipality involved. The present state statutes, AS 44.80.020 - 44.80.050 place on the shoulders of the state taxpayer the attendant property damage consequences of any local project. The result is that local municipalities need not consider the costs, only the benefits, and thus can be expected to seek local improvements in situations where costs to the statewide citizenry may far out-balance the local benefit to be derived from those projects.

Repeal of AS 44.80.020 - 44.80.050 will more equitably align local benefits with the attendant local costs and will assure that wise economic considerations be the predicate for local federal flood control projects and that the state will not be forced to incur multi-million dollar damage expenses whenever local municipalities obtain federal flood control assistance. Of course, there may well be occasions when flood control projects are necessary for the protection of life and property but, because of high costs, state assistance to the local municipality will be necessary. Under such circumstances, special state aid legislation, tailored to the special circumstances of each situation, can be considered, or the present AS 35.05.040(7), authorizing the Department of Transportation and Public Facilities to contract with the federal government on public

works projects, could perhaps be employed to assume
an appropriate level of state liability.

Sincerely,

Jay S. Hammond
Governor

Whereas, Senate Bill No. 395 has been introduced to repeal AS 44.80.020 to AS 44.80.050, an act relating to flood control project damages; and

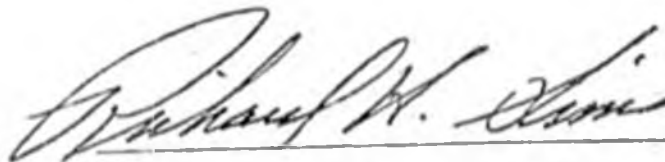
Whereas, the existing legislation provides automatic liability on behalf of the State for any flood control project; and

Whereas, under existing legislation that measure of liability is that of a private party rather than that of the sovereign; and

Whereas, each individual federally funded flood control project requires an acceptance of only federal liability by the State or municipality upon completion.

Therefore be it resolved, that the Alaska State Water Resources Board strongly recommends passage of Senate Bill 395.

Date this 14 th day of March, 1980



Richard H. Sims, Chairman



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

SB 395 - An Act relating to flood control project damages.

BY: Rules by request of the Governor

This bill repeals Article 2 (Federal Construction of Flood Control Projects) of AS 44.80 (State Government, Liability of the State). This article makes the State liable for damages arising out of construction, by the federal government, of a flood control, river channel or harbor project. The article also provides for hearing and determination of claims for damages, payment of awards or judgements, and state policy with regard to federal flood control and river and harbor improvements.

Generally, flood control projects are requested by municipalities and constructed by the federal government. The State often has no participation whatever. Yet under the present statutes the State is automatically held liable for any damages resulting from such projects. It is the position of the Governor and the Department of Administration, Division of Risk Management, that the State should not be in a position to assume liability when there is no State participation or control.

Please see Governor's letter of transmittal.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 395
 Title Repeal of 44.80.020 - 44.80.050
 Requested by Governor Date 11/14/79

II. FISCAL DETAIL

Agency Affected Administration
 Program Category Affected Administrative Services to State Agencies
 BRU, Program, or Subprogram(s) Affected Risk Management
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	0	*	*	*	*
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND			*	*	*	*
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The repeal of 44.80.020-44.80.050 is recommended due to tremendous potential liability, however, there have not been any claims to date under the provisions of this statute. There is presently no justification for maintaining this statute as it is not necessary to comply with Federal requirements for financing of flood control projects. The Corps of Engineers contracts with the local or State jurisdiction and agrees to assume the federal government's liability from damage due to the construction works. This is standard procedure and involve a consideration of the cost and benefits of various flood control alternatives. The State is not necessarily involved at all and should not be in a position to assume liability when there is not State participation or control.

IV. DATE 11/15/79 PREPARED BY [Signature]
 AGENCY Administration-Risk Management
 PHONE 165-2180
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

* Under the broad provision of this statute losses could arise out of the following sources: flooding of property, eminent domain and inverse condemnation, (increased cost of flood insurance and transportation; reduction in property values or commercial navigation, rerouting of common carriers; curtailment of industrial or governmental expansion, and other economic losses directly or indirectly related to a flood control project.)

Extensive review has been made of the State's liability insurance policies and there appears to be limited coverage under the policy. For this reason, it is vital that the State be in a position to review each project on its own merits and determine what the cost and benefits are in relation to the risk. This can only be accomplished through repeal of 44.80.020-44.80.050.

0 L H

S B

Rep Randall
See Letters
(Dyer-Kush-Pond)
783-2222
Chris Vandenberg

~~KNOWS~~
333-2532
Arch. 09504
3413 Westway Ave
Scho D. M. Grew

NOTIFY WHEN SCHEDULED:

LEG: INHERENT RISKS OF SKIING

in addition to
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1 p.m. Thursday
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MANAGER

Alaska RESORT



P.O. BOX 249

GIRDWOOD, ALASKA 99587

April 26, 1980

Dear Senator:

Your help is needed to pass an important piece of legislation for the ski industry - S.B. 470.

In operating a ski area, we have a tremendous responsibility to provide safe uphill transportation and maintained slopes. We are regulated by very specific state and federal safety codes, and we have annual inspections by our insurance company; and state; and the U. S. Forest Service to insure we are in complete compliance with all regulations. We perform extensive avalanche control work at great expense to the area to insure the safety of the slopes. In addition, we provide well-trained personnel and directional signs for skiers.

At the same time we feel there has to be a certain assumption of risk by the skier and that the skier must be aware that there is an inherent risk in this sport, as in other sports and daily activities, that are beyond the control of ski area operations. We need protection from ambulance chasers trying to make a fast buck off the ski area. In the end this will increase the cost of the sport for everyone.

S.B. 470 which is now being reworded slightly is short and to the point. Longer versions have been passed by other states but these have gone into details that are already included in the National Tramway Safety Code. Similar legislation was introduced several years ago but did not get out of committee before the legislature adjourned. This year, we hope we will be able to get something signed into law this session.

The various other organizations involved in the sport of skiing that support this type of legislation 100 percent are the United States Ski Association - Alaska Division, National Ski Patrol System, National Ski Areas Association, U. S. Forest Service, and my fellow ski area operators in the State of Alaska. The sport of skiing is

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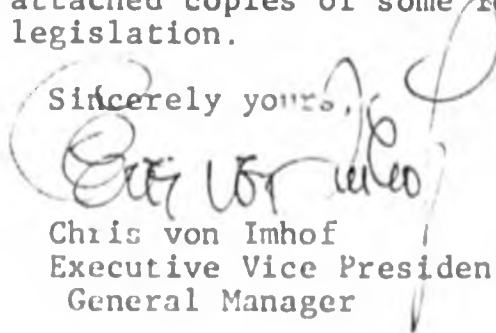


S. B. 470
April 26, 1980
Page 2

very popular in the State and creates a good tax base and a substantial amount of employment.

When this bill comes to the floor of the Senate, I would very much appreciate your strong support. Please feel free to contact me for more information. I have attached copies of some letters of support I have received for such legislation.

Sincerely yours,



Chris von Imhof
Executive Vice President and
General Manager

CVI/bbp
Attachments 4



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

April 22, 1980

Alaska State Legislator
Juneau, Alaska

Dear Alaska State Legislator:

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

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

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

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

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

Sincerely,

Sam Hayes

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

SH/mg

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P.O. Box 1628, Juneau, Alaska 99802



The USDA Forest Service, Alaska Region concurs with the Legislature of the State of Alaska that the sport of skiing is practiced by a growing number of state residents and non-residents which contributes significantly to the economy of the state. We also agree that insurance carriers are reluctant to provide liability insurance to ski area operators and that the cost of insurance has increased sharply in recent years due to the problem concerning the skiers' risks inherent in the sport of skiing. We feel the skier must assume a high degree of personal responsibility for his or her own safety and the safety of others. It must be appreciated that not all hazardous conditions can be anticipated or eliminated by ski area operators.

Skiing is a recreational activity that poses varying degrees of hazard to the participant. The rugged mountain environment poses dangers of inclement weather, natural obstacles, and precipitous terrain. Degree of hazard varies with the skier's own skill and judgment, as well as snow conditions, terrain, and visibility. Clearly, state law is needed to define the liability and risk that the skier assumes when participating in the sport. Therefore, the USDA Forest Service, Alaska Region, concurs that there exists a definite liability problem between skiers and ski area operators. However, we also feel that in addition defining skiers inherent risks, the ski area operators responsibility and liability to the skier concerning safety on the ski slopes should be identified.

In conclusion, the USDA Forest Service, Region 10 - Alaska Region, clearly recognizes that state law is needed and would be valuable in defining responsibilities and risks of skiers using ski areas, and in defining the legal responsibilities of ski area operators and their employees. The law needs to clearly define the rights and liabilities existing between the skier and the ski area operator, and between skiers.

Statement of Tom S. Miller/Snow Ranger, U.S. Forest Service, Alaska Region, for presentation before the State Legislature on April 22, 1980 concerning HB 860 and SB 470.

April 22, 1980

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

Sincerely,

Martin Sherman

Martin Sherman
Patrol Leader
Bourdough Ski Patrol

To; Senate State Affairs and House Judiciary Committees

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

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

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

Duane C. Luedke

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

Alaska

RESORT

Chitina, Alaska



Nancy Simmerman photo

1980 Ski Trail Map

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● 札幌
● 函館
● 仙台
● 東京 (〒103)

MR. CHAIRMEN, AND MEMBES OF THE SENATE STATE AFFAIRS AND FINANCE COMMITTES: MY NAME IS BOB JANES, AND I AM TESTIFYING TODAY ON BEHALF OF THE NATIONAL SKI PATROL SYSTEM IN ALASKA, IN SUPPORT OF SENATE BILL NO. 470.

25470
6 copies

THE ALASKA DIVISION OF THE NATIONAL SKI PATROL SYSTEM (NSPS) IS AN ORGANIZATION WITH MORE THAN 300 VOLUNTEER SKI PATROLLERS, IN 13 DIFFERENT PATROLS THROUGHOUT THE STATE. WE HAVE TWO BASIC MISSIONS:

(1) TO PROVIDE EMERGENCY CARE AND RESCUE TO SKIERS INJURED IN THE SPORT, OR CAUGHT IN SNOW AVALANCHES; AND (2) TO EDUCATE SKIERS IN THE PREVENTION OF SKI RELATED ACCIDENTS.

WE AGREE WITH THE CONCEPT OF S.B. NO. 470 WHICH ADDRESSES THE RISKS INHERENT IN THE SPORT OF SKIING. SKI AREA OPERATOR'S IN THE STATE DEFINITELY NEED PROTECTION FROM UNJUSTIFIED LIABILITY INSURANCE CLAIMS ASSOCIATED WITH THE NATURAL RISKS OF THE SPORT. AT THE SAME TIME, WE ARE CONCERNED THAT SKIERS MUST ALSO BE ADEQUATELY PROTECTED AGAINST ANY FORM OF NEGLIGENCE CAUSED BY SKI AREA OPERATORS.

WE BELIEVE WITH A FEW MODIFICATIONS, THE PROPOSED STATUTE CAN ACHIEVE EQUITABLE PROTECTION FOR BOTH SKI AREA OPERATORS AND THE USING PUBLIC.

SUGGESTED REVISIONS TO SEC. 09.10.320 ARE:

1. (C). EXPAND ON SNOW OR ICE CONDITIONS TO CLARIFY THAT VARIATIONS MAY OCCUR BECAUSE OF WEATHER FACTORS AND/OR HILL GROOMING PRACTICES.
2. (D). ELIMINATE THE WORD "STUMPS". THESE ARE PROBABLY MAN-INDUCED OBSTACLES THAT SHOULD BE EITHER ELIMINATED, REDUCED, OR MARKED AS HAZARDS BY THE SKI AREA OPERATOR.

(MORE)

Testimony presented by Bob Janes, Regional Director, Alaska Division, National Ski Patrol System, Inc.

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

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

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

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

.....

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Alaska RESORT



P.O. BOX 249

GIRDWOOD, ALASKA 99587

March 16, 1980

Senator Bob Mulcahy
Chairman, State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Your help is needed to pass an important piece of legislation for the ski industry - S.B. 470 (attached). I have outlined the problem faced by the ski industry in a letter dated January 27 (attached) to Senator Mike Colletta and Representatives Joyce Munson and Ray Metcalf who represent our district. Also, for your information I have attached copies of similar legislation passed by the states of Washington, Oregon, Utah, and Colorado.

In operating a ski area, we have a tremendous responsibility to provide safe uphill transportation and maintained slopes. We are regulated by very specific state and federal safety codes, and we have annual inspections by our insurance company; the State; and the U. S. Forest Service to insure we are in complete compliance with all regulations. We perform extensive avalanche control work at great expense to the area to insure the safety of the slopes. In addition we provide well-trained personnel and directional signs for skiers.

At the same time we feel there has to be a certain assumption of risk by the skier and that the skier must be aware that there is an inherent risk in this sport, as in other sports and daily activities, that are beyond the control of ski area operators. We need protection from ambulance chasers trying to make a fast buck off the ski area. In the end this will increase the cost of the sport for everyone.

The attached draft bill is short and to the point. Longer versions have been passed by other states but these have gone into details that are already included in the National Tramway Safety Code. Similar legislation had been introduced several years ago but did not get out of committee before the legislature adjourned. This year I hope will be different and that we can get something on the books. If at all possible could you please schedule this particular bill on your calendar for a committee hearing. Please feel free to contact me for more information or if you would like me to testify.

ALASKA'S LARGEST YEAR-ROUND RESORT & SKI FACILITY

(907) 783-2222

Recd
3-21-80



Senator Bob Mulcahy

-2-

March 16, 1980

The various other organizations involved in the sport of skiing that support this type of legislation 100 percent are the United States Ski Association - Alaska Division, National Ski Patrol System, National Ski Areas Association, U. S. Forest Service, and my fellow ski area operators in the State of Alaska. The sport of skiing is very popular in the State and creates a good tax base and a substantial amount of employment.

We would appreciate your strong support in passing this legislation out of your committee so it can come up before the Senate.

Sincerely yours,
A handwritten signature in cursive script that reads "Chris von Imhof".

Chris von Imhof
Executive Vice President and
General Manager

CVI/bbp
Attachments

Copy to Tim Kelly
Brad Bradley
Patrick Rcdy
Robert Ziegler
Mike Colletta

Alaska State Legislature



SENATOR MIKE COLLETTA

SENATE MAJORITY LEADER

Senate

RECEIVED

FEB 27

February 21, 1980

Chris von Imhof
Vice President
Alyeska Resort
P. O. Box 249
Girdwood, Alaska 99587

Dear Chris,

Per your request, I have introduced Senate Bill 470, "An Act relating to the inherent risks of skiing", which is enclosed for your review. Also enclosed is House Bill 860 that was introduced in the House concurrently by Representative Joyce Munson.

Please note that SB 470 has been referred to the Senate State Affairs Committee and Finance Committee. I would suggest that you provide Senator Mulcahy and Senator Sackett, Chairmen of the respective committees, with any back up information and testimony you may have gathered. For your convenience, also enclosed is a Committee Assignment List.

House Bill 860 has been referred to the House Judiciary Committee, therefore, Representative Charles Parr should also receive information regarding this issue.

If you have any questions or comments regarding this or other legislative matters, please feel free to contact me.

Best wishes,

Mike Colletta

Mike Colletta
Senate Majority Leader

MC/ms

Enclosures

*P.S. Chris: SB 302
Avalanche will pass the
Senate within 10 days and
there is no problem with it on
the house side
Mike*

Alyeska RESORT



P.O. BOX 249

GIRDWOOD, ALASKA 99587

January 27, 1980

Senator Mike Colletta,
Representative Joyce Munson, and
Representative Ray Metcalfe
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mike, Joyce, and Ray:

I would like to review with you a problem faced by our ski area - rising liability insurance premiums.

Insurance premiums for ski areas nationwide have skyrocketed. Alyeska now pays nearly \$85,000 in liability premiums alone. The primary reason for increasing insurance rates is expensive settlements of nuisance claims against ski areas for injuries incurred by skiers through no fault of the area.

The ski industry is heavily regulated with regard to the safety of uphill transportation. All lifts must be built and operated according to the National Tramway Safety Code. Ours are no exception. We try to provide safe skiing by doing extensive avalanche control work, marking off unsafe areas, and placing signs to inform skiers of what to expect. Yet, we find ourselves more and more having to defend against claims by skiers who have collided with one another, hit ruts, skied out of control, or run into trees, etc. These types of accidents are impossible for the resort to control.

Many states have now put legislation on the books establishing a certain assumption of risk by the skier himself. I would like to ask your help in passing similar legislation for the State of Alaska.

Enclosed are copies of legislation enacted by Utah, Washington, Oregon, and Colorado. The Utah bill is the one I like best for our purposes. I wonder if I might impose on you to review these bills or have one of your assistants review them with the idea of drafting up a similar bill for Alaska. I can assure you that my colleagues at Arctic Valley and Eagle Crest would heartily concur. The United States Ski Association (USSA) and the National Ski Areas

ALASKA'S LARGEST YEAR ROUND RESORT & SKI FACILITY

1987 743 2222



Senator Mike Colletta,
Representative Joyce Munson, and
Representative Ray Metcalfe

-2-

January 27, 1980

Association and other ski-related organizations support such legislation. They realize that if ski areas do not get some type of protection, the cost of skiing will keep in step with rising insurance costs and soon the sport will be prohibitively expensive for most people.

I want to make it clear that we do not wish to avoid any responsibilities that are rightfully ours in running a safe skiing operation. But at the same time, it is essential that a definition of assumption of risk by skiers be put forth that will be upheld in nuisance claims.

Please let me know if you need any further information. One of our insurance brokers from Seattle and I would be willing to come to Juneau to meet with you and discuss details of the subject.

Best regards,

A handwritten signature in cursive script, appearing to read "Chris von Imhof".

Chris von Imhof
Vice President and General Manager

CVI/hbp
Attachments 4

RECEIVED

MAR 15

Pettit-Morry Co.

Insurance Brokers

P. O. Box C 19107, Seattle, Washington 98109
Telephone (206) 284-2700 • Cable Address PETCO SEATTLE
Office • 200 First Avenue West • Telex No. 32-0374

ALASKA SKI RESORT, INC.

March 13, 1980

Mr. Chris Von Imhoff
Vice President and General Manager
Alyeska Resort
P. O. Box 249
Girdwood, Alaska 99587

Chris:

We have studied the proposed Alaska Skier Responsibility Legislation. Our comments in support of passage follow.

Enclosed please find:

1. Claims by season by type.
2. Loss ratios by season (triangulation).
3. Status of skier responsibility legislation by state.

Skier Responsibility Legislation is needed because of the increasing tendency for people to make claim for damages sustained whether or not negligence is involved. The impact is particularly felt in this sport because injuries are frequent. Frequency of injury combined with a suit conscious society creates for the ski area, and their insurers, a major problem and increases the cost of skiing to the public. The average size ski resort currently can expect approximately five claims a year. This contrasts with a historic average of 2.2 claims per year. The problem facing ski area management, and insurers, is the increase in frequency caused by suit consciousness on the part of the public while most of the claims involve incidents generally understood to be of a non-liability nature. These claims must be investigated and defended.

In order to reverse the trend of increasing incidents on which files must be opened, the industry and insurers providing coverage have taken a hard line with respect to recovery. To achieve the desired result, ski area management is required to investigate as many as 30% of the injuries occurring at their ski area. The combination of costs of investigation and defense causes insurance premiums to increase. These costs ultimately are passed on to the public.

The enclosed triangulation indicates loss ratios for the first \$500,000 of liability coverage by ski season. The numbers indicated 179%, 89% and so on are a reflection of the unprofitability of liability insurance for ski areas. I should comment that the 61%, 37% and 7% shown for most recent years will expand to approximately 70% as maturity through aging occurs and unreported claims develop.

Mr. Chris Von Imhoff
March 13, 1980
Page Two

The problem outlined above is well understood by all facets of the ski industry. These include the National Ski Areas Association (the management group), the National Ski Patrol System, the United States Ski Association (skiing public), and the Professional Ski Instructors of America. All of the above organizations have endorsed Skier Responsibility Legislation. They believe that skier legislation, properly written, will provide two major benefits.

1. Provide an educational platform that will inform the skiing public.
2. Substantially reduce non-liability claims. The above organizations are concerned with the problem because in final form, the cost of skiing (lift tickets) must be increased to cover escalating claims costs.

Sixty percent of total claim dollars spent result from investigation, litigation and other expense items. The ratio of expense to paid claims is unusually high because of this situation. The sure way to reduce non-negligence suits is to educate the skier by legislatively barring recovery for those actions only he or she can control and which are beyond the control of a ski resort. The proposed Alaska Skier Responsibility Legislation should be helpful in this regard without jeopardizing the public's right to recover in a real liability matter.

Sincerely,



Carl H. Neu, Jr.

CHN/lr

Enclosures

With the exception of section 3, which I have vetoed, the remainder of Substitute House Bill No. 421 is approved.

CHAPTER 138
[House Bill No. 797]
HABITUAL TRAFFIC OFFENDERS

AN ACT Relating to habitual traffic offenders; amending section 11, chapter 284, Laws of 1971 ex. sess. and RCW 46.65.090; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1, Section 11, chapter 284, Laws of 1971 ex. sess. and RCW 46.65.090 are each amended to read as follows:

It shall be unlawful for any person to operate a motor vehicle in this state while the order of revocation remains in effect. Any person found to be an habitual offender under the provisions of this chapter who is thereafter convicted of operating a motor vehicle in this state while the order of the court prohibiting such operation is in effect shall be guilty of a gross misdemeanor, the punishment for which shall be confinement in the county jail for not more than one year.

For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle while his license, permit, or privilege to drive is suspended or revoked or is charged with driving without a license, the court before hearing such charge shall determine whether such person has been adjudged an habitual offender and by reason of such judgment is barred from operating a motor vehicle on the highways of this state. If the court determines the accused has been so adjudged (~~it shall transfer the case to the court of record making such determination~~), the court shall have jurisdiction for trial of the charge.

NEW SECTION. Sec. 2. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 22, 1977.

Passed the Senate May 23, 1977.

Approved by the Governor June 1, 1977.

Filed in Office of Secretary of State June 1, 1977.

CHAPTER 139
[Substitute Senate Bill No. 2975]
SKIING AND SKI AREAS—SAFETY AND LIABILITY

AN ACT Relating to skiing and commercial ski activity; adding a new chapter to Title 70 RCW, and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. (1) The operator of any ski area shall maintain a sign system.

All signs for instruction of the public shall be bold in design with wording short, simple, and to the point. All such signs shall be prominently placed.

Entrances to all machinery, operators', and attendants' rooms shall be posted to the effect that unauthorized persons are not permitted therein

The sign "Men Working on Lift" or a similar warning sign shall be hung on the main disconnect switch and at control points for starting the auxiliary or prime mover when men are working on the passenger tramway.

(2) The interior of each reversible aerial tramway and gondola lift shall be prominently posted to show:

(a) The maximum capacity of each reversible aerial tramway and gondola lift in pounds and number of passengers (which shall also be posted at each loading area); and

(b) Instructions for procedure in emergencies.

(3) The following signs shall be posted at all aerial lifts except gondola lifts:

(a) "Prepare to Unload" (not less than fifty feet ahead of unloading area);

(b) "Keep Ski Tips Up" (ahead of any point where skis may come in contact with a platform or the snow surface);

(c) "Unload Here";

(d) "Safety Gate" (if applicable);

(e) "Remove Pole Straps from Wrists" (at loading area), and

(f) Sign visible at all points of downhill loading, listing downhill capacity of lift.

(4) The following signs shall be posted at all surface lifts:

(a) "Prepare to Unload" (not less than fifty feet ahead of unloading area);

(b) "Stay in Track";

(c) "Unload Here";

(d) "Safety Gate"; and

(e) "Remove Pole Straps from Wrists" (at loading area).

(5) The following signs shall be posted at all tows:

(a) "No Loose Scarves

No Loose Clothing

No Long Hair Exposed"

(at loading area);

(b) "Stay in Track";

(c) "Unload Here"; and

(d) "Safety Gate".

(6) All signs required for normal daytime operation shall be in place, and those pertaining to the tramway, lift, or tow operations shall be adequately lighted for night skiing.

(7) If a particular trail or slope has been closed to the public by an operator, the operator shall place a notice thereof at the top of the trail or slope involved, and no person shall ski on a slope or trail which has been designated "Closed".

(8) An operator shall place a notice at the embarking terminal or terminals of a lift or tow which has been closed that the lift or tow has been closed and that a person embarking on such a lift or tow shall be considered to be a trespasser.

(9) An operator shall prominently place a notice containing the substance of section 3 of this act in such places as are necessary to notify the public.

(10) Any snow making machines or equipment shall be clearly visible and clearly marked.

(11) The operator of any ski area shall maintain a readily visible sign on each rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device, advising the users of the device that:

(a) Any person not familiar with the operation of the lift shall ask the operator thereof for assistance and/or instruction; and

(b) The skiing-ability level recommended for users of the lift and the slopes served by the device shall be classified "easiest", "more difficult", and "most difficult".

NEW SECTION. Sec. 2. (1) In addition to the specific requirements of this section, all skiers shall conduct themselves within the limits of their individual ability and shall not act in a manner that may contribute to the injury of themselves or any other person.

(2) No person shall:

(a) Embark or disembark upon a ski lift except at a designated area;

(b) Throw or expel any object from any tramway, ski lift, commercial skimobile, or other similar device while riding on the device;

(c) Act in any manner while riding on a rope tow, wire rope tow, j-bar, t-bar, ski lift, or similar device that may interfere with the proper or safe operation of the lift or tow;

(d) Wilfully engage in any type of conduct which may injure any person, or place any object in the uphill ski track which may cause another to fall, while traveling uphill on a ski lift; or

(e) Cross the uphill track of a j-bar, t-bar, rope tow, wire rope tow, or other similar device except at designated locations.

(3) Every person shall maintain control of his or her speed and course at all times, and shall stay clear of any snowgrooming equipment, any vehicle, any lift tower, and any other equipment on the mountain. Snow grooming equipment or any other vehicles shall be equipped with a flashing yellow light at any time the vehicle is moving on or in the vicinity of a ski run.

(4) A person shall be the sole judge of his or her ability to negotiate any trail, slope, or uphill track and no action shall be maintained against any operator by reason of the condition of the track, trail, or slope unless the condition results from the negligence of the operator.

(5) Any person who boards a rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device shall be presumed to have sufficient abilities to use the lift. No liability shall attach to any operator or attendant for failure to instruct the person on the use of the device, but a person shall follow any written or verbal instructions that are given regarding the use.

(6) Because of the inherent risk in the sport of skiing all persons using the ski hill shall exercise reasonable care for their own safety. However, the primary duty shall be on the person skiing downhill to avoid any collision with any person or object below him or her.

(7) Subsection (6) of this section notwithstanding, any person skiing on other than improved trails or slopes within the area shall be responsible for any injuries or losses resulting from his or her action.

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(8) Subsections (6) and (7) of this section notwithstanding, any person on foot or on any type of sliding device shall be responsible for any collision whether the collision is with another person or with an object.

(9) A person embarking on a lift or tow without authority shall be considered to be a trespasser.

NEW SECTION. Sec. 3. Any person who is involved in a skiing accident and who departs from the scene of the accident without leaving personal identification or otherwise clearly identifying himself or herself before notifying the proper authorities or obtaining assistance, knowing that any other person involved in the accident is in need of medical or other assistance, shall be guilty of a misdemeanor.

NEW SECTION. Sec. 4. (1) Every tramway, ski lift, or commercial skimobile operator shall maintain liability insurance of not less than one hundred thousand dollars per person per accident and of not less than two hundred thousand dollars per accident.

(2) Every operator of a rope tow, wire rope tow, j-bar, t-bar, or similar device shall maintain liability insurance of not less than twenty-five thousand dollars per person per accident and of not less than fifty thousand dollars per accident.

(3) This section shall not apply to operators of tramways that are not open to the general public and that are operated without charge, except that this section shall apply to operators of tramways that are operated by schools, ski clubs, or similar organizations.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act shall constitute a chapter in Title 70 RCW.

Passed the Senate May 23, 1977.
Passed the House May 20, 1977.
Approved by the Governor June 1, 1977.
Filed in Office of Secretary of State June 1, 1977.

CHAPTER 140

[Engrossed Substitute Senate Bill No. 3098]

INSURANCE—DRIVING RECORD ABSTRACTS—LAW ENFORCEMENT OFFICERS OR FIRE FIGHTERS

AN ACT Relating to insurance, amending section 27, chapter 21, Laws of 1961 ex. sess. as last amended by section 1, chapter 37, Laws of 1973 1st ex. sess. and RCW 46.52.130, and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 27, chapter 21, Laws of 1961 ex. sess. as last amended by section 1, chapter 37, Laws of 1973 1st ex. sess. and RCW 46.52.130 are each amended to read as follows:

The director shall upon request furnish any insurance company or its agent, having or considering the issuance of a policy of insurance and any employer or prospective employer of persons who drive commercial motor vehicles or school buses a certified abstract of the driving record of any person, covering a period of not more than three years last past, whenever possible, which abstract shall include an enumeration of motor vehicle accidents in which such person has been involved.

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Senate Bill 329

Ordered by the Senate May 4
(Including Amendments by Senate May 4)

Sponsored by Senators HEARD, JERNSTEDT, Representatives LOMBARD, THROOP

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Sets forth rights and duties of skiers and ski area operators. Requires ski area operators to maintain a specified series of signs and warnings in ski area. Prohibits certain activities by skiers. Limits liability of ski area operators for injuries caused by dangerous ski trail or ski slope conditions unless conditions result from negligence of ski area operator. Limits liability of ski area operators based upon failure to instruct on use of towing devices. Requires skier involved in ski accident to provide identification before leaving scene of accident. Makes leaving scene of ski accident without providing identification a Class A misdemeanor. Requires ski area operators to maintain specified liability insurance. Requires actions against ski area operators to be commenced within two years after injury and after specified notice.]

Declares policy. Defines terms relevant to this Act. Specifies that an individual engaging in specified skiing activities assumes and accepts certain risks associated with such activities. Requires that notification of an injury to a skier must be given to a ski area operator by registered or certified mail within 120 days of the injury. Establishes a two-year limitation for commencement of an action against a ski area operator for recovery of damages. Requires ski area operators to provide skiers with information concerning notification requirements. Specifies duties of skiers. Specifies that violation of such duties entitles ski area operators to withdraw violator's privilege of skiing. Requires ski area operators to notify skiers of duties established by this Act.

A BILL FOR AN ACT

1 Relating to skiing.

2 Whereas it is the purpose of this Act to clarify the policy of this state governing the duties of skiers and the
3 liability of operators of ski areas with respect to skiing injuries resulting from alpine or nordic skiing; and

4 Whereas the Legislative Assembly affirms the principle that certain risks are inherent in the sport, and
5 that, as a matter of public policy, no person engaged in such sport shall recover damages from a ski operator for
6 injuries resulting from those inherent risks; now, therefore,
7

8 Be It Enacted by the People of the State of Oregon:

9 SECTION 1. As used in this Act:

10 (1) "Inherent risks of skiing" includes, but is not limited to, those dangers or conditions which are an
11 integral part of the sport, such as changing weather conditions, variations of steepness in terrain, snow or ice
12 conditions, surface or subsurface conditions, bare spots, creeks and gullies, forest growth, rocks, stumps, lift
13 towers and other structures and their components, collisions with other skiers and a skier's failure to ski within
14 the skier's own ability.

15 (2) "Injury" means any personal injury or property damage or loss.

16 (3) "Skier" means any person who is in a ski area for the purpose of engaging in the sport of skiing or who
17 rides as a passenger on any ski lift device.

18 (4) "Ski area" means any area designated and maintained by a ski area operator for skiing.

19 (5) "Ski area operator" means those persons, and their agents, officers, employees or representatives, who
20 operate a ski area.

NOTE: Matter in bold face in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted; complete new sections begin with SECTION.

1 SECTION 2. In accordance with ORS 18.470 and notwithstanding subsection (2) of ORS 18.475, an
2 individual who engages in the sport of skiing, alpine or nordic, accepts and assumes the inherent risks of skiing
3 in so far as they are reasonably obvious, expected or necessary.

4 SECTION 3. (1) A ski area operator shall be notified of any injury to a skier by registered or certified mail
5 within 180 days after the injury or within 180 days after the skier discovers, or reasonably should have
6 discovered, such injury.

7 (2) When an injury results in a skier's death, the required notice of the injury may be presented to the ski
8 area operator by or on behalf of the personal representative of the deceased, or any person who may, under
9 ORS 30.020, maintain an action for the wrongful death of the skier, within 180 days after the date of the death
10 which resulted from the injury. However, if the skier whose injury resulted in death presented a notice to the
11 ski area operator that would have been sufficient under this section had the skier lived, notice of the death to
12 the ski area operator is not necessary.

13 (3) An action against a ski area operator to recover damages for injuries to a skier shall be commenced
14 within two years of the date of the injuries. However, ORS 12.160 and 12.190 apply to such actions.

15 (4) Failure to give notice as required by this section bars a claim for injuries or wrongful death unless:

16 (a) The ski area operator had knowledge of the injury or death within the 180-day period after its
17 occurrence;

18 (b) The skier or skier's beneficiaries had good cause for failure to give notice as required by this section; or

19 (c) The ski area operator failed to comply with subsection (5) of this section.

20 (5) Ski area operators shall give to skiers, in a manner reasonably calculated to inform, notice of the
21 requirements for notifying a ski area operator of injury and the effect of a failure to provide such notice under
22 this section.

23 ✓ SECTION 4. (1) Skiers shall have duties which include but are not limited to the following:

24 (a) Skiers who ski in any area not designated for skiing within the permit area assume the inherent risks
25 thereof.

26 ✓ (b) Skiers shall be the sole judges of the limits of their skills and their ability to meet and overcome the
27 inherent risks of skiing and shall maintain reasonable control of speed and course.

28 ✓ (c) Skiers shall abide by the directions and instructions of the ski area operator.

29 ✓ (d) Skiers shall familiarize themselves with posted information on location and degree of difficulty of trails
30 and slopes to the extent reasonably possible before skiing on any slope or trail.

31 ✓ (e) Skiers shall not cross the uphill track of any surface lift except at points clearly designated by the ski
32 area operator.

33 ✓ (f) Skiers shall not overtake any other skier except in such a manner as to avoid contact and shall grant the
34 right of way to the overtaken skier.

35 ✓ (g) Skiers shall yield to other skiers when entering a trail or starting downhill.

36 ✓ (h) Skiers must wear retention straps or other devices to prevent runaway skis.

37 ✓ (i) Skiers shall not board rope tows, wire rope tows, j-bars, t-bars, ski lifts or other similar devices unless
38 they have sufficient ability to use the devices, and skiers shall follow any written or verbal instructions that are
39 given regarding the devices.

40 ✓ (j) Skiers, when involved in a skiing accident, shall not depart from the ski area without leaving their names
41 and addresses if reasonably possible.

- 1 ✓ (k) A skier who is injured should, if reasonably possible, give notice of the injury to the ski area operator
2 before leaving the ski area.
- 3 ✓ (l) Skiers shall not embark or disembark from a ski lift except at designated areas or by the authority of
4 the ski area operator.
- 5 ✓ (2) Violation of any of the duties of skiers set forth in subsection (1) of this section entitles the ski area
6 operator to withdraw the violator's privilege of skiing.

7 **SECTION 5.** Ski area operators shall give notice to skiers of their duties under section 4 of this Act in a
8 manner reasonably calculated to inform skiers of those duties.

Utah
1 (INHERENT RISKS OF SKIING)

2 1979

3 GENERAL SESSION

SE No. 146

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AN ACT RELATING TO THE SPORT OF SKIING; RECOGNIZING THE INHERENT RISKS INVOLVED IN THAT SPORT; DECLARING THAT ANY PERSON ENGAGING IN THAT SPORT SHALL BE PRECLUDED FROM MAKING ANY CLAIM AGAINST, OR RECOVERING FROM, ANY SKI AREA OPERATOR FOR INJURY RESULTING FROM RISKS INHERENT IN THAT SPORT; PROVIDING FOR POSTING OF NOTICES IN SKI AREAS LISTING THE INHERENT RISKS OF SKIING; REQUIRING NOTICE TO SKI AREA OPERATORS WITHIN A SPECIFIED TIME OF ANY INJURY TO A SKIER; AND PROVIDING A STATUTE OF LIMITATIONS ON ANY ACTIONS AGAINST SKI AREA OPERATORS FOR INJURIES TO A SKIER.

Be it enacted by the Legislature of the State of Utah:

Section 1. The legislature finds that the sport of skiing is practiced by a large number of residents of Utah and attracts a large number of non-residents, significantly contributing to the economy of this state. It further finds that few insurance carriers are willing to provide liability insurance protection to ski area operators and that the premiums charged by those carriers have risen sharply in recent years due to confusion as to whether a skier assumes the risks inherent in the sport of skiing. It is the purpose of this act, therefore, to clarify the law in relation to skiing injuries and the risks inherent in that sport, to establish as a matter of law that certain risks are inherent in that sport, and to provide that, as a matter of public policy, no person engaged in that sport shall recover from a ski operator for injuries resulting from those inherent risks.

Section 2. As used in this act:

1 (1) "Inherent risks of skiing" means those dangers or
2 conditions which are an integral part of the sport of skiing,
3 including, but not limited to: changing weather conditions,
4 variations of steepness in terrain; snow or ice conditions;
5 surface or subsurface conditions such as bare spots, forest
6 growth, rocks, stumps, ^{TRIP-TIP WOOD} lift towers and other structures and their
7 components; collisions with other skiers; and a skier's failure
8 to ski within his own ability.
9

10 (2) "Injury" means any personal injury or property damage
11 or loss.

12 (3) "Skier" means any person present in a ski area for the
13 purpose of engaging in the sport of skiing.

14 (4) "Ski area" means any area designated by a ski area
15 operator to be used for skiing.

16 (5) "Ski area operator" means those persons, and their
17 agents, officers, employees or representatives, who operate a ski
18 area.

19 Section 3. Notwithstanding anything in section 70-27-37 to
20 the contrary, no skier shall make any claim against, or recover
21 from, any ski area operator for injury resulting from any of the
22 inherent risks of skiing.

23 Section 4. Ski area operators shall post trail boards at
24 one or more prominent locations within each ski area which shall
25 include a list of the inherent risks of skiing, and the
26 limitations on liability of ski area operators, as defined in
27 this act.

28 Section 5. (1) Any claim against a ski area operator
29 arising out of any ^(FROM THE INHERENT RISKS OF SKIING) injury to a skier shall be forever barred
30 unless that ski area operator is notified of that injury within
31 90 days after its occurrence or within 90 days after the skier
32 discovers, or through the use of reasonable diligence should have
33 discovered, that injury.

1 SP B. No. 146

2 (2) No action shall be maintained against a ski area
3 operator arising out of an injury to a skier ^{FROM THE INHERENT RISKS OF SKIING,} unless that action
4 is commenced within two years from the date of the occurrence of
5 the injury.

SUMMARY OF PROPOSED LEGISLATION

By: SENATOR FINLINSON

Title: INHERENT RISKS OF SKIING

Summary: This bill declares certain risks to be inherent in the sport of skiing and precludes any recovery for injuries resulting from the risks.

MANAGEMENT AND FISCAL ANALYSIS

S. B. No. 146

It is estimated that this proposed bill would not have any fiscal impact on State agencies.

It would offset the insurance rates paid by all area operators for liability insurance.

OFFICE OF THE LEGISLATIVE FISCAL ANALYST

CHRIS VON JANHO

FOR YOUR INFO.

Jim HACKETT

An Act

SENATE BILL NO. 203. BY SENATORS Bishop, Barnhill, H. Fowler, L. Fowler, Hatcher, Soash, Allshouse, Anderson, McCormick, and Noble; also REPRESENTATIVES Theos, Davoren, Fine, Herzberger, Hinman, Hudson, Lillpop, Marks, DeNier, Jones, and Winkler.

CONCERNING SKIING, AND ESTABLISHING RESPONSIBILITIES AND LIABILITIES OF SKIERS AND SKI AREA OPERATORS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 33, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 44

Ski Safety and Liability

33-44-101. Short title. This article shall be known and may be cited as the "Ski Safety Act of 1979".

33-44-102. Legislative declaration. The general assembly hereby finds and declares that it is in the interest of the state of Colorado to establish reasonable safety standards for the operation of ski areas and for the skiers using them. Realizing the dangers that inhere in the sport of skiing, regardless of any and all reasonable safety measures which can be employed, the purpose of this article is to supplement the passenger tramway safety provisions of part 7 of article 5 of title 25, C.R.S. 1973; to further define the legal responsibilities of ski area operators and their agents and employees; to define the responsibilities of skiers using such ski areas; and to define the rights and liabilities existing between the skier and the ski area operator and between skiers.

33-44-103. Definitions. As used in this article, unless the context otherwise requires:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(1) "Base area lift" means any passenger tramway which skiers ordinarily use without first using some other passenger tramway.

(2) "Competitor" means a skier actually engaged in competition or in practice therefor with the permission of the ski area operator on any slope or trail or portion thereof designated by the ski area operator for the purpose of competition.

(3) "Conditions of ordinary visibility" means daylight and, where applicable, nighttime in nonprecipitating weather.

(4) "Passenger" means any person who is lawfully using any passenger tramway.

(5) "Passenger tramway" means a device as defined in section 25-5-702 (4), C.R.S. 1973.

(6) "Ski area" means all ski slopes or trails and other places under the control of a ski area operator and administered as a single enterprise within this state.

(7) "Ski area operator" means "operator" as defined in section 25-5-702 (3), C.R.S. 1973, and any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision thereof.

(8) "Skier" means any person utilizing a ski area for the purpose of skiing or for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, or any other device.

(9) "Ski slopes or trails" means those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (8) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection (9) or in subsection (8) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (8) of this section.

33-44-104. Negligence - civil actions. (1) A violation of any requirement of this article shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of the person violating such requirement.

(2) A violation by a ski area operator of any requirement

of this article or any rule or regulation promulgated by the passenger tramway safety board pursuant to section 25-5-710 (1) (a), C.R.S. 1973, shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of such operator.

(3) Notwithstanding the provisions of section 24-4-103 (5), C.R.S. 1973, all rules adopted or amended by the passenger tramway safety board on or after July 1, 1979, shall expire June 1 of the year following their adoption unless extended by the general assembly acting by bill. The general assembly, in its discretion, may postpone such expiration as often as necessary, but no such postponement shall exceed two years. All rules and amendments thereto shall be submitted pursuant to section 24-4-103 (8) (d), C.R.S. 1973.

33-44-105. Duties of passengers. (1) No passenger shall board a passenger tramway if he does not have sufficient physical dexterity, ability, and knowledge to negotiate or use such facility safely or until such passenger has asked for and received information sufficient to enable him to use the equipment safely. A passenger is required to follow any written or verbal instructions that are given to him regarding the use of the passenger tramway.

(2) No passenger shall:

(a) Embark upon or disembark from a passenger tramway except at a designated area except in the event of a stoppage of the passenger tramway (and then only under the supervision of the operator) or unless reasonably necessary in the event of an emergency to prevent injury to the passenger or others;

(b) Throw or expel any object from any passenger tramway while riding on such device, except as permitted by the operator;

(c) Act, while riding on a passenger tramway, in any manner that may interfere with proper or safe operation of such passenger tramway;

(d) Engage in any type of conduct that may contribute to or cause injury to any person;

(e) Place in an uphill track of a J-bar, T-bar, platter pull, rope tow, or any other surface lift any object that could cause another skier to fall;

(f) Embark upon a passenger tramway marked as closed;

(g) Disobey any instructions posted in accordance with this article or any verbal instructions by the ski area operator regarding the proper or safe use of a passenger tramway unless such verbal instructions are contrary to this article or the

rules promulgated under it, or contrary to posted instructions.

33-44-106. Duties of operators - signs. (1) Each ski area operator shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers. Signs shall be prominently placed on each passenger tramway readable in conditions of ordinary visibility and, where applicable, adequately lighted for nighttime passengers. Signs shall be posted as follows:

(a) At or near the loading point of each passenger tramway, regardless of the type, advising that any person not familiar with the operation of the device shall ask the operator of the device for assistance and instruction;

(b) At the interior of each two-car and multicar passenger tramway, showing:

(I) The maximum capacity in pounds of the car and the maximum number of passengers allowed;

(II) Instructions for procedures in emergencies.

(c) In a conspicuous place at each loading area of two-car and multicar passenger tramways, stating the maximum capacity in pounds of the car, and the maximum number of passengers allowed;

(d) At all chair lifts, stating the following:

(I) "Prepare to Unload", which shall be located not less than fifty feet ahead of the unloading area;

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

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

(IV) "Safety Gate", which shall be located where applicable;

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

(VI) "Check for Loose Clothing and Equipment", which shall be located before the "Prepare to Unload" sign.

(e) At all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, stating the following:

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

(II) "Stay in Track", "Unload Here", and "Safety Gate", which shall be located where applicable;

(III) "Prepare to Unload", which shall be located not less than fifty feet ahead of each unloading area.

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

(g) At or near the boarding area of all lifts, regarding the requirements of section 33-44-109 (6).

(2) Other signs not specified by subsection (1) of this section may be posted at the discretion of the ski area operator.

(3) The ski area operator, before opening the passenger tramway to the public each day, shall inspect such passenger tramway for the presence and visibility of the signs required by subsection (1) of this section.

(4) The extent of the responsibility of the ski area operator under this section shall be to post and maintain such signs as are required by subsection (1) of this section in such condition that they may be viewed during conditions of ordinary visibility. Evidence that signs required by subsection (1) of this section were present, visible, and readable where required at the beginning of the passenger tramway operation on any given day raises a presumption that all passengers using said devices have seen and understood said signs.

33-44-107. Duties of ski area operators - signs required for skiers' information. (1) Each ski area operator shall maintain a sign and marking system as set forth in this section in addition to that required by section 33-44-106. All signs required by this section shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.

(2) A sign shall be placed in such a position as to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift depicting and explaining signs and symbols which the skier may encounter at the ski area as follows:

(a) The ski area's least difficult trails and slopes, designated by a green circle and the word "easiest";

(b) The ski area's most difficult trails and slopes, designated by a black diamond and the words "most difficult";

(c) The ski area's trails and slopes which have a degree of difficulty that falls between the green circle and the black diamond designation, designated by a blue square and the words

"more difficult";

(d) Danger areas, designated by a red exclamation point inside a yellow triangle with a red band around the triangle and the word "Danger" printed beneath the emblem;

(e) Closed trails or slopes, designated by an octagonal-shaped sign with a red border around a white interior containing a black figure in the shape of a skier with a black band running diagonally across the sign from the upper right-hand side to the lower left-hand side and with the word "Closed" printed beneath the emblem.

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

"WARNING: This lift services (most difficult) or (most difficult and more difficult) or (more difficult) slopes only."

(4) If a particular trail or slope or portion of a trail or slope is closed to the public by a ski area operator, such operator shall place a sign notifying the public of that fact at each identified entrance of each portion of the trail or slope involved. Alternatively, such a trail or slope or portion thereof may be closed with ropes or fences.

(5) The ski area operator shall place a sign at or near the beginning of each trail or slope, which sign shall contain the appropriate symbol of the relative degree of difficulty of that particular trail or slope as set forth by subsection (2) of this section. This requirement shall not apply to a slope or trail designated "easiest" which to a skier is substantially visible in its entirety under conditions of ordinary visibility prior to his beginning to ski the same.

(6) The ski area operator shall mark its ski area boundaries in a fashion readily visible to skiers under conditions of ordinary visibility. Where the owner of land adjoining a ski area closes all or part of his land and so advises the ski area operator, such portions of the boundary shall be signed as required by paragraph (e) of subsection (2) of this section. This requirement shall not apply in heavily wooded areas or other nonskiable terrain.

(7) The ski area operator shall mark hydrants, water pipes, and all other man-made structures on slopes and trails which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least one hundred feet and shall cover such obstructions with a shock-absorbent material that will substantially lessen injuries. Any type of marker shall be sufficient, including but not limited to wooden poles, flags, or signs, if the marker is visible from a distance of one hundred feet and if the marker itself does not constitute a serious

hazard to skiers.

33-44-108. Ski area operators - additional duties. (1) Any motorized snow-grooming vehicle shall be equipped with a light visible at any time the vehicle is moving on or in the vicinity of a ski slope or trail.

(2) Whenever maintenance equipment is being employed to maintain or groom any ski slope or trail while such ski slope or trail is open to the public, the ski area operator shall place or cause to be placed a conspicuous notice to that effect at or near the top of that ski slope or trail.

(3) All snowmobiles operated on the ski slopes or trails of a ski area shall be equipped with at least the following: One lighted headlamp, one lighted red tail lamp, a brake system maintained in operable condition, and a fluorescent flag at least forty square inches mounted at least six feet above the bottom of the tracks.

(4) The ski area operator shall have no duty arising out of its status as a ski area operator to any skier skiing beyond the area boundaries marked as required by section 33-44-107 (6).

(5) The ski area operator, upon finding a person skiing in a careless and reckless manner, may revoke that person's skiing privileges.

33-44-109. Duties of skiers - penalties. (1) Each skier solely has the responsibility for knowing the range of his own ability to negotiate any ski slope or trail and to ski within the limits of such ability.

(2) Each skier has the duty to maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below him. It is presumed, unless shown to the contrary by a preponderance of the evidence, that the responsibility for collisions by skiers with any person, natural object, or man-made structure marked in accordance with section 33-44-107 (7) is solely that of the skier or skiers involved and not that of the ski area operator.

(3) No skier shall ski on a ski slope or trail that has been posted as "Closed" pursuant to section 33-44-107 (2) (e) and (4).

(4) Each skier shall stay clear of snow-grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails.

(5) Each skier has the duty to heed all posted information

and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others. Each skier shall be presumed to have seen and understood all information posted in accordance with this article near base area lifts, on the passenger tramways, and on such ski slopes or trails as he is skiing. Under conditions of decreased visibility, the duty is on the skier to locate and ascertain the meaning of all signs posted in accordance with sections 33-44-106 and 33-44-107.

(6) Each ski used by a skier while skiing shall be equipped with a strap or other device capable of stopping the ski should the ski become unattached from the skier. This requirement shall not apply to cross country skis.

(7) No skier shall cross the uphill track of a J-bar, T-bar, platter pulper or rope tow except at locations designated by the operator; nor shall a skier place any object in such an uphill track.

(8) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, the skier shall have the duty of avoiding moving skiers already on the ski slope or trail.

(9) No person shall move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any narcotic or other drug or while such person is under the influence of alcohol or any narcotic or other drug.

(10) No skier involved in a collision with another skier or person in which an injury results shall leave the vicinity of the collision before giving his name and current address to an employee of the ski area operator or a member of the voluntary ski patrol, except for the purpose of securing aid for a person injured in the collision; in which event the person so leaving the scene of the collision shall give his name and current address as required by this subsection (10) after securing such aid.

(11) No person shall knowingly enter upon public or private lands from an adjoining ski area when such land has been closed by its owner and so posted by the owner or by the ski area operator pursuant to section 33-44-107 (6).

(12) Any person who violates any of the provisions of subsection (3), (9), (10), or (11) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

33-44-110. Competition. (1) The ski area operator shall, prior to the beginning of a competition, allow each competitor a

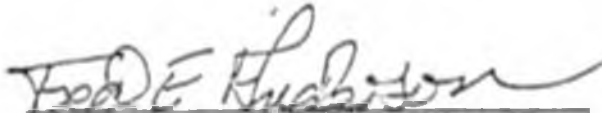
reasonable visual inspection of the course or area where the competition is to be held.

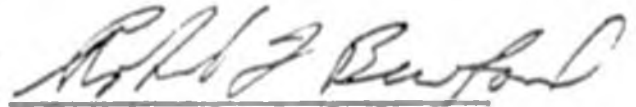
(2) The competitor shall be held to assume the risk of all course conditions including, but not limited to, weather and snow conditions, course construction or layout, and obstacles which a visual inspection should have revealed. No liability shall attach to a ski area operator for injury or death of any competitor proximately caused by such assumed risk.

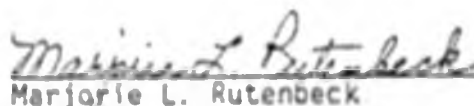
33-44-111. Statute of limitation. All actions against any ski area operator or its employees brought to recover damages for injury to person or property caused by the maintenance, supervision, or operation of a passenger tramway or a ski area shall be brought within three years after the claim for relief arises and not thereafter.

SECTION 2. Effective date. This act shall take effect July 1, 1979.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.


Fred E. Anderson
PRESIDENT OF
THE SENATE


Robert F. Burford
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

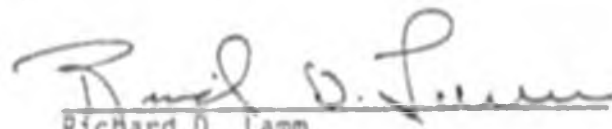

Marjorie L. Rutenbeck
SECRETARY OF
THE SENATE


Lorraine F. Lombardi
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED

May 25, 1979

11 20 AM


Richard D. Lamm
GOVERNOR OF THE STATE OF COLORADO

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

SB 470

An Act relating to the inherent risks of skiing;
and providing for an effective date.

BY: Senators Colletta and Kerttula

The intent of this legislation is to clarify the law concerning the natural, inescapable risks that are a part of the sport of skiing and to specify that a ski area operator is not liable for injuries resulting from these inherent risks.

A new article entitled LIMITATIONS ON CLAIMS ARISING FROM INHERENT RISKS OF SKIING is added to AS 09.10(Code of Civil Procedure-Limitations of Actions). Provides that a skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing. Such risks are defined as dangers or conditions which are an integral part of skiing, including changing weather conditions, variations or steepness of terrain, snow or ice conditions, surface or subsurface conditions, collisions with structures or other skiers, and a skier's failure to ski within his own ability.

This article also provides that a claim against a ski area operator arising out of an injury is barred unless the ski area operator is notified of the injury within 90 days of its occurrence or 90 days after the skier discovers the injury. In addition, a ski area operator shall promptly post signs listing the inherent risks of skiing and the limitation on the liability of the operator for injuries resulting from these risks

AS 05.20.012 (Amusements and Sports, Liability for Accidents in Skiing Areas, attached) is repealed.

BACKGROUND

This bill was introduced at the request of Chris Von Imhoff, General Manager of Alyeska ski resort. He states that insurance premiums for ski areas nationwide are skyrocketing, with Alyeska paying nearly \$85,000 in liability premiums alone. He attributes the increase primarily to expensive settlements of nuisance claims against ski areas for injuries incurred by skiers through no fault of the area. He said "We find ourselves more and more having to defend against claims by skiers who have collided with one another, hit ruts, skied out of control, or run into trees, etc. These types of accidents are impossible for the resort to control.

Similar legislation has been passed in Washington, Oregon, Utah and Colorado. This bill is almost identical to the Utah statute.

House bill 860 currently in House Judiciary is identical to SB 470.

For an Act entitled: "An Act relating to the inherent risks of skiing; and providing for an effective date."

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

*Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that the sport of skiing is practiced by a large number of residents of the state and attracts a large number of nonresidents, both of which groups significantly contribute to the economy of the state. It further finds that insurance carriers are increasingly reluctant to provide liability insurance protection to ski area operators and that the premiums charged by insurance carriers have risen sharply in recent years due to confusion as to whether a skier assumes the risks inherent in the sport of skiing when he actively participates in that sport. It is the intent of the legislature in enacting this Act to clarify the law relating to skiing injuries, the risks inherent in that sport and to provide that, as a matter of public policy, a person engaged in that sport may not recover from a ski area operator for injuries resulting from those inherent risks.

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

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

Sec. 09.100.300. LIMITATIONS ON CLAIMS. A skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing as defined in 09.10.320(1) unless the ski area operator fails to comply with 09.10.310.

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

Sec. 09.10.315. SNOW SAFETY AND OPERATION PLAN. A ski area operator shall not operate a ski area except under a snow safety and operation plan approved annually by the State of Alaska or the United States Department of Agriculture, Forest Service, where the ski area is on national forest land.

Sec. 09.10.320. DEFINITIONS. In AS 09.10.300 - 09.10.320

(1) "inherent risks of skiing" means the dangers or conditions which are an integral part of the sport of skiing, including but not limited to,

- (A) changing weather conditions;
- (B) variations or steepness in terrain;
- (C) snow or ice conditions;
- (D) surface or subsurface conditions such as bare spots, forest growth and rocks;
- (E) collision with lift towers, other structures, and their components, unless the skier is on the lift;
- (F) collision with other skiers; and
- (G) a skier's failure to ski within the limits of his own ability;

(2) "injury" means a personal injury, property damage or loss;

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

(4) "ski area" means all ski slopes or trails and other places under control of a ski area operator and administered as a single enterprise within this state;

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

*Sec. 3. AS 05.20.012 is repealed.

*Sec. 4. This Act takes effect immediately in accordance with AS 01.01.070(c).

P.O. Box 1628
Juneau 99802
586-7510

Mr. Bob Jones
Forest Service

call when draft is
ready so he can
send letter.

The Forest Service is
sending your letter
state they will agree
to do the actual
work with the state
having final approval
on the Snow Safety &
Operation plans, for
those ski areas on
state, municipal or
private land. This
would be a cooperative
agreement between the
Forest Service & State.



NATIONAL SKI PATROL[®] SYSTEM, INC.

Alaska DIVISION

TITLE

Testimony presented April 23, 1980, at a hearing of the Alaska Senate State Affairs Committee, by Bob Janes, Regional Director Southeast, Alaska Division, National Ski Patrol System, Inc.

MR. CHAIRMEN, AND MEMBERS OF THE SENATE STATE AFFAIRS AND FINANCE COMMITTEES: MY NAME IS BOB JANES, AND I AM TESTIFYING TODAY ON BEHALF OF THE NATIONAL SKI PATROL SYSTEM IN ALASKA, IN SUPPORT OF SENATE BILL NO. 470.

THE ALASKA DIVISION OF THE NATIONAL SKI PATROL SYSTEM (NSPS) IS AN ORGANIZATION WITH MORE THAN 300 VOLUNTEER SKI PATROLLERS, IN 13 DIFFERENT PATROLS THROUGHOUT THE STATE. WE HAVE TWO BASIC MISSIONS (1) TO PROVIDE EMERGENCY CARE AND RESCUE TO SKIERS INJURED IN THE SPORT, OR CAUGHT IN SNOW AVALANCHES; AND (2) TO EDUCATE SKIERS IN THE PREVENTION OF SKI RELATED ACCIDENTS.

WE AGREE WITH THE CONCEPT OF S.B. NO. 470 WHICH ADDRESSES THE RISKS INHERENT IN THE SPORT OF SKIING. SKI AREA OPERATORS IN THE STATE DEFINITELY NEED PROTECTION FROM UNJUSTIFIED LIABILITY INSURANCE CLAIMS ASSOCIATED WITH THE NATURAL RISKS OF THE SPORT. AT THE SAME TIME, WE ARE CONCERNED THAT SKIERS MUST ALSO BE ADEQUATELY PROTECTED AGAINST ANY FORM OF NEGLIGENCE CAUSED BY SKI AREA OPERATORS. WE BELIEVE WITH A FEW MODIFICATIONS, THE PROPOSED STATUTE CAN ACHIEVE EQUITABLE PROTECTION FOR BOTH SKI AREA OPERATORS AND THE USING PUBLIC.

SUGGESTED REVISIONS TO SEC. 09.10.320 DEFINITIONS ARE:

1. (C). EXPAND ON SNOW OR ICE CONDITIONS TO CLARIFY THAT VARIATIONS MAY OCCUR BECAUSE OF WEATHER FACTORS AND/OR HILL GROOMING.

FOR INSTANCE, STANDARD GROOMING PRACTICES COULD CAUSE VARIABLE SNOW SURFACE CONDITIONS WHICH SKIERS SHOULD ACCEPT AS NORMAL INHERENT RISKS ON A MANAGED SKI RUN. NEGLIGENT GROOMING PRACTICES COULD CAUSE UNSAFE CONDITIONS, SUCH AS LEAVING DANGEROUS BERMS OR CUTBANKS ON GROOMED RUNS. SKI AREA OPERATORS SHOULD NOT BE ABSOLVED FROM SUCH NEGLIGENCE.

2. (D). ELIMINATE THE WORD "STUMPS". THESE ARE PROBABLY MAN INDUCED OBSTACLES THAT SHOULD BE EITHER ELIMINATED, REDUCED, OR MARKED AS HAZARDS BY THE SKI AREA OPERATOR.

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

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

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

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

..... R.C. Jones

1 IN THE SENATE

BY COLLETTA AND KERTTULA

2 SENATE BILL NO. 470

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

24 Sec. 09.10.300. LIMITATIONS ON CLAIMS. (a) A skier may not
25 recover from a ski area operator for injury resulting from an inherent
26 risk of skiing, *as defined in 09.10.320(1) unless the ski area*

27 (b) A claim against a ski area operator arising out of an injury
28 to a skier is barred unless the ski area operator is notified of the
29 injury within 90 days of its occurrence or within 90 days after the

Title 9: Code of Civil Procedure
Ch 10 Limitations of Actions

operator fails to comply w/09.10.310

AUTH FOR
DPS where another
authority exists.
draft a snow safety plan

IN A SAFETY REQUIREMENTS

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

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

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

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

11 (A) changing weather conditions;

12 (B) variations or steepness in terrain;

13 (C) snow or ice conditions;

14 (D) surface or subsurface conditions such as bare spots,
15 forest growth, ^{grass} rocks, and stumps;

16 (E) collisions with lift towers, other structures, and
17 their components; ^{Under the skier from the lift.}

18 (F) collisions with other skiers; and

19 (G) a skier's failure to ski within ^{THE LIMITS OF HIS} his own ability;

20 (2) "injury" means a personal injury, ^{or} property damage or
21 loss;

22 (3) "skier" means a person in a ski area engaged in the sport
23 of skiing; ⁵²¹⁻⁸

24 (4) "ski area" means an area designated by a ski area opera-
25 tor to be used for skiing; ^{draft} ^{Sec. 6}

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

27 * Sec. 3. AS 05.20.012 is repealed.

28 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-
29 070(c).

(1) "Base area lift" means any passenger tramway which skiers ordinarily use without first using some other passenger tramway.

(2) "Competitor" means a skier actually engaged in competition or in practice therefor with the permission of the ski area operator on any slope or trail or portion thereof designated by the ski area operator for the purpose of competition.

(3) "Conditions of ordinary visibility" means daylight and, where applicable, nighttime in nonprecipitating weather.

(4) "Passenger" means any person who is lawfully using any passenger tramway.

(5) "Passenger tramway" means a device as defined in section 25-5-702 (4), C.R.S. 1973.

INSECT
09.10.320
(4)

(6) "Ski area" means all ski slopes or trails and other places under the control of a ski area operator and administered as a single enterprise within this state.

(7) "Ski area operator" means "operator" as defined in section 25-5-702 (3), C.R.S. 1973, and any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision thereof.

INSECT
IN
09.10.320
(3)

(8) "Skier" means any person utilizing a ski area for the purpose of skiing or for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, or any other device.

(9) "Ski slopes or trails" means those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (8) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection (9) or in subsection (8) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (8) of this section.

33-44-104. Negligence - civil actions. (1) A violation of any requirement of this article shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of the person violating such requirement.

(2) A violation by a ski area operator of any requirement

Approved plan approved by the Dept of
Rural Development

09.10.315

A ski area ^{operator} shall not op. a ski area
except under a snow safety ^{operator} plan
approved annually by the Dept of A.C.
or the USDA ~~USDA~~ USDA, USFS.



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

April 22, 1980

Alaska State Legislator
Juneau, Alaska

Dear Alaska State Legislator:

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

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

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

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

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

Sincerely,

Sam Hayes

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

SH/mg



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol

Juneau, Alaska 99811

SB 470 - An Act relating to the inherent risks of skiing; and providing for an effective date.

SUMMARY:

The intent of this legislation is to clarify the law concerning the natural, inescapable risks that are a part of the sport of skiing and to specify that a ski area operator is not liable for injuries resulting from these inherent risks.

A new article entitled LIMITATIONS ON CLAIMS ARISING FROM INHERENT RISKS OF SKIING is added to AS 09.10 (Code of Civil Procedure-Limitations of Actions). Provides that a skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing. Such risks are defined as dangers or conditions which are an integral part of skiing, including changing weather conditions, variations or steepness of terrain, snow or ice conditions, surface or subsurface conditions, collisions with structures or other skiers, and a skier's failure to ski within his own ability.

This article also provides that a claim against a ski area operator arising out of an injury is barred unless the ski area operator is notified of the injury within 90 days of its occurrence or 90 days after the skier discovers the injury. In addition, a ski area operator shall promptly post signs listing the inherent risks of skiing and the limitation on the liability of the operator for injuries resulting from these risks.

AS 05.20.012 (Amusements and Sports, Liability for Accidents in Skiing Areas, attached) is repealed.

Effect of amendment. — The 1976 amendment inserted "labor, political" in paragraph (15) and added paragraphs (19), (20), and (21).

As the rest of the section was not affected by the amendment, it is not set out.

Chapter 20. Recreational Devices.

Section

- 10. Owners or operators to provide safe equipment
- 12. Liability for accidents in skiing areas

Sec. 05.20.010. Owners or operators to provide safe equipment. Every owner or operator of a device as defined in § 120 of this chapter shall construct, furnish, maintain and provide safe and adequate facilities and equipment with which to safely and properly receive and carry all persons offered to and received by the owner or operator of the device, and to promote the safety of the patrons, employees and the public. The owner or operator of ski equipment and devices is not considered a common carrier. (§ 1 ch 109 SLA 1960; am § 1 ch 25 SLA 1967)

Effect of amendment. — The 1967 amendment added the last sentence. 1967 (CSSB 99), see House Journal (1967), pp. 369-370.

Legislative committee report. — For legislative committee report on ch. 25, SLA

Sec. 05.20.012. Liability for accidents in skiing areas. No owner or operator of ski equipment may be held liable for the negligence of persons other than employees who use designated skiing areas owned or controlled by him, unless the owner or operator has negligently maintained the designated skiing areas or has furnished or supplied defective equipment, the use of which is the proximate cause of an injury sustained by a person while engaged in skiing activities within the designated skiing areas. (§ 2 ch 25 SLA 1967)

Legislative committee report. — For legislative committee report on ch. 25, SLA 1967 (CSSB 99), see House Journal (1967), pp. 369-370.

Chapter 25. Watercraft.

Article 3. General Provisions.

Section

- 60. Prohibited operation
- 100. Definitions

March 10, 1980

John D. McGrath
3413 Wesleyan Drive
Anchorage, Alaska 99504

Dear John:

Thank you very much for your letter in which you express real concern with SB 470, Inherent risk of skiing. This bill is currently before the Senate State Affairs Committee which is chaired by Senator Bob Mulcahy.

At the present time, Senator Mulcahy has not scheduled a public hearing on this bill. I will copy him with your letter, and in the event he does hold a public hearing, I'm sure he would give you notice. I share your concerns with this piece of legislation, and appreciate your bringing it to my attention.

Kindest personal regards,

Arliss Sturgulewski
Senator, District 10-H

cc: Senator Mulcahy

Senator Arliss Sturgulewski
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

February 28, 1980

Recently Senator Colleta introduced SB 470 entitled "Inherent Risk of Skiing" which will, if passed, protect an irresponsible ski area operator from taking normal safeguards to protect skiers from injury.

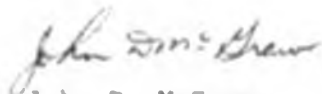
Many unsafe practices are currently practiced today in Alaska and elsewhere, and other state legislative bodies are enacting legislation to protect the public from such malpractice.

As skiers, we pay a very steep price to ski at Alyeska, \$15.00 a day. Since this is a profit making operation controlled by Alaska Airlines, they, just as any other business, should not be protected by special interest legislation.

On behalf of the 450 members of the Alascom Ski Club, and its Board of Directors, we are asking you, as our representative to either amend SB 470 or work to get it defeated.

In the event this bill passes, injuries due to unsafe operating practices will rise in Alaska, with no recourse for those injured or killed due to such flagrant unsafe practices.

Very truly yours,



John D. McGraw
34 J Wesleyan Drive
Anchorage, Alaska 99504
Hm. Ph. 333-8532

Alaska RESORT



P.O. BOX 249

GIRDWOOD, ALASKA 99587

April 25, 1980

Ms. Allison Rickey
Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Ms. Rickey:

Tom Miller, Snow Ranger for the U. S. Forest Service, told me that you needed some further information pertaining to H.B. 470.

Enclosed please find a current copy of our Snow Safety Plan and a copy of the ANSI B77 Tramway Code both the original dated 1976 and an addendum dated 1978.

In addition, the different departments involved in our lift inspections are:

1. our insurance company
2. the U. S. Forest Service
3. the Department of Public Safety
4. the Department of Labor

If you have any further questions, please do not hesitate to call.

Sincerely,

Chris von Imhof
Executive Vice President and
General Manager

CVI/bbp
Enclosures 3

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ALASKA RESORT, ETC.

American National Standard

addendum to safety requirements for aerial passenger tramways

ANSI B77.1a-1978



american national standards institute, inc.
1430 broadway, new york, new york 10018

ANSI®
B77.1a-1978
Addendum to
ANSI B77.1-1976

**Addendum to
American National Standard
Safety Requirements for
Aerial Passenger Tramways**

Secretariat
National Ski Areas Association

Approved January 17, 1978
American National Standards Institute, Inc

American National Standard

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1-1515 (10-1978)

Foreword

(This Foreword is not a part of Addendum to American National Standard Safety Requirements for Aerial Passenger Tramways, ANSI B77.1a-1978, but is included for information purposes only.)

This addendum revises parts of American National Standard Safety Requirements for Aerial Passenger Tramways, ANSI B77.1-1976. The complete standard was first approved in 1960 and revisions were developed and approved in 1970, 1973, and 1976.

The present addendum, which was approved by ANSI on January 17, 1978, brings the standard up to date. A revision of the entire standard ANSI B77.1-1976 is now underway.

Suggestions for improvement of this standard will be welcome. They should be sent to the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018.

This standard was processed and submitted for approval to ANSI by American National Standards Committee on Aerial Passenger Tramways, B77. Committee approval of the standard does not necessarily imply that all committee members voted for its approval. At the time it approved this standard, the B77 Committee had the following members:

William A. Norton, Chairman
Stanley Judge, Vice-Chairman
Cal Conniff, Secretary

<i>Organization Represented</i>	<i>Name of Representative</i>
Alpha Associates, Inc.	Samuel B. Bonasso
American Society of Mechanical Engineers	Victor E. Hall
Association of Recreational Tramway Authorities	J. Edward Immergluck
Association of Ski Area Consultants	Mer Borgerien
Bethlehem Steel Corporation	Winfield S. Langhorne
Colorado Tramway Safety Board	William M. Schwenke
Eastern Ski Association	Stephen Bradley
Heron Engineering Co.	Ben Bucko
Institute of Electrical and Electronics Engineers	Robert Heron
Massachusetts Tramway Safety Board	John Fletcher
McLellan Engineering Co.	Channing Murdock
Michigan Tramway Safety Board	Robert S. McLellan
National Ski Areas Association	LaVerne Trepp
National Ski Areas Insurance Program	Richard Randolph
National Ski Patrol System	Walter Stopa
New Hampshire Tramway Safety Board	Richard Williams
Pacific Northwest Ski Areas Association	Harry Pollard
Paulsen Wire Rope Corporation	Stanley Judge
Riblet Tramway Co.	Nelson Bennett
Steinman, Boynton, Gersjost & Rudvall	Aaron T. Whitlock, Jr.
U.S. Forest Service	T. R. Sowder
U.S. Steel Corporation	Blair Birdwell
Western Areas Ski Insurance Program	Charles F. Dwyer
Wire Rope Technical Board	Harold T. Chester
	Howard R. Anderson
	R. P. Ramsey

Addendum to American National Standard Safety Requirements for Aerial Passenger Tramways

On page 9, replace 1.2.4 with the following:

1.2.4 Existing Installations. Installations operating prior to the approval date of this revision need not comply with the new or revised requirements of this edition except where specifically required by the authority having jurisdiction. Operation and maintenance procedures shall be in compliance with this standard.

On page 11, following 1.8.11, add new subsection 1.8.12, to read as follows:

1.8.12 Electrical Control Circuits

1.8.12.1 Emergency Stop Circuit. An electrical control circuit that when interrupted will automatically cut the motive power and apply braking to stop the tramway within a minimum acceptable distance.

1.8.12.2 Operating Control Circuit. An electrical control circuit that governs the starting, speed, and normal stopping of the tramway.

On page 15, insert the following as the next-to-last paragraph of 2.1.7.1:

Track strand in which the outer shaped wires are supported by a layer comprised solely of round wires shall not be used.

On page 16, replace 2.1.7.4.2 with the following:

2.1.7.4.2 Repairs (Patch). In the event that damage occurs to the wire rope and such damage is confined only to a single strand of the rope, replacement of the damaged strand will be permitted and the rope may be continued in service under the following conditions:

- (1) Prior approval shall be obtained from the authority having jurisdiction for such repairs.
- (2) A competent wire rope splicer shall verbally advise the authority having jurisdiction, with written confirmation to the authority having jurisdiction prior to the rope's being placed back in operation, that a

suitable replacement strand was available and that all other conditions were such that he was able to make a proper repair to the rope by the use of this method.

(3) The minimum length of the new piece of strand shall be at least 360 times the nominal rope diameter between end tucks, and the length of tail tucked into the core at each end shall be at least 30 times the nominal rope diameter.

(4) The repaired area shall be outside of an existing splice, and both new tucks shall be at least 96 times the nominal rope diameter from the end of an existing splice.

(5) The repaired area shall be inspected daily for the first five days of operation, then once weekly for a period of six weeks of operation; thereafter, it shall be subject to routine wire rope inspection. The wire rope must be removed from operation immediately if core collapse, pulling, high stranding, or other significant distortions occur.

(6) Documents showing the splice diagrams and overall length of the patch, as prepared by the competent wire rope splicer, shall be filed with the authority having jurisdiction and shall also be placed in the owner's wire rope log for that rope.

On page 16, replace 2.1.7.5.1 with the following:

2.1.7.5.1 Haul Ropes - Dicable Systems. End connections shall be capable of developing the full strength of the rope to which they are attached. See 2.1.7.5.4.

On page 16, replace 2.1.7.5.2 with the following:

2.1.7.5.2 Counterweight Ropes. End connections shall not fail or slip under a tension equal to 80% of the strength of the rope. See 2.1.7.5.4.

On page 16, following 2.1.7.5.3, add new subsection 2.1.7.5.4:

2.1.7.5.4 Types and Methods. Any end attachments may be used provided the design and meth-

od of the attachment have the approval of the authority having jurisdiction. Some common devices and information concerning their attachment follow:

(1) Poured sockets

(a) Zinc, if used, shall be of ASTM Grade B-6 High Grade (or higher) and shall be attached in accordance with the procedure in American Petroleum Institute API-RP9B or American National Standard Specifications for and Use of Wire Ropes for Mines, ANSI M11.1-1960

(b) Resin, if it has been proved suitable, shall be attached in accordance with the manufacturer's instructions

(c) Field socketing by means of zinc or resin shall be performed by or under the supervision of a competent person or facility (see Note)

(2) Swaged sockets: Swaged sockets shall be attached by a competent person or facility (see Note) using fittings of a design in general acceptance and in common use by wire rope manufacturers and with attention to the following minimum particulars:

(a) Rope shall be inserted to the bottom of the hole.

(b) The bottom of the hole shall be one rope diameter beyond the swaged section.

(c) Critical dimensions: Outside diameter before swaging, outside diameter after swaging, inside diameter, depth of hole

(d) Swaged sockets shall be applied only to wire rope having a steel center in the section or rope inserted to the bottom of the hole. Fiber core rope shall have the fiber core removed from this section and a proper diameter IWRC or strand installed before swaging.

(3) Wire rope clips and thimbles

(a) Wire rope clips and thimbles shall be limited to bicable haul ropes, counterweight ropes, and guys.

(b) Wire rope clips shall be of forged steel.

(c) Wire rope clips and thimbles shall be used in number and spacings stipulated by the wire rope clip manufacturer.

(d) Wire rope clips of the single saddle type shall be installed with the U bolt against the "dead end" and the saddle against the "live end."

(e) Torque values and retightening procedures shall conform to the wire rope clip manufacturer's instructions.

(f) The radius of curvature of the rope in combination with the correct clip application shall be designed to achieve a minimum attachment efficiency of 80%.

(g) Sections of rope permanently deformed or damaged by the application of wire rope clips or bent around thimbles, sheaves, or other anchoring devices

not meeting the minimum diameters specified in 2.2.7.3, condition (c), shall not be relocated and reused as part of the section under load.

(4) Mechanical thimble splices. Mechanical thimble splices are of two types:

(a) Flemish thimble splice with swaged metal sleeve(s)

(b) Fold-back, or return loop, with thimble and swaged metal sleeve(s)

Proof loading of any end connection to 40% or nominal rope breaking strength shall be required in accordance with Table A.

Documentation shall be provided by the facility or person for any end connection stating that it has been fabricated in accordance with the provisions of ANSI B77.1-1976 and ANSI B77.1a-1978. This document shall become a part of the wire rope log.

NOTE: An acceptable method of establishing the competence of a facility or person is to perform a breaking strength test of a length of IWRC wire rope prepared in a manner that will be used in the working assembly. The minimum breaking strength for this test specimen shall be 97-1/2% of the nominal strength of the rope tested. The purpose of this test is to establish the ability of the facility or person to make a proper connection. The test does not preclude any requirement for a proof load of the working assembly.

On page 22, replace 2.2.4.2 with the following:

2.2.4.2 Aerial Lifts. The drive equipment shall be designed to accelerate the line smoothly and to avoid severe oscillation or undulation under any loading condition.

For lifts in this category that have stationary loading and unloading, the acceleration and deceleration of the carrier to and from the design rope speed shall be of such a rate as not to endanger the carrier or the passengers. The interval between carriers shall be controlled by automatic carrier sensors or other suitable devices. Unbalanced loading shall be controlled to the extent required by the design through the use of automatic carrier counters or other suitable devices.

The drive shall be capable of rotating the unloaded system at reduced speed for rope inspection and equipment maintenance. This reduced speed operation may be obtained by the use of the auxiliary engine.

On installations in which an overhauling condition exists:

(1) Provisions shall be made for an overhauling load so that the system shall operate at a controlled speed not exceeding design speed by more than 6%. The energy developed by the overhauling load shall be dissipated in a satisfactory manner without using the brakes specified under 2.2.5.2.

Where the provision made for an overhauling load consists of regenerative capability or a similar char-

Table A
Proof Loading of End Connections

End Connection	When Used On			
	Haulage	Counterweight	Track Cable	
			Strand	Rope
Swaged socket	Not required	Not required	Not applicable	Not required
Poured socket	Required	Required	Not required	Required
Wedge socket	Not required	Not required	Not applicable	Not required
Plug-type	Required	Required	Not applicable	Required
Clips and thimbles	Not required	Not required	Not required	Not required
Mechanical thimble splices:				
Flemish thimble splice with swaged metal sleeve(s)	Not required	Not required	Not applicable	Not applicable
Fold-back or return loop with thimbles and swaged metal sleeve(s)	Required	Required	Not applicable	Not applicable
Wedges and thimbles	Not applicable	Not applicable	Not required	Not applicable
All other	Required	Required	Not applicable	Required

acteristic in the prime mover itself, the auxiliary prime mover provided shall have a comparable capability.

(2) Provision shall be made for slowing and stopping the lift drive automatically if the line speed exceeds the design speed by more than 10%. The service brake (see 2.2.2.1) shall slow and stop the tramway automatically if the line speed exceeds the design speed by more than 10%, and the emergency brake shall automatically slow and stop the tramway if the line speed exceeds the design speed by more than 15%.

Design values of line speed pertain to the design speed for the particular condition of operation (that is, winter operation with snow, summer operation with foot passengers, etc.).

Where the tramway is not rated for downhill passenger traffic, the following number of loaded chairs, loaded no more closely than every fourth chair, shall be permitted for the carrying of authorized persons downhill, the requirements for a safety gate (2.2.11.2(1)) beyond the downhill unloading area and for slowing and stopping the lift drive automatically as set forth in condition (2) above shall be waived:

Total Number of Carriers on Chair Lift (both sides)	Maximum Number of Loaded Carriers on Downhill Rope
Less than 60	2
60 to 120	3
Over 120	4

For the purpose of this section only, "authorized persons" is defined to include all persons, whether employees of the tramway owner or not, who are au-

thorized by the owner or his representatives to be carried on the chair lift.

All installations in which downhill traffic is either limited or not permitted shall be so identified with clearly visible signs at loading or unloading areas, and this information shall be further contained in operating instructions posted in these areas.

On page 22, revise the first sentence of the second paragraph of 2.2.5.1.1 to read as follows:

The brake shall be automatically applied by springs or weights except in cases where another type of fail-safe brake has been specifically approved by the authority having jurisdiction.

On page 23, change 2.2.5.2 to read:

2.2.5.2 Aerial Lifts. Each aerial lift shall have the brakes designated in 2.2.5.2.1 through 2.2.5.2.3.

On page 23, revise the first paragraph of 2.2.5.2.2 to read as follows:

2.2.5.2.2 Emergency Brake. An emergency brake located on the main drive sheave, with controls located at the operating station. It is not permissible to locate the controls to the emergency brake in a position that would require the operator, in order to operate the controls, to pass through the path of moving carriers. Operation of the emergency brake shall automatically stop the prime mover or other power source. This brake shall act automatically if the speed of the rope can exceed the design value by 15% in the

forward direction on lifts with overhauling loads or a reverse rotation exceeding that which normally activates the backstop.

On page 27, change title of 2.2.11.2 (b) to read:
(b) Terminal unloading areas — uphill and downhill:

On pages 28 and 29, replace 2.3.2.2 with the following:

2.3.2.2 Aerial Lifts. All towers shall be equipped with guards to prevent contact of any parts of the carriers with a tower structure or tower machinery and to maintain minimum clearance between carriers and tower structures; however, such guards or minimum clearance shall not be required if contact does not occur when the carrier is swung laterally 15 degrees from the vertical position. Minimum clearance is specified in the following paragraph.

A carrier must be capable of swinging 8 degrees laterally before engaging a guard or encroaching upon the following minimum clearance with a tower structure:

(1) On chair lifts and mono-rail lifts: 12 inches between the innermost point on chair structure and the tower clearance line or surface

(2) On gondola lifts with open windows on the tower side: 18 inches between the innermost point of cabin and the tower clearance line or surface

Guards may be placed to limit the swing of carriers between 8 and 15 degrees as required to maintain the above clearance.

Guards shall be so shaped and located that a 30-degree lateral swing from vertical shall not place any part of the loaded or empty carrier on the inner side of the guard.

On all towers, with or without guards, when a carrier is swung longitudinally by 15 degrees, there shall be no contact between any obstruction and any part of the carrier.

On page 30, modify the second paragraph of 2.3.3.1.3(1), beginning "When," to read as follows:

When the tower top in question lies below the straight line joining the adjacent tower tops, the haul rope shall not leave the group of sheaves under either of the following conditions:

(a) When the haul rope tension is 1.5 times its maximum design value at the point, using unloaded carriers in adjacent spans or, in the case of detachable systems, no carriers in adjacent spans

(b) When a rope is under tension of the counterweight alone (bare rope) or with any arrangement or number of empty chairs or hangers on the line

On page 31, following 2.4.2.1, add new subsection 2.4.2.2 to read as follows:

2.4.2.2 Track Strand Installation. Track strand is easily damaged! The designer of the tramway shall provide detailed information concerning handling and installation of the track strand. These instructions shall be consistent with the track strand manufacturer's recommendations. Any handling after installation shall be in accordance with this advice.

On page 35, replace 3.2.2.3.1 with the following:

3.2.2.3.1 Exceptions

(1) The authority having jurisdiction may permit surface lifts to be operated with a single operator at the loading surface provided the following conditions are met:

(a) The length of the lift, measured from the loading area to the safety gate, shall not exceed 800 feet

(b) The entire tow path and the entire haul rope system shall be visible to the operator

(c) The lift shall have a clearly identified stop switch located at the unloading area, in addition to the required safety gate (see 2.2.11.4.2)

(d) The operator shall have all lift controls immediately available to him

(e) Restarting of the lift following actuation of a safety or stopping device shall be impossible until clearance is assured and the safety or stopping device(s) has been reset by an authorized person

(f) There shall be no obstructions at the top hull-wheel area that could come into contact with a passenger who might fail to unload

(2) Surface lifts provided with television surveillance of sections of the tow path not visible to the operator do not require an unloading attendant, provided conditions (c) through (f) are enforced and the lift has an optimum unloading area.

Exception — platter lifts with single-passenger telescoping tube hangers do not require television surveillance.

On page 35, replace 3.2.2.4 with the following:

3.2.2.4 Tows. A single operator may operate a tow provided the following conditions are met:

(1) The length of the tow, measured from the loading area to the safety gate, shall not exceed 800 feet

(2) The entire tow path and the entire haul rope system shall be visible to the operator

(3) The operator shall have all the tow controls immediately available and shall be able to start the tow while maintaining the surveillance required in condition (2)

(4) Restarting of the tow following actuation of a safety or stopping device(s) shall be impossible until clearance is assured and the safety or stopping device(s) has been reset by an authorized person

(5) The stop switches at the loading and unloading areas shall be clearly identified

If these conditions are not met, an additional attendant(s) is required. Each attendant shall be furnished with a stopping device and shall be able to communicate with the operator.

On page 35, following 3.2.2.4, add new subsection 3.2.2.5:

3.2.2.5 Exceptions. The authority having jurisdiction may permit one attendant to serve the unloading of more than one surface lift or tow where such an attendant is normally required by other sections of this standard, provided the following conditions are met:

(1) All unloading areas shall be visible to the attendant and shall be within a 90-degree cone of sight from his station

(2) The distance from the attendant's station to the most distant safety gate point at the unloading area shall not exceed 100 feet and shall be readily accessible

(3) Whenever the attendant must leave his station, all lifts or tows under his surveillance shall be stopped

(4) The attendant cannot serve as an operator on any of these lifts or tows

(5) All safety gates shall be effective and shall comply with the requirements of 2.2.11.2.2 and 2.2.11.4.2

On page 37, insert the following as the second sentence of 3.3.2, condition (2):

The annual inspection shall be made by a competent wire rope or track strand inspector who may be an employee of the owner. For the purpose of this requirement a competent inspector is a person who by his knowledge, experience, and training in the field of rope or strand application is capable of judging the current condition of the wire rope or track strand.

On page 38, in 3.3.2.1, replace the second paragraph following condition (10), beginning with the last line in column one, with the following:

Damage confined to a single rope strand may be repaired by replacement of the damaged strand to permit the rope to be continued in service. This type of repair is permitted under the conditions specified in 2.1.7.4.2.

On page 38, delete 3.3.2.1.1 and renumber 3.3.2.1.2 as 3.3.2.1.1

On page 38, renumber old 3.3.3 as 3.3.4 and insert the following as new 3.3.3:

3.3.3 Track Strands

NOTE: When wire rope is used as track cable refer to 3.3.2(2) and 3.3.2.1 for inspection criteria.

3.3.3.1 Special Inspection and Maintenance

3.3.3.1.1 At an interval established by the tramway designer the track strand shall be moved so as to place a different section of strand over the saddles, and the strand shall be carefully checked for abrasion, wire breaks, corrosion, and other damage. This provision shall also apply to wire rope if used as track cable.

3.3.3.1.2 When track strand is moved, it shall be moved a distance approximately equal to the longest arc of contact plus 15 feet.

3.3.3.1.3 After movement each section moved off a saddle shall be given an additional detailed inspection prior to operation.

3.3.3.1.4 Lubrication type and frequency shall be as recommended by the track strand manufacturer or designer. Lubrication at saddles and other points of support require special consideration.

3.3.3.2 Track Strand Broken Wires

3.3.3.2.1 If a wire in a track strand is broken, the strand and tramway manufacturer shall be contacted immediately, and an opinion shall be obtained regarding repair or other corrective action.

3.3.3.2.2 If two adjacent wires within one lay are broken, the tramway shall be shut down. The strand shall be replaced or repaired to the satisfaction of the strand manufacturer, tramway manufacturer, or a qualified engineer.

3.3.3.2.3 Any repairs shall be in accordance with explicit instructions from the strand manufacturer.

3.3.3.2.4 If more than two broken wires occur within one lay, the tramway shall be shut down, and the track strand shall be replaced.

3.3.3.2.5 Track strand shall be retired from service when there is any indication that exterior wire may come out of lock or when the reduction in nominal metallic cross section due to wire breaks, wear, or corrosion amounts to 10% in any length of 200 strand diameters or 5% in any length of 30 strand diameters. Repeated breaks in the same wire shall count as a single break.

On page 39, replace 3.4.2 with the following:

3.4.2 Inspection of Wire Rope and Track Cable (Reversible Aerial Tramways, Aerial Lifts, Surface Lifts, and Wire Rope Tows). A detailed inspection of wire rope and track cable shall be made upon a recommendation resulting from the general inspection (see 3.4.1) or immediately after any accident affecting

the possible integrity of the wire rope or cable. The detailed inspection shall be made by a qualified wire rope or cable inspector for the component involved. A written report of the inspection shall be filed with the owner, and a copy shall be included in the wire rope and cable log (see 3.5.2).

On page 39, replace 3.5.2 with the following:

3.5.2 **Wire Rope and Cable Log.** A log book shall be maintained for each tramway, lift, or wire rope tow giving the following information on each rope and cable.

- (1) Approved specification
- (2) Copy of certified test report
- (3) Date installed
- (4) Splicing certificate for each splice
- (5) Record of lubrication, including type of lubricant and date applied
- (6) Record of maintenance inspections (see 3.3.2(2))
- (7) Report of wire rope and cable inspection (see 3.4.2)
- (8) Report of accidents or injury to rope
- (9) Documentation of end attachment (see 2.1.7.5.4)

On page 41, replace 4.1.2.2 with the following:

4.1.2.2 **Track Strand.** The strength of strand on which the designer shall base the calculations for a safety factor shall not be more than the nominal breaking strength shown in Table B.

Table B
Locked Coil and Half-Lock Track Cable
Nominal Breaking Strength in Tons of 2000 Pounds

Nominal (inches)	Diameter (mm)	Construction	
		Locked Coil	Half-Lock
3/4	19	39.4	40.7
7/8	22	51.8	54.3
1	26	65.7	72.5
1-1/8	29	82.5	88.5
1-1/4	32	101.2	105.6
1-3/8	35	125.0	131.0
1-1/2	38	150.8	159.0
1-5/8	42	175	183
1-3/4	45	206	214
1-7/8	48	234	236
2	51	269	272
2-1/4	57	350	333
2-1/2	64	432	418
2-3/4	70	525	—
3	77	625	—
3-1/4	83	725	—
3-1/2	90	863	—
3-3/4	96	982	—
4	103	1098	—

On page 43, 4.2.1.5.3, replace the sentence in parentheses with the following:

(For round wires this is equal to three times the wire diameter; for shaped wires it is three times the longest possible diagonal dimension.)

American National Standards

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American National Standards Institute, Inc
1430 Broadway
New York, N.Y. 10018