

**ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672**  
**7098 HOUSE LABOR & COMMERCE**

HB 491

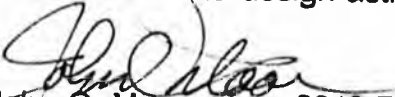
Use your safety voice and vote NO to his special-interest legislation. Alaskan have a right to be safe at any Alaskan ski resorts. This bill would virtually insulate Alaskan ski resorts from any liability including maintenance, construction and design activities.

*Ken Moores*

Ken Moores, 1929 East Dimond, Anchorage, AK  
99507

HB 491

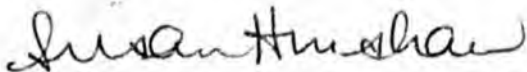
Just say NO to this special-interest legislation.  
This bill would virtually insulate Alaskan ski  
resorts from any liability including maintenance,  
construction and design activities.



John C. Moores, Jr., 3810 Robin Street  
Anchorage, AK 99504

House Bill 491

OPPOSE this special-interest legislation for a multi-national corporation. It is NOT needed and NOT in the best interest of Alaskans.

A handwritten signature in cursive script that reads "Susan Hinshaw".

Susan Hinshaw, 3001 East 15th  
Anchorage, AK 99504

Please oppose HB 491/SB 403. This is  
a special interest legislation supported by  
Sulbu Corp, a multi-national Japanese  
corp with 120 subsidiaries that has owned  
Alaska Power since 1980. It would virtually  
insulate Alaska's ski resorts from any  
liability including maintenance, construction  
& design activities. What about the  
safety of Alaskans?

Steve Hennrich  
2009 - Dr. Ely Herndon  
Anchorage AK 99516

Please OPPOSE HB 491/SB 403. This is special-interest legislation supported by Seibu<sup>320</sup> Corporation, a multinational Japanese corporation with 120 subsidiaries that has owned Alyeska Resort since 1980. It would virtually insulate Alaskan ski resorts from any liability including maintenance, construction, and design activities. What about the safety of Alaskans?

Barbara I. Piotrowski  
1329 Cordova St.  
Anchorage, AK 99501  
Barbara I. Piotrowski

Please: oppose HB 491/SB 403.

Ski resorts must maintain  
& be liable for maintenance,  
construction & design activities.  
If the resort is proven negligent  
or at fault, they need to be liable.

Thank you -

Albertha Keyes (535-42-7180)

3-26-92

Dear Rep Finkelstein,

I am told that HB491  
may go overboard in  
reducing liability for  
negligence of resort owners  
Your proper attention  
to this would be appreciated.

Sincerely yours,  
Jan Seibert

Dear David

I am apposed to legislation which would make ski resorts virtually protected from any liability. It is my feeling that a person could become injured or killed while skiing, as a direct result of neglect on the ski resort or its employees.

I would appreciate a vote against

HB 491

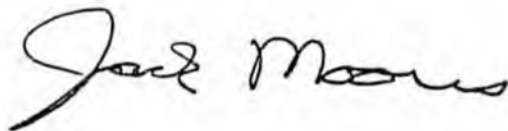
Thank you.  
MIKE STOUT

4840 MARY KELL AVE, ARKH. 99516

HB 491

Use your safety voice. Alaskan have a right to be safe  
at any Alaskan ski resorts.  
Just say NO to this legislation.

John C. Moores, Jr., 3840 Robin Street  
Anchorage, AK 99504

A handwritten signature in cursive script that reads "Jack Moors". The signature is written in black ink and is positioned below the typed name and address.

Please oppose HB 491/SB 403! March 24, 1992

Ski area operators must be held accountable for the area in which their negligence or lack of foresight may cause injury, or even possibly death. Special interests of any organization should not come before safety including proper markings, warnings and lift grooming done properly, maintenance, construction and design activities.

Thank you!

Lisa Brown  
2901 Brookview St.  
Anchorage, Alaska  
99504

HB 491

Just say NO to the this bill. Alaskan ski resorts needs to be liable for maintenance, construction and design activities. What about the safety of Alaskan?

*Ken Moores*

Ken Moores, 1929 East Dimond,  
Anchorage, AK 99507

3/25/92

Please oppose HB 491/SB 403  
for the safety of all  
Alaskans.

Thank you,

Loretta Braden

Please oppose HB 491/58/403. This is a special interest legislation. It would virtually insulate Alaskan ski resorts from any liability including maintenance, construction and design activities. Safety for all people should be the primary consideration. We can have economic development without giving away the farm!

Carol A. Ben  
Anchorage

Dear Representative Finkelstein,

Please consider

HB 491 very carefully

This bill would virtually  
insulate Alaskan ski  
resorts from any liability  
including maintenance,  
construction and design  
activities. We need to  
protect the safety of  
Alaskans. Please help  
prevent further deaths  
on our ski slopes.

Judith M. Rubin<sup>TH</sup> CS

My 16 year old son loves to downhill ski. We've lost track of how many skis, boots, poles and boards he's bought since he was a youngster. He's been working to have money to ski Alyeska for years. He knows every jump and has paid the price with broken bones more than once. We can live with that. We cannot live with the wording in the proposed downhill skiing legislation. HB 491 does not reflect a concern for the safety of SKIERS and we are in opposition.

*Carolyn Kingery*

I am surprised that you are sponsoring special interest legislation which protects a multi-national Japanese corporation. The Bill virtually protects ski resorts from common standards of safety. We need to protect Alaskans!

William L. Blachman

MR. & MRS. J. WES A. JEFFERY  
6901 RABBIT CREEK RD.  
ANCHORAGE, AK 99516

Dear Dave,

Patli & Bruce Ringer are personal  
friends of ours, and it seems  
to us that SEIBU really shouldn't  
not get any special liability  
exemption.

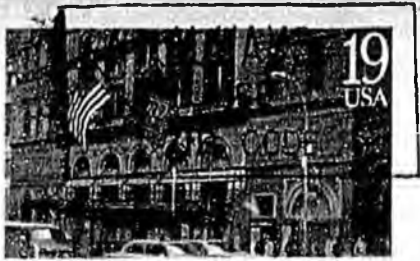
Thanks

Jim Jeffery

Barter

10461 Hampton

Anch., Ak. 99576



Carnegie Hall Centennial 1991

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

Please oppose HB 491/SB 403.

This legislation would virtually insulate Alaskan ski resorts from any liability, including maintenance, design activities and construction. This is not in the best interest of Alaskan citizens.

Sincerely,  
Keri Barter

DEAR SIR,

I AM WRITING FOR YOUR SUPPORT TO  
OPPOSE HOUSE BILL 491. I DO NOT AGREE  
WITH THIS SPECIAL-INTEREST LEGISLATION.  
PLEASE HELP KEEP ALASKAN SKI SLOPES SAFE  
BY REQUIRING OPERATORS TO BE RESPONSIBLE  
FOR THEIR SLOPES.

SINCERELY,

JON & LEAH PRINCE  
2419 SPRUCEWOOD ST  
ANCH AK 99508

4/2/92

Dear Finkelstein

I am against HB 491 & SB 403.  
My daughter had an injury 12/8/91 to her  
toe and all parties claim immunity. However,  
I am not impressed - my daughter will  
not go to ski areas with adult supervision.  
The children have it bad enough with the  
child abuse in the schools going on.  
They need protection, not only in car accidents  
but elsewhere! Sincerely

Elisabeth Ekene - 20230 Raven Dr  
(907) 696-4117 Eagle River AK 99577

David Finkelstein —

Please oppose HB 491/SB 403.

This is special interest legislation  
attempting to reduce their

liability at Alyeska Resort.

Do not allow this to happen.

They must be responsible

business owners! Rhonda Scott

TO: Rep. David Finkelstein  
FROM: Kathie Etulain  
DATE: March 29, 1992

Please oppose HB 491. It is special-interest legislation approved by Seibu Corporation, a multi-national corporation that has owned Alyeska Ski Resort since 1980. Passage of this bill would virtually absolve such ski resort owners from any responsibility to design, construct, and maintain an adequate level of safety for Alaskans who patronize those resorts. Our concern should be for the safety of our citizens and the promotion of high standards of safety in every aspect of running a ski resort, not in providing loopholes for big corporations to escape their responsibility.

*Kathie Etulain, Assoc Prof  
214 S. Sicken*

Rep David Jinkleskin,

Please oppose HB 451. This is "Special interest legislation" supported by Seiber Corporation.

Alaskan Corporations, as employers, need to be accountable for the service and maintenance of their business. Skiing is no exception.

This legislation would relieve them of liability. I want to ski with my family knowing that injuries are preventable with responsible people.

John Diamond

Dear Rep. Frankelstein:

I'm weary of reading about deaths in Alaska that could have been avoided with adequate safety precautions. I am strongly opposed to

HB491/SBA03. This is special interest legislation, harmful to people in Alaska.

Please oppose these bills. Let's protect Alaskans, not sell them out

Vern Orenius  
14501 Woodhewen Ct.  
Anchorage 99516

Please oppose H.B. 491/SB 403

This is A special-interest  
legislation supported by Seibu Co.

It would virtually insulate ALASKA  
SKI resorts from any liability!

WHAT ABOUT THE SAFETY  
OF ALASKANS? *by [unclear]*

6700 Cunnison  
Anchorage, AK 99576

Please oppose HB 491/SB 403. This  
is special-interest legislation supported  
by a multi-national Japanese corporation  
with 120 subsidiaries that has owned  
Alaska since 1970. It would virtually  
protect Alaskan ski resorts from any  
liability including maintenance, construction  
& rescue activities. What about protecting  
Alaskans!?

Patti Huiser

Dear Sir:

I have known Patti Rizer for many years as a colleague at UAA. I grieve for her loss.

I know nothing about skiing and I trust that you use your best judgment in the Alyeska situation.

Sandra D. Belden  
1121 Talande  
Anchorage, AK 99504

Please oppose HB 491/SB 403.

~~This~~ is special-interest legislation supported by Seibu Corporation, a Japanese Corporation that has owned Alyeska Resort since 1980.

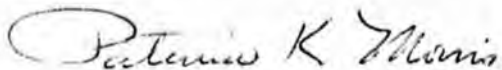
It would virtually insulate Alaskan ski resorts from any liability, including maintenance, construction & design activities. What about the safety of Alaskans?

Sincerely,

Catherine Weiford

Please oppose HB 491/SB 403. This is special-interest legislation supported by Seibu Corp., a multi-national Japanese corporation with 120 subsidiaries that has owned Alyeska Resort since 1980.

The bill has the potential of greatly reducing the safety for Alaskans, who already lead the nation in accidental deaths per capita. I have traveled in Japan and noticed the lesser safety standards at various heavily used tourist area. Often it seems to be a situation of "let the individual beware." This is not what we want for Alaska.



Patricia K. Morris

MRS. PATRICIA K. MORRIS  
609 ASH AVENUE  
KENAI, ALASKA 99611

5  
Please: oppose HB 491/513 403. This is special  
interest legislation supported by Seibu Corporation,  
a multi-national Japanese corporation w/120 sub-  
sidiaries that has owned Alyson Resort since 1980.  
It would virtually insulate Alaska ski resorts from  
any liability including maintenance, construction  
and design activities. What about the safety of  
Alaskans?

Thank You

Frances Warner

Please oppose HB 491. This bill will virtually insulate AK ski resorts from any liability including maintenance, construction, & design activities. Safety is ignored.

Barbara Wilson  
8380 Pioneer Dr  
Anchorage, AK 99504



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

April 2, 1992

Mr Finkelstein,

Please Consider Carefully HB 491 relating to  
Civil Liability for Skiing accidents and  
oppose this legislation for the following reasons:  
The inherent risk of skiing should not rest  
solely with the skier. In Section 2 (C) <sup>(1)</sup>(15) the  
ski area operator should be responsible for  
slope design, including roads, catwalks,  
jumps or other terrain modifications and also  
in (14) for snow making or grooming operations.

Mae Rene Bordwell  
525 West Third Ave #609  
Anchorage AK 99501

I oppose HB491/SB403 and feel many others  
Alaskans do too. This is special interest  
legislation. Seibu Corporation, a Japanese  
corporation who owns Alyeska Resort, supports  
this legislation which will insulate them  
from any liability including design  
activities, construction, & most  
important Maintenance.

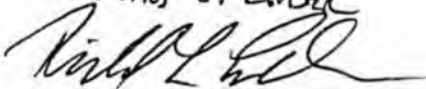
Why should they be free from the  
responsibility of insuring the safety  
of Alaskans. Sincerely,  
Nadine Griff, P.O. Box 1229  
Nome, AK 99762

Please, I urge you to vote  
Against HB 491. It doesn't  
protect people only the big  
companies, & it's sneaky the  
way Sikes is putting this through  
Valdez. Thanks - Jackie & Al Lewis.

DEAR DAVE,

HB 491 / SB 403 APPEARS TO BE SPECIAL  
INTEREST LEGISLATION PROTECTING A SINGLE NON-  
AFRICAN COMPANY. FOR THAT REASON, I OPPOSE  
IT WITHOUT SIGNIFICANT CHANGES PROTECTING THE  
CONSUMER.

THANK YOU.

RICHARD L. ENDER  


Howard Romig  
5531 Ricky Rd  
Anchorage, AK 99516



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

Dear Rep Finkelstein,

I want to express my concern about HB 491 and SB 403, this is obviously a special interest piece of legislation that is of no benefit to the people of Alaska. I urge you to oppose this when you have the opportunity to do so.

Respectfully yours  
Howard S. Foming Jr.

*McEnte*



Carnegie Hall Centennial 1991

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

LINDA M'Ente

Gregg M'Ente

16101 Winding Dr  
Anchorage AK

99516

Tappara Downhill Skiing  
Legislation: HB 491 and SB 403

Linda M'Ente

April 1, 1982

Re: H.B. 491

We are opposed to passage of this bill intended to insulate ski resort owners from being held accountable for personal injury or death. Please don't promote legislation that would pre-absolve a company's irresponsible acts.

Keith & Darlene Appel

4705 Malibu Dr.

Anchorage, AK 99517

R. E. Huff  
8058 Azalea Dr  
Anchorage, Ak 99516



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

HB 491

Please oppose HB 491. All ski resorts should be required to have liability in the safety of skiers. They should be required to have an "Incident Command Center" to handle lost or injured skiers and friends concerns.

Ski Resort should have liability concerning trails that they allow skiers on. As a father of 3 children, I am concerned about the lack of concern when a skier is reported missing. Thank you Richard E. Huff

I am opposed to HB 491  
(civil liability for skiing  
accidents). The U.S. Forest  
Service has standards of safety  
worked out over many years  
of dealing with ski resorts.  
I believe we would be making  
a big mistake if we effectively  
negated those standards.

Kathleen O'Neil

1201 Denali #207, Anchorage, AK 99501

I oppose HB 491 - SB 403

Proposed Downhill Skiing  
Regulations. This bill would  
Remove AK. Ski resorts from  
any liability including maintenance  
construction & design activities. What's  
about the safety of Alaskans. K. W. W. W.

Mr. & Mrs James W. Hostman  
PO BX 772848  
Eagle River AK 99577



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

We are opposed to HB 491/SB 403. We must insure that the Seibu Corp. maintain Alyeska Ski Resorts with recourse to the law and courts for enforcement, if, and when, it's needed.

3/28/92 Virginia Postman

James W. Postman

Would you PLEASE

OPPOSE

HB 491/SB 403

THANK YOU.

Robert L. Smith

P.O. Box 110855

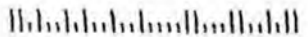
Honolulu HI 96851

1321 W 74<sup>TH</sup>

Dorell  
bx 3515  
Kodiak  
99615



REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811



• Please, oppose HB 491/SB 403.  
This is a special interest legislation supported by Seibu Corporation, a multinational Japanese corp. with 120 subsidiaries that has owned Alyeska resort since 1980. It would virtually insulate Alaskan ski resorts from any liability, including maintenance, construction, and design activities. What about the safety of Alaskans? Thankyou very much

Andy: Kay Povelite Box 3515 Kodiak, AK  
99615

Dear Rep. Finklestein.

Please oppose HB 49/SB 403. The safety of recreational skiers should not be jeopardized by special interest legislation.

Don't assist in the protection of ski resorts from liability, when they fail to perform proper maintenance & reasonable care in protecting their customers.

Thank you.

LAC bill file

Josie A. Shonley  
Box 110295  
Anchorage, AK 99511

Laurie & Jon Maps  
5301 Rabbit Creek Rd  
Anchorage, AK



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

*Put in  
our file (see)*



Dear Rep. Finkelstein,

We respectfully request  
that you oppose HB 491/SB 403 -  
Proposed Downhill Skiing  
Legislation. This legislation  
would insulate ski resorts  
from liability which  
consequently will lead to  
more injuries & potential  
deaths.

Sam Myers  
Laurie Myers

I am opposed to

HB 491 & SB 403

Dr G. Hayden GREEN

333-6771

Please appose HB 491.

It appears to be too  
broad and may weaken  
the protection of the  
Alaskan skiers.

Thank you.

Margaret & Joe Byrne  
Box 7796

Ketchikan, AK 99901

3/25/92

PLEASE OPPOSE HB 491/SB 403. THIS IS SPECIAL-INTEREST LEGISLATION SUPPORTED BY SEIBU CORPORATION, A MULTI-NATIONAL JAPANESE CORPORATION WITH 120 SUBSIDIARIES THAT HAS OWNED ALYESKA RESORT SINCE 1980. IT WOULD VIRTUALLY INSULATE ALASKAN SKI RESORTS FROM ANY LIABILITY INCLUDING MAINTENANCE, CONSTRUCTION AND DESIGN ACTIVITIES. WHAT ABOUT THE SAFETY OF ALASKANS?

*Marion A. Browning*

MARIAN A. BROWNING

March 24, 1992

Dear State Representative Finkelstein:

Although health risks are inherent to downhill skiing, we strongly object to the wording of House Bill No.491 before you. The bill completely omits negligence liability of operators.

Adequate signing/warning measures, protecting skiers from natural and man-made hazards are the responsibility of commercial operators. Please assure that skiers in Alaska are properly protected and cared for by commercial operators who collect money for that service.

*Douglas and Isolde Gibson*

Douglas and Isolde Gibson  
20548 David  
Eagle River, AK 99577

Pls. oppose HB 491/5B 403.

As a skier, I accept my responsibility.

Let the ski area operators accept  
their responsibility as any other  
service agency does -

Ann Peltier

18984 Andreanof

Eagle River AK

99577

Dear Rep. Finkelstein,

HB 491/SB 403 is another example of placing the interests of large corporations above the safety interests of the skiing public. Please oppose its passage

Thank you  
Tom Miller

24 March 1992

Rep. Finkelstein:

Please vote against ski operator immunity  
amendments in HB 491. These amendments will  
not encourage Alyeska to operate safely, and  
will only protect big corporations instead  
of injured people.

Thanks

Sincerely,  
Alan Kohnstorf  
3236 Spruce Gap Road  
Kodiak, AK 99615

Anne Pasch  
7661 Wandering  
Anchorage, AK



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

March 23, 1992

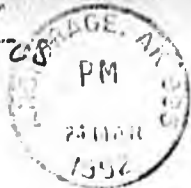
Dear Rep. Finkelstein,

I note with alarm that you are considering passage of HB 491 & SB 403 which would absolve ski resort owners and operators from any liability or accountability for safety. This clearly is unacceptable for Alaskan citizens and visitors. Therefore I hope you will act responsibly by working toward the defeat of these two bills.

Thank you.

Donna Pasch

O. Williams  
3001 E 42 # 304  
ANCHORAGE AK 99508



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

3/23/92

Representative Finkelstein,

I am concerned about potential passage of HB 491 and SB 403. This seems like a blatant attempt by SEIBU Corporation and their paid lobbyists to whitewash a tragedy that has happened & to protect SEIBU from future liabilities for anything. Please vote NO - Paul Walker

Mr. H. D. Hite  
1935 Beaver Pl.  
Anchorage, AK 99504-2524



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

Please oppose HB 491/SB 403

It would virtually insulate Alaskan ski resorts from any liability including maintenance, construction and design activities. What about the safety of Alaskans? I and others have continually complained about the safety of Mt. Alyeska, including poor marking, inadequate ski patrol force, inaccurate brochure trail maps, incomplete ski reports, underage drinking in the bar, lack of supervision for students who sign up for Alyeska ski lessons and now a death of a child. Concerned voters A.O.H. to

Linda FARMER  
3840 Robin St.  
Anch, ALASKA  
99504



Carnegie Hall Centennial 1991

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

I knew Bert Rizer - the young boy who  
died @ Mr. Alvarez. He died from mismanagement  
of the mountain - NOT some "Freak Accident" as  
Scribe claims. This special Interest legislation  
is so obvious in its attempt to remove  
any liability from the skiing industry that ~~it~~  
makes me mad. The owners of any industry  
would like to have legislation like this passed,  
but that is not how America works! We  
need increased safety - NOT some Bill that  
removes safety  
Love you, Linda Finner

March 24, 1992

Hi Rep. Finkelstein,

I am very much opposed to HB 491. Could you please see to it that it does not pass?

Thank you very much.

Betty J. Kelley

P. O. Box 210112

Anchorage, AK 99521

Please oppose HB 491. Skiing has inherent risk, but most conditions mentioned in this bill are not outside the control and responsibility of resort operators. Careful and timely marking of hazardous areas and patrol of slopes for dangerous conditions and ski practices should be demanded for the safety of all skiers.

Sincerely,

*Bob Kuhner*  
*Arlene Kuhner*

Bob and Arlene Kuhner  
2150 Campbell Place  
Anchorage, AK 99507

I oppose the passage of  
HB 491/SB 403.

Kathy Mills

Representative, Please oppose  
H B 491 - Ski resorts should  
not be insulated from  
liability - especially in  
instruction; design & safety &  
maintenance activities -  
Alaska is a Japanese owned, very  
profitable enterprise - they must  
share the risk w/ the Skiing public  
Robert Still, Skier

Sheree Foxeyon  
12910 Jack's  
Anchorage, AK



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

March 22, 1992

Dear Representative Finkelstein,

We adamantly oppose the proposed  
Alaskan Skiing Legislation (HB491 and  
SB403). This legislation appears to insulate  
a multi-national Japanese corporation  
(Sochi Corporation) from any liability  
even if accidents or deaths are caused  
by their neglect or omission. Please  
protect the safety of Alaskans and  
oppose this legislation.

Sincerely,  
Patricia A. Longenecker  
Pat Longenecker

3/24/92

Dear Sir:

I am very opposed to HB 491/SB 403. I would appreciate your help in seeing that it does not pass.

Thank You,

*Nancy Moore*

Nancy Moore

P. O. Box 770006

Eagle River, Alaska 99577

I am particularly concerned about HB 491

While I agree that the individual assumes a large responsibility in any recreational activity such as skiing, I see this bill as completely abdication of responsibility of the operator/owner in design and maintenance.

Looks like special interest - VOTE NO!

Valerie J. Pickman

P. BOWEN  
11601 OUTCROPP RD  
ANCHORAGE



USA 19

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P. O. BOX V CAPITOL RM 15  
JUNEAU AK 99811

Please oppose HB 491 / SB 403.

This appears to be a special-interest legislation designed to protect Seiber Corporation (owner of Alysha Resort). I believe ski resorts need to be liable to the public for their maintenance, construction and design activities.

PEGGY BOWEN  
Peggy Bowen

Re: HB 491 and SB 403

Why are you sponsoring this special-interest legislation for a multi-national Japanese corporation? This bill would insulate Alaskan ski resorts from any liability including maintenance, construction and design activities. What about the safety of Alaskans? Doesn't safety come first? Please rethink your position on this issue.



Carolyn J. Burd  
2030 Steeple Dr.  
Anchorage, AK 99516

REP FINKELSTEIN -

PLEASE OPPOSE HB 491/SB 403. I HAVE  
SKIED AT ALYESKA FOR 10 YEARS AND MY  
FAMILIES ~~SAFETY~~ SAFETY DEPENDS ON HOW THE  
RESORT MAINTAINS, GROOMS, AND MARKS RUNS, ENFORCES  
SAFETY AND DECIDES OPENINGS AND CLOSINGS.  
I AM OUTRAGED THEY ARE TRYING TO SHIFT THESE  
DECISIONS ON INDIVIDUAL SKIERS.

SINCERELY

ELLEN HELLER

I am strongly opposed to  
HB 491, the proposed  
downhill skiing legislation

Cherie Shrader  
1601 Hidden Lane  
Anchorage, AK 99501

Please do not approve HB # 491 <sup>SB 403</sup> amendment.

Sec 3 AS 09.65.135c -H "grooming operations"  
releases ~~an~~ <sup>a resort</sup> operation from liabilities of the  
use of grooming equipment - including a  
"bunk" equipment operator. It would also  
release the resort operator from any  
liability from construction and design.

David Gregg  
7025 Whitehall St  
Anchorage, AK 99502

How about a bill requiring safety bars  
on all lift chairs?

Dear Representative Finkelstein,

3/28/92

I am opposed to HB 491 which would exempt Alaskan ski resorts from almost all liability.

If a corporation does business, it should take proper precautions to protect users. We can be sure that if the law exempts ski resorts from liability, safety standards will be ignored and deaths and serious injury will follow. Please oppose this special interest legislation.

Sincerely, Diana Conway

Box 6461

Halibut Cove AK 99603-6461

Dear Mr. Finkelstein,

I am writing regarding HB 491/SB 403. I understand the need to develop our resources but granting such immunity to ski slope operators is not in the best interests of the Alaskan people. Their safety must come first. The bill should be limited to natural conditions over which only god has control.

Thank You for your Time

Bruce Faulkner

Box 512

Seward Ak.

99664



Representative -

Please Oppose H.B. 491.

This bill will cause more Alaskans to be injured through operator negligence.

Greg & Dawn (conceded votes)

ALASKAN TUFTED PUFFINS

Photo by Harry M. Walker



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Post Card

Rep. David Finkelstein

House Labor & Commerce Com.

P.O. Box V, Cape Hill, AK 99815

Tuneau, AK 99811



I urge you to OPPOSE

HB 491/SB 403. This special interest legislation would insulate Alaskan ski from any liability including maintenance, design, and construction activities.

As an Alaskan, I want more, not fewer, safety measures.

Sincerely,

Tadeusz J. Piotrowski  
1329 Cordova St.  
Anchorage, AK 99501  
*T. J. Piotrowski*

7-11 DR-6950-B



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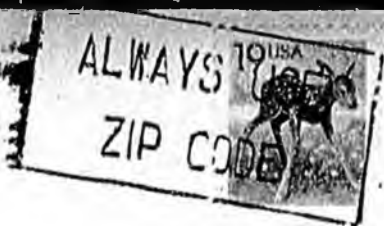
Post Card  
Rep. David Finkelstein, Chair  
House Labor and Commerce Committee

P.O. Box V Capitol RM 15

Juneau, AK 99811

SA-152

SNOWMASS VILLAGE and Mt. Daly at  
twilight. SNOWMASS RESORT,  
COLORADO



Please Oppose Bill HB 491  
SB 403. I want more  
Safety Measures for Alaskans,  
Not Power.

Ruth Piotrowski  
1329 Cordova St.  
Anchorage, AK. 99501  
Ruth E. Piotrowski

Rep. David Finkelstein, Chair  
House Labor and Commerce Committee  
P.O. Box V Capitol Rm 15  
Juneau, AK 99811

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HB

491

Alaska State Legislature  
House of Representatives

INTERIM

3111 C Street  
Anchorage, Alaska 99503  
(907) 561-2032



SESSION

P.O. Box V  
Juneau, Alaska 99811  
(907) 465-2995

Representative Dabe Choquette

To: Representative David Finkelstein, Chair  
House Labor and Commerce Committee

From: Representative Dave Choquette, member  
House State Affairs Committee

A handwritten signature in cursive script, appearing to read "Dave Choquette".

Date: February 27, 1992

Re: Request for hearing

I would appreciate your scheduling HB 491, relating to civil liability for skiing accidents, efd. for a hearing. This is a bill which was introduced by the House State Affairs Committee.

In December, 1991, the Alaska Supreme Court ruled, under Hiibschman v. City of Valdez, that the current statute did not prevent suits by injured skiers. In its findings the court ruled that the ski resort had failed to make the slopes or trails "reasonably safe" for patrons. HB 491 would make it clear that resorts have the responsibility to adequately post trails, but recognizes that skiing does pose inherent risks which are similar to many outdoor sports or recreational activity.

I will be providing backup for the bill and will be carrying the bill for the committee. If I can provide any additional information, please contact me or my staff, Nancy Hemenway, at 465-2995.



Alaska State Legislature

3111 "C" STREET, SUITE 425  
ANCHORAGE, ALASKA 99503  
(907) 561-2037

WHILE IN JUNEAU  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-2719/2693



MEMBER  
RESOURCES COMMITTEE  
LABOR AND COMMERCE  
COMMITTEE  
OIL AND GAS COMMITTEE  
FINANCE SUB COMMITTEE  
NATURAL RESOURCES

Representative Jim Zawacki

MEMORANDUM

TO: Representative David Finklestein, Chairman  
Labor and Commerce Committee

FROM: Representative Jim Zawacki

DATE: March 16, 1992

RE: Placing HB 491 on the Labor and Commerce Calendar

\*\*\*\*\*

I would like to take this opportunity to request that  
HB 491, "An Act relating to civil liability for skiing  
accidents...", be placed on the Labor and Commerce  
Committee calendar as soon as possible.

Please call my office when a decision has been made as to the  
date HB 491 will be heard. Thank you and I look forward to  
hearing from you soon.

I'd be glad to talk with you anytime  
about the safety problems at  
Alyeska.

Patti Rizer 345-1743

345-5212 (fax)

Dear Representative Finkelstein:

RE: HB 491 and SB 403

**IF THESE BILLS ARE PASSED, HERE'S WHAT COULD HAPPEN TO YOU AND YOUR FAMILY.**

No downhill ski resort operator in Alaska could ever be held accountable for injuries or death on the slopes, even if they were at fault! Under this legislation if you were run over by an intoxicated snow cat operator, YOU--not the resort--would pay the medical bills. This is because these two bills would virtually insulate ski resorts from any liability including maintenance, construction and design activities. The U.S. Forest Service requires Seibu Corporation, the owner of Alaska's largest ski resort, Mt. Alyeska, to sign an Operations and Safety Plan each year to maximize public safety. But this bill would effectively cancel the Forest Service standards of safety.

My 11-year-old son, Bart Rizer, an excellent skier, died on Mt. Alyeska December 8, 1991, because of insufficient marking, insufficient warnings, and insufficient sweep procedures. Many people in Alaska have continually complained about the safety of Mt. Alyeska, including poor marking, inadequate ski patrol force, inaccurate brochure trail maps, incomplete ski reports, underage drinking in the bar, lack of supervision for students who sign up for Alyeska ski lessons, decreasing pay for ski school teachers, and continually increasing lift ticket price.

I accept the "inherent risks" that are associated with skiing and other activities, especially in Alaska. Resort operators should not have to pay when an "inherent risk" and not their own negligence causes an injury. Bart broke his leg when we were skiing when he was in preschool. Breaking a leg is what I would consider an "inherent risk" while skiing. I took full responsibility for that accident. But death is another matter. Especially when the resort acts carelessly.

Bart was a polite, intelligent boy with a high IQ. He had been in the accelerated program at Bear Valley Elementary School. He was safe and cautious. His father has been a commercial fisherman in Alaska for more than 20 years and had instilled in Bart water safety, gun safety, knife safety, home safety, and skiing safety.

Bart was skiing in the middle of the Bowl on an open run he had made hundreds of times before. But he had no idea the snow he was about to enter was deeper than he was tall. He fell and could not get out of this open area because the snow was ungroomed, "bottomless" powder. He had nothing to push against and therefore could not extract himself. Bart never had a chance because he wasn't warned of the danger, and Seibu employees didn't find him before he died of hypothermia. It took **FOUR HOURS** for Bart to be found, and we told employees the area where he was.

If this legislation gets passed, we will be jeopardizing Alaskans' safety. *Whose side are we on--a multi-national Japanese corporation with 120 subsidiaries, or the citizens of our state?*

Sincerely,

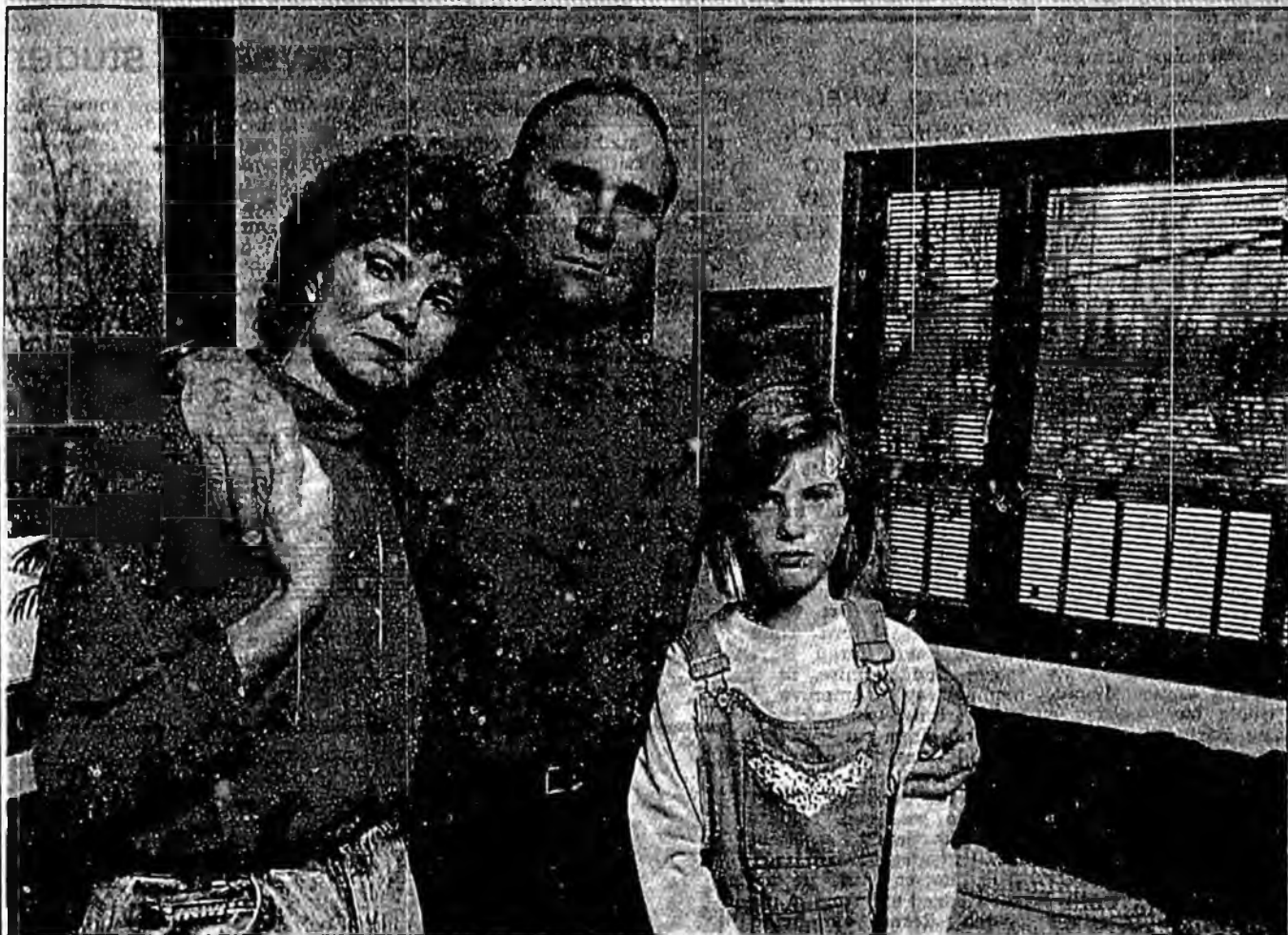
*Patti Rizer*

Patti Rizer, Professor  
University of Alaska Anchorage

# METRO

ANCHORAGE DAILY NEWS

SECTION B



ERIK HILL / Anchorage Daily News

Patti and Bruce Rizer, with daughter, Megan, 10, are asking for better safety provisions at Alyeska Ski Resort.

## Grief drives parents

Son's death prompts call for safety reforms at ski resort

By SHEILA TOOMEY  
Daily News reporter

Life was tough enough when Patti and Bruce Rizer thought an act of God killed their son in a skiing accident three months ago.

But now they believe 12-year-old Bart could have been saved, and now anger drives their anguish.

Bart Rizer died Dec. 8 after being lost on the mountain at Alyeska Ski Resort for three hours. He was found head first in deep snow along one of several trails down the main bowl of the mountain on the first day of the skiing season. He had been skiing with a partner, but veered off on his own shortly before he reached the spot where his body was found. His death certificate says he died of cardiopulmonary arrest cause by severe hypothermia.

"I feel that he could have been saved," Patti said. "Every day we say, 'Bart should be with us today.'"

Are they right? Is it even possible to know, and how important is it since nothing can bring Bart back? These are questions the Rizers are

grappling with as they emerge from near-paralyzing early grief.

Above all, Patti and Bruce wonder what they should do, because they are convinced they have to do something.

"I can't do nothing," Patti Rizer said. "What happens if I pick up a paper two years from now and another kid died?"



This is not a story about the facts of Bart's death, nor an attempt to assess right or wrong. This is a story about a moment in time when forces that seem to have a life of their own are pulling people toward a lawsuit that probably doesn't have to happen. This is a story about feelings and fears and failure to communicate.

Stripped bare, here are the conflicting views of what happened that dreadful December day:

Please see Page B-2, TALE OF THE CITY



Bart Rizer died in deep snow.

# TALE OF THE CITY:

## Parents want ski safety

Continued from Page B-1

According to John Heiser, director of mountain operations for Alyeska, and other friends of the resort who called the Daily News at the resort's request, the snowfall was heavy but not unusual on Dec. 8 and a sign at the lift warned of "early season conditions." Skiing is inherently dangerous and cannot be made safe. Parents are responsible for assessing whether children can handle conditions. No one should ski alone, even for a little while. A heroic search was mounted over several hundred acres, in the dark, for a child largely buried in the snow. Heiser said the search should be considered a success because it took three hours to find Bart when it could have taken days. Everyone did everything possible. What happened was a rare and tragic accident.

According to the Rizers, the snow was dangerously deep and powdery and Alyeska employees knew this. Alyeska yielded to pressure to open the slopes when they shouldn't have. Signs should have been posted warning children not to ski. Bart was very safety conscious, according to his 10-year-old sister Megan, and would have heeded a warning. Basic rescue materials, such as a map of the mountain, were not available. No one seemed to be in charge of the search. It was two hours before searchers agreed to take Bart's buddy to the spot where they were last together. Bart died of hypothermia, so time was critical.

Before their son's death, the Rizers so loved Alyeska and the winter ski life that they wanted their ashes scattered over the mountain when they died. Now they are bitter. For nearly two months, no one from the resort contacted them, Patti said. No one sent a letter of condolence or offered to brief them. "We were craving information," she said.

When they started asking questions, they got conflicting information and the resort told employees not to talk to them. When a letter finally arrived, it referred to Bart's death as "the incident involving your son," a phrase that still drives Patti into a fury.

In February, with active support from the resort, Sen. Jay Kerttula introduced a bill in the legislature that, among other changes, adds the word "death" to the list of damages for which ski resorts are not legally liable. Heiser said the bill only clarifies an existing "inherent dangers of skiing" law and was prepared in response to a 1991 Supreme Court decision involving a Valdez accident.

Again, the same facts look different to the Rizers. To them it seems like Alyeska "rushed to get complete immunity" from responsibility instead of acknowledging mistakes and improving safety.

"What were they doing for two months?" Patti asked. "Working on this bill instead of talking to me? What's a grieving parent to think?"

Heiser said he, too, is a parent. The people at Alyeska have great sympathy for the Rizers' loss. Several searchers were so distraught over Bart's death



*'I can't do nothing. What happens if I pick up a paper two years from now and another kid died?'*

— Patti Rizer

they required counseling, he said. "Our concern here, of course, is for the parents. We've gone to great lengths to meet with them and try to have them meet with individuals involved with the rescue."

Bruce and Patti say that's not how it feels to them. They don't want to file a lawsuit, Patti said. They haven't even consulted a lawyer. They just want Alyeska to admit they should have found Bart sooner and promise, in a binding way, to improve.

Unfortunately, court action is beginning to look like the only way to accomplish this, Bruce Rizer said.

Alyeska certainly doesn't want to get sued, but its safety practices are excellent and its safety record very good, Heiser said. He acknowledged no errors in the search. Resort employees have met with the Rizers without lawyers, as a gesture of good will, and are listening to the family's suggestions. "They've had good ones," Heiser said.

Rick Friedman is an experienced Anchorage trial lawyer who has nothing to do with either side. He called the situation "a familiar pattern" when a child dies.

"The problem is, of course, there's so much more going on than the legal system can deal with. ... It's not about money. The parents don't want money. Money trivializes them.

"The parents want to have something constructive come out of this horrible event," Friedman said. "They want to have it have some meaning. ... The parents have anger because they feel they've been mistreated.

"On the other side you have this large institution, they are defensive ... They're afraid to do anything. ... It's tailor made for somebody sitting them both down and saying, 'Let's take this bad situation and make something good come from it.'"

The obvious common ground is safety, Friedman suggested. Both sides care about it. "What they need is either a scholarship or a safety program or something that makes the world a better place, because (Bart's) not going to have a chance to make the world a better place."

## THE NEED FOR AND PROBABLE EFFECTS OF INHERENT RISK LEGISLATION

### House Bill 491 and Senate Bill 403

There are very few things which can be predicted with any degree of success in the litigation arena.<sup>1</sup> It is therefore difficult to predict with any degree of certainty the effect in an individual case of the adoption of House Bill 491 or Senate Bill 403, or if the Alaska Legislature adopted a statutory scheme similar to Colorado or New Hampshire. Nevertheless, it is easy and appropriate to outline the basic differences between (1) the current statute, AS 09.55.135, as interpreted by the Alaska Supreme Court; (2) the statute as proposed in HB 491 and SB 403; and (3) the adoption of a comprehensive statute governing skiing responsibilities and duties, such as Colorado or New Hampshire.

#### I. The Need for Legislation Regarding the Inherent Risks of Skiing

Prior to 1978, it was generally assumed among ski area operators and the courts that skiers were responsible for their own injuries arising from the inherent risks of skiing. This doctrine was called "primary assumption of risk," and basically held that a ski area operator is not liable for injuries arising from the inherent risks of skiing. An operator owed his patron no duty to eliminate those risks, because they were part of the sport. Skiers assumed those dangers by their very participation in the sport. This doctrine was most eloquently set forth in *Wright v. Mt. Mansfield Lift, Inc.*, 96 F.Supp. 786 (D.Vt. 1951).

A short 27 years later, the Vermont Supreme Court turned the skiing community on its head with the holding in *Sunday v. Stratton Corp.*, 390 A.2d 390 (Vt. 1978). In that case, a skier claimed that he had fallen after his ski became entangled in a small bush or piece of brush near the side of a beginner's trail. The skier became a quadriplegic as a result of the incident. The court held that the ski area operator could be liable for such an incident, and affirmed a jury verdict in favor of the skier.

Within five years, over 20 states with commercial ski operations adopted one form of a statute imposing responsibility for injuries arising from the inherent risks of skiing on the skier. There are several reasons why such statutes are necessary and desirable, and why the legislature must use very specific language in expressing its intentions.

The first point is that ski area operators require certainty. It is very important that ski area operators know exactly those things for which they are responsible, and those things for which

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<sup>1</sup> The most certain prediction is that the lawyers on each side will more than likely reap greater benefits from the litigation than the clients.

the skier is responsible. If area operators know what their duties are (provided they are not so onerous as to require more expenditures than can be recouped through revenues, i.e., ticket prices), and they know how to comply, skiing as a sport will be greatly enhanced. Insurance rates will go down for those who comply with the known requirements, especially after it is well-established that claims arising from inherent risk incidents can be resolved by summary motion. Cases like *Sunday v. Stratton*, which impose liability in unpredictable circumstances, deprive operators and their insurers with the certainty necessary to develop an effective risk management program.

The second point is that courts resist change, especially when the legislature alters the common law as established by the court. It is imperative that the legislation show a clear intent to alter the common law with respect to the rights and duties of skiers and ski area operators. Section 1 of both bills does this, and is a critical component of the legislation. The best solution, of course, is for the legislature to adopt a comprehensive statute regulating the operation of ski areas, setting forth the specific duties of an operator to his patrons, and the specific responsibilities of ski areas. In addition to the reluctance with which courts greet changes in the laws they have "written," courts eagerly entertain the application of constitutional test to legislative acts which deviate from the common law. While most challenges to inherent risk statutes have been unsuccessful,<sup>2</sup> the Montana Supreme Court found the Montana act unconstitutional.<sup>3</sup>

The third point, and perhaps the most important, is that skiing is unlike any other commercial enterprise. Ski area operators offer skiers access to large areas of mountainous alpine terrain. This terrain contains all manner of variations in terrain, hills, gullies, ridges, holes, streams, forests, brush,

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<sup>2</sup> The following cases upheld inherent risk of skiing statutes as constitutional: *Pizza v. Wolf Creek Ski Development Corp.*, 711 P.2d 671 (Colo. 1985); *Grieb v. Alpine Valley Ski Area, Inc.*, 400 N.W.2d 653 (Mich.App. 1986); *Schmitz v. Cannonsburg Skiing Corporation*, 428 N.W.2d 742 (Mich.App. 1988); *Lewis v. Canaan Valley Resorts, Inc.*, 408 S.E. 2d 1128 (W.Va. 1991); *Northcutt v. Sun Valley Co.*, 787 P.2d 1159 (Idaho 1990); *Collins v. Schweitzer, Inc.*, --- F.Supp. ---, 1991 WestLaw 196753 (D.Idaho 1991); *Ciebink v. Fischer*, 709 F.Supp. 1012 (D.Colo. 1989); *Wainrauch v. Park City*, 635 F.Supp. 91 (D.Utah 1986).

<sup>3</sup> *Brewer v. Ski-Lift, Inc.*, 763 P.2d 226 (Mont. 1988). The Montana statute has since been amended to respond to the concerns expressed by the Montana Supreme Court. See Montana Code §§ 23-2-701 et seq.

grass, rocks, etc. Skiing takes place in the winter time, with all of the winter weather conditions. The patrons of a ski area engage in a highly athletic sport which requires good physical conditioning and quick reflexes. By the nature of the sport, the patrons slide on a steep, slippery surface at speeds which, even for the beginner or intermediate, easily exceed even the speed of the fastest runner. Unlike the operator of a skating rink or bowling alley or golf course, there is no physical way a ski area operator can modify, control, or even monitor each rock, tree, ridge, icy spot, or other single point condition so as to protect all patrons from injury. Yet a ski liability case is tried as if the area operator should focus all of his attentions and resources on the one tiny spot on the hill where the accident occurred.

Alyeska Resort has an enviable safety record when compared to other ski areas in the United States. Ski accident safety is traditionally measured in terms of the number of accidents incurred per thousand skier visits. A "skier visit" is one skier visiting the ski area on a single day. The number of accidents is the number of skiers who report injuries to the ski patrol. Over the last several years, the number of accidents at Alyeska has consistently remained well below the national average:

COMPARISON OF NUMBER OF SKI ACCIDENTS			
Year	Skier Visits	United States	Alyeska Resort
89-90	133,466	3.4	2.7
90-91	138,762	3.4	1.8
91-92 (as of 02/29/92)	132,280	3.3	1.1

Despite this positive safety record, Alyeska Resort spends a substantial amount of money each year defending claims made by injured patrons. The resort changed insurers effective December 1, 1989. Since that date, Alyeska Resort has paid \$104,808.04 in legal fees related to claims made by skiers, and currently has 6 open claims files. The net claim amounts and/or reserves for claims exceeds \$200,000.

Why is a relatively safe ski resort stuck with relatively high legal fees and insurance premiums? Largely because Alyeska, like all Alaska ski areas, is without effective protection from claims arising from the inherent risks of skiing.

The fact is that despite the best efforts of any ski area operator, a very few skiers are going to get hurt while engaging in the sport. Some will sustain minor injuries, some will suffer

permanent and/or serious injuries, and a very, very few will die. This is not because the skiers or the operators are bad people, or are foolish, or do not take care of themselves or the ski area. It is a result of a sport which combines high speed, mountainous steep terrain, varying snow and weather conditions, and rocks, trees, bushes, stumps, etc.

Currently, Alaska is forced to consider any skier who suffers a substantial injury as a potential claimant. The rules are not clear, the chances of liability uncertain, and the amounts awarded potentially very large.

## II. Current Status of Ski Law in the United States

There are essentially three legal positions taken by the states within which skiing occurs:

- A. The first position is the common law duties established by the courts: A landowner or possessor of land is required to act as a reasonable person in maintaining his property in a reasonably safe condition in view of all the circumstances including the likelihood of injury to others, the seriousness of the injury, and the burden on the respective parties of avoiding the risk. *Webb v. City and Borough of Sitka*, 561 P.2d 731, 733 (Alaska 1977). This makes sense when the size and nature of the parcel, when combined with the activities of the patrons in various weather conditions, allows the owner or possessor to generally monitor each area of his land. In the world of skiing, it imposes a theoretical desirable norm which is absolutely impractical in the real world. Each assertion of liability focuses on a mere snapshot of time and space, and totally ignores all of the other conditions of the land and patrons, and the efforts of the ski area operator to improve skier safety. Ski area operators need more certainty with respect to their duties than a jury trial from hind sight on every ski accident involving more than minor injuries.
- B. The second position is the option selected by Alaska in 1980, and by a few other states, including Utah. This involves three parts. First, the legislature adopts a descriptive, non-comprehensive list of the inherent risks of skiing. Then, the legislature requires the ski area operator to post a notice informing skiers of the inherent risks of skiing and the limitation of liability. Finally, in exchange for correctly posting the notice, the ski area operator is relieved of liability for injuries arising from the inherent risks of skiing. The effectiveness of these statutes depends largely on their interpretation by the supreme court in the state of adoption. In both Alaska and Utah, the state supreme courts have restrictively interpreted these statutes.

*Hilbschman v. City of Valdez*, 821 P.2d 1354 (Alaska 1991); and *Clover v. Snowbird Ski Resort*, 808 P.2d 1037 (Utah 1991). Both courts held that this kind of statute merely codifies the common law, and does not prevent a patron from claiming the operator was negligent, even when the injury is caused by an inherent risk of the sport. The uncertainty created by this interpretation largely renders the statute meaningless. As the Utah Supreme Court stated, "While the general parameters of the act are clear, application of the statute to specific circumstances is less certain. ... The statute, therefore, contemplates that the determination of whether a risk is inherent be made on a case-by-case basis ..." 808 P.2d at 1044 and 1045.

- C. The third position is the adoption of a comprehensive statute regulating the operation of ski areas, which is the position taken by Colorado and New Hampshire, among others. In its adoption of the statute, the legislature makes it clear that it is not merely codifying the common law, but is comprehensively rewriting the law with respect to the operation of ski areas. First, the legislation sets forth with some particularity the duties of ski area operators to their skiing patrons, including generally very specific requirements regarding signs informing skiers of the relative difficulty of runs, and warning about the inherent risks. These statutes include regulation of the operation of tramways, much as Alaska has done in AS 05.20. The statutes also contain a list of prohibited activities by skiers who ride tramways. These statutes then set forth the duties of skiers with respect to their own safety and the safety of other skiers. Finally, the statutes generally state that so long as the operator fulfills his duties, or so long as a failure to fulfill a particular duty is not the cause of an injury, the ski area operator can not be held liable to the injured patron. These statutes provide the necessary certainty for ski area operators, thus encouraging the development and operation of ski areas. These statutes are also more likely to survive a constitutional challenge, because they impose specific duties on ski area operators in exchange for the limitation of liability.

### III. The *Hilbschman* Case, and the Legal Implications of the Decision on Incidents occurring at Alyeska Resort

The *Hilbschman* case arose at Salmonberry Ridge, a small ski area operated by the City of Valdez. Heather Hilbschman, 15 years old at the time, went skiing with friends at Salmonberry Ridge on March 13, 1986, the first year the area was open. Prior to going skiing, the group stopped by a liquor store and purchased beer, which they consumed during the day. Hilbschman watched several

people jump over a bump on the hill estimated to be between two and four feet high. She waited in line to take her turn to go over the jump. When she went over the bump, she leaned backward and fell, resulting in paraplegia.

Based on the inherent risk of skiing statute, the Superior Court granted summary judgment to the City on all issues except the question of whether the City had complied with the signage requirement. The lower court held that Hiibschman had failed to ski within the limits of her ability. A jury later determined that the City had complied with the signage requirements.

The Supreme Court reversed the summary judgment, and sent the case back to the Superior Court for trial. There are several rulings in the *Hiibschman* decision which render the inherent risk of skiing statute largely ineffective. The following discussion illustrates a number of the problems created by the *Hiibschman* case, provides examples of recent incidents at Alyeska Resort which are affected by the rulings, and explains the application of the *Hiibschman* case, the proposed legislation and the more comprehensive ski statutes, to the example:

- A. The statute preserved the common law duties of ski area operators. Thus, the ski area operator is required to act as a reasonable person in maintaining all skiing terrain under his control in a "reasonably safe" condition.

Problem: Ski area operators are unlike any other business which invites patrons to enjoy land. Skiers seek an outdoor athletic experience in a winter alpine setting on very large tracts of land. Many skiers who got hurt were seeking higher physical challenges in steeper terrain, deeper snow, or using terrain variations to jump. Given the weather, slope, vegetation, etc., it is impossible for a ski area operator to keep the entire ski area "reasonably safe" under all conditions.

Example: Patron skied down Von Imhoff Trail at a high rate of speed, turn right off the main trail and attempted to jump from a small ridge. Patron fell before reaching the top of the ridge, struck some ice or rocks, and broke his back. Patron claims Alyeska liable because of negligent failure to provide sufficient snow cover or because the ski run was icy or because there were rocks where the skier fell.

1. Under the *Hiibschman* ruling, this case must go to a jury trial on whether Alyeska should have opened at all, whether there was sufficient warning of the off trail conditions, and whether Alyeska could have provided sufficient snow coverage or removed the rocks off the

trail.

2. Under HB 491 and SB 403, this case probably would be resolved under summary judgment, provided the operator had posted the required warning signs. Section 1 makes clear the legislative intent to alter the common law, and the amendments in section 3 make it clear that whether the accident was caused by ice or rocks, it is the skier's responsibility. The statute and the required warning sign notify skiers of the dangers, and their responsibility.
  3. Under Colorado or New Hampshire inherent risk statutes, the case certainly would be resolved under summary judgment, provided the operator had posted the required warning signs and fulfilled the other requirements under those statutes. Those statutes substitute an entire new set of responsibilities and obligations for area operators and skiers in the place of the general common law duty of landowners. These statutes recognize the unique nature of skiing.
8. An inherent risk is one which is obvious and necessary to it. A risk is not necessary if it could be eliminated or mitigated through the exercise of reasonable care. The listing of a risk in the statute makes the risk obvious, but does not make it necessary -- necessary risks are those which cannot reasonably be eliminated by the area operator.

Problem: The purpose of the statute was to require the skier to accept the risk of all inherent risks, not just those listed. It is irrelevant whether the risk is necessary, since the risk and the enjoyment factor often coincide. An example is a skier skiing down steep terrain on hardpack snow. Speed and descent are exhilarating, but also increase the risk of injury. It does not matter whether the steep terrain or snow conditions are necessary, because the skier intended to encounter them.

Example: Patron fell while skiing on South Face, a steep run, after ski binding released. Patron slid down South Face, and tried to stop his descent by putting foot in snow. One foot caught in the snow, and patron broke his femur. Patron claimed Alyeska liable because South Face was too icy to be opened that day. Patron's friend testified in deposition that they had skied the South Face the previous day, and at least once before that day without any problems. He also testified that they were expert skiers and had actively sought challenging runs.

1. Under the *Hilbschman* ruling, this case probably would have been tried before a jury. The court's ruling would have required a trial on the issue of whether Alyeska was negligent in opening the South Face that day, because the snow was "too hard" or "icy," and whether the snow conditions were a "necessary" part of the sport, thus an inherent risk.
  2. Under HB 491 and SB 403, this case would be resolved under summary judgment, provided the operator had posted the required warning signs. Section 3 amends the list of inherent risks to clearly specify that all snow conditions are inherent risks, even as they change during the day or from day to day.
  3. Under Colorado or New Hampshire inherent risk statutes, the case certainly would be resolved under summary judgment, provided the operator had posted the required warning signs and fulfilled the other requirements under those statutes.
- C. Evidence of negligence, even where the injury resulted from an inherent risk, takes the case out of the protection afforded by the statute, and the case must be tried before a jury.

Problem: Only incompetent plaintiff's attorneys can be wholly unable to theorize an allegation of negligence and find an expert who will confirm the theory in virtually any skiing accident. The whole point of an inherent risk statute is that the burden of avoiding injury from such a risk is wholly on the skier. This single holding means that almost every case must go to a jury trial, because it is the rare negligence case that can be resolved by summary judgment. *Braham v. Fuller*, 726 P.2d 641, 646 (Alaska 1986); *Webb v. City and Borough of Sitka*, 561 P.2d 731, 735 (Alaska 1977).

Example: Patron skied down Sourdough Trail. His binding came loose, he lost a ski, and fell. Patron slid feet first to the edge of the main trail and struck a rock, breaking his back. Patron claims Alyeska liable because of negligent failure to provide sufficient snow cover, failure to remove the rock, and failure to mark the rock.

1. Under the *Hilbschman* ruling, this case would have been tried before a jury. The court's ruling requires a trial on the issue of whether the rock was in the main run or off the main trail, whether there was sufficient snow, and whether Alyeska should have removed the rock.
2. Under HB 491 and SB 403, this case might be resolved

under summary judgment, provided the operator had posted the required warning signs. Section 3 amends the list of inherent risks to clearly specify collisions with natural objects, on or off the trail, are an inherent risk of the sport. There has been some earth work in the vicinity of the rock, however, and there is some question whether this fact would take the rock out of the status of "natural object."

3. Under Colorado or New Hampshire inherent risk statutes, the case certainly would be resolved under summary judgment, provided the operator had posted the required warning signs and fulfilled the other requirements under those statutes. Non-moving objects on the ski hill are the responsibility of the skier, whether on the main trails or off in the woods.

- D. Artificial conditions are not inherent risks. Any alteration to natural conditions -- earth work to create a ski run, cutting a tree, grooming a ski slope -- removes those conditions from inherent risks of skiing within the list in the current statute.

Problem: This means that a ski area operator's efforts to improve safety by, for example, grading ski trails in the summer time increase the operator's risk of liability. This creates an incentive to leave dangerous -- but natural -- conditions in place. The legislature should encourage a ski operator to take steps to reduce naturally created hazards.

Example: A skier fell on the back of her skis on the Von Imhoff Trail, and slid through a transition onto Upper Scourdough. Both runs were cut and graded out of the forest by Alyeska, and both provide substantially easier routes down the mountain than the natural conditions which existed before the work was performed. No claim has yet been made.

1. Under the *Hilbschman* ruling, any claim made would have to proceed to a jury trial. The slopes are artificial, and therefore, by Alaska Supreme Court definition, can not be considered an inherent risk of skiing. Any claim that asserted the injuries were a result of trail design, construction or maintenance would be impervious to a motion for summary judgment.
2. Under HB 491 and SB 403, this case would almost certainly be resolved under summary judgment, provided the operator had posted the required warning signs. Section 3 amends the list of inherent risks to clearly specify that variations in terrain, whether natural or a result of

slope design and terrain modification, are an inherent risk of the sport.

3. Under Colorado or New Hampshire inherent risk statutes, the case certainly would be resolved under summary judgment, provided the operator had posted the required warning signs and fulfilled the other requirements under those statutes. In particular, Colorado's statute specifically lists "variations or steepness in terrain, whether natural or a result of slope design, snowmaking or grooming operations, including but not limited to roads, catwalks, or other terrain modifications" as inherent risks of skiing. See Colorado Revised Statutes § 33-44-103(10).

- E. Where warning signs must be placed and what they must say is an issue for the jury to resolve.

Problem: The best place to put the signs is where people who use the ski area are most likely to see them. The present statute, which requires "trail signs at prominent locations within a ski area" is open to vast interpretation, thus requiring a jury trial in every case on whether the signs were "trail signs" and whether they were placed in "prominent locations." Ski area operators need to know precisely what to post and where they have to post it.

Example: Patron was apparently skiing fast down the Waterfall and lost control, flying into the woods and striking two crosses. Patron suffered severe multiple trauma (The patroliers who attended his injuries were awarded the National Ski Patrol Purple Heart for a life-saving effort.) Patron's father has made repeated inquiries regarding the incident, but has not yet made a claim.

1. Under the *Hiibschman* ruling, this case would have been tried before a jury. Although it appears that the cause of the injuries was one or more inherent risks: trees, snow conditions or failure to ski within the limits of the skier's ability. The court's ruling requires a trial on the issue of whether Alyeska's signage was sufficient to comply with the warning sign requirements in the current inherent risk statute.
2. Under HB 491 and SB 403, this case would almost certainly be resolved under summary judgment, provided the operator had posted the required warning signs. Section 2 imposes firm and certain signage requirements both with respect to content and location. Alyeska can know without a doubt what has to be done to comply, and can in fact

comply. Section 3 amends the list of inherent risks to clearly specify collisions with natural objects, on or off the trail, are an inherent risk of the sport.

3. Under Colorado or New Hampshire inherent risk statutes, the case certainly would be resolved under summary judgment, provided the operator had posted the required warning signs and fulfilled the other requirements under those statutes. Non-moving objects on the ski hill are the responsibility of the skier, whether on the main trails or off in the woods.

#### V. Conclusion

The need for legislation is apparent. In order for skiing to be available for Alaskan residents in any form and at reasonable ticket prices, the operators must know and be able to comply with the duties required by the state. This can best be effected by the adoption of an effective inherent risk statute.

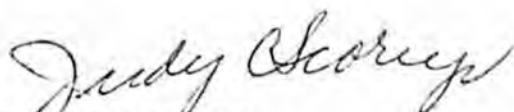
March 26, 1992

REP. DAVID FINKELSTEIN, CHAIR  
HOUSE LABOR AND COMMERCE COMMITTEE  
P O BOX V CAPITOL RM 15  
JUNEAU AK 99811

SUBJECT: HB 491/SB 403 DOWNHILL SKIING LEGISLATION

Please don't support HB 491 and SB 403 regarding downhill skiing legislation. No ski operator should be released from liability where it has been negligent in exercising every effort to minimize areas of "inherent" danger by up-to-date warnings in those areas. Warnings should also be posted in lodges, on lift areas, and in any area of heavy traffic where skiers would be likely to see them.

Property owners and home owners are liable for accidents or deaths on their personal property and business owners are liable for accidents or deaths on their premises. Therefore, ski operators should not be absolved of liability for any reason. Each of us as individuals and business owners are liable for damages caused by "inherent" dangers and ski operators should not be any different from the rest of the residents of Alaska. If ski operators can be released from liability for "inherent" dangers, then every person and business in Alaska should also be released from liability for "inherent" dangers. Don't show partiality to ski operators by allowing them to be exempt from liability when the rest of us are liable.

  
JUDY C SCORUP  
P O BOX 775  
PALMER AK 99645  
(907)745-3320 W  
(907)745-3773 H

jcs

March 27, 1992

Representative David Finkelstein  
Alaska State House of Representatives  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Finkelstein:

I want to urge you to support HB491 and SB 403 relating to the inherent risks of skiing. I am an avid skier and believe this legislation is necessary to limit the cost of insurance for ski areas and, incidentally, keep the cost of lift tickets reasonable.

Skiing is a healthy sport enjoyed by many Alaskans. It is one of the few winter sports that an entire family can enjoy together. It is an exhilarating sport enjoyed by individuals of varying skills and abilities. There are programs for mentally and physically handicapped people. In addition, skiing provides the basis for a growing winter tourism industry. The huge investment in new lifts and a new hotel at Alyeska prove that there is a large potential.

Most skiing accidents are the result of individual mistakes and are not related to unsafe operations or ski areas.

Thank you for your support.

Sincerely,



Ron Lautaret  
550 W. 21st.  
Anchorage, Ak. 99503

(907)277-9030

P. O. Box 449  
Girdwood, AK 99587  
March 30, 1992

Representative Jim Zawacki  
House Labor and Commerce Committee  
P. O. V Capitol Rm 15  
Juneau, AK 99811

Dear Mr. Zawacki:

Please oppose legislation HB 491 and SB 403, wherein the "inherent risks of skiing" are defined and liability for injury is assigned exclusively to the skier.

While I agree that a skier takes risks when he indulges in the sport, I cannot agree that the risk "rests only with the skier." If this bill is approved, Alaskan resorts will have license to neglect maintenance and safety, for they will be absolved of all responsibility for whatever damages occur on their properties.

For example, if the phrase "whether natural or a result of slope design, including roads, catwalks, jumps, or other terrain modifications" defines variations of steepness in terrain and becomes an inherent risk to the skier only, then resort management can say, "Let us put roads where they are most practical, across slopes if convenient, rather than in a safe location." Management could concentrate on costs, rather than safety, as modifications and expansions are made to an area. A resort would not be obligated to clearly mark or maintain safety precautions at the location of such design changes if the risk were only the skier's.

If the snow conditions constituting "inherent risk" are defined as "ice, hard pack, powder, wind pack, corn, slush, cut-up snow, and machine-made snow," the resort is absolved of grooming! Management no longer needs to drag slopes made dangerous by ice, wind, and constant skiing. If the snow is heavy and deep, he has no obligation to pack it down. Even if his personnel make dangerous ruts and cuts with snowcats, or manufacture snow as hard as cement, he has no obligation to repair the danger.

Indeed, if changing weather and snow conditions create a dangerous potential for avalanches, is not Alaskan ski resort management absolved by this bill of any responsibility for shooting them down?

The natural objects added--"streambeds, trees, other natural objects (?)"--with which a skier is responsible for avoiding

collision, are now included with the bare spots, forest growth, and rocks as inherent risks to the skier. Is it meant that resorts should be as "au natural" as the wilderness? For what does the Alaskan pay his \$30? He expects some management of natural hazards, to include trail and hazard markings, barricades around bare spots, removal of obstacles on and under the surface of main trails, and warnings about skiing out of bounds. Does this bill absolve resort management of trail maintenance?

With regard to collisions with "tramway towers, signs, posts, fences, enclosures, hydrants, water pipes, and other man-made structures," I cannot believe that these could be considered inherent risks to rest only with the skier! Who places these structures on the mountain, and who decides whether or not to make them visible, and whether or not to cover them with protective padding? Proper management should make all the difference between a safe and a dangerous operation. Let us not make our skiers liable for this one!

"Snow-making and grooming operations" can also be safely carried out by careful management. One superb New Hampshire resort closes the slope it is grooming, so that no skiers are in the vicinity. Many resorts close the trails where snow is being made. Would an Alaskan resort feel such an obligation under this legislation?

The addition of the word "death" is frightening, but logically follows the preceding revisions. If we allow this bill to pass, so that Alaskan resorts have no responsibility for the maintenance and safety of their operations, there will be more deaths. Please protect the safety of Alaskan skiers and the people in Girdwood, in particular, by opposing HB 491/SB 403. Thank you.

Sincerely,



Susan K. Scherwin

cc: D. Finkelstein  
R. Halford

L+C file

Grant C. Baker  
P.O. Box 82448  
Fairbanks, Alaska 99708  
907/479-0629

March 23, 1992

Senator Steve Frank  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Frank;

I was recently made aware of HB491/SB403. This is legislation relating to the civil liability for skiing accidents. I would like to address this bill.

In short, this type of legislation is a disgrace. Apparently, the bill essentially limits the liability of ski operators to the posting of liability disclaimer signs. In addition, very few of these signs will be required and only in areas where ski hazards are minimal such as near ticket lines. It is clear that this type of legislation neglects public safety and does not support responsible economic development. Therefore, I respectfully request that you oppose this bill.

I would be happy to discuss this bill with you or answer any questions that you have concerning this letter. Please let me know if I can be of any help. Thank you.

Respectfully submitted,



Grant C. Baker

cc: Senator Rick Halford  
Representative David Finkelstein

*LEC bill file*

March 22, 1992

Senator David Finkelstein  
Alaska State Legislator  
P. O. Box V (MS 3100)  
Room 15C  
Juneau, AK 99811

RE: House Bill 491 / Senate Bill 403  
Proposed Downhill Skiing Legislation

Senator Finkelstein:

I do not believe the proposed changes in the bill protect Alaskans' best interest. The bill appears to protect the corporation running the ski resort from having any liability. I hope that this bill will be carefully reviewed with any changes helping to protect Alaskans because the ski resorts are already looking out for their best interest. You need to look out for Alaskans' best interest.

Thank you.

Sincerely,

*Norma L. Gammons*  
Norma L. Gammons, CPS  
434 Aurora Drive  
Anchorage, AK 99503-1853

March 27, 1992

David Finkelstien  
Capitol, Room 15  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Finkelstien;

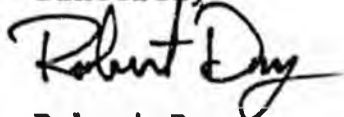
I am very concerned about the viability of one of my favorite activities during the wonderful winters we have here in Alaska. Recently the Supreme court of Alaska rendered some decisions concerning the inherent risk of skiing law in Alaska that have the potential to make it nearly impossible to afford to ski at a resort. I have downhill skied for nearly 30 years and during that time have been fortunate in that I have never seriously injured myself. I have been a Volunteer National Ski Patrolman for nearly 14 years and I have seen a number of people that have been injured, some seriously. I have patrolled in Colorado, Utah and Alaska.

Skiing can be a dangerous sport. People like myself who engage in it have to accept the responsibilities associated with the decision to ski. It is impossible to make the mountain environment entirely safe for all levels of skiers. It would destroy the sport if a totally safe environment was present. Part of the thrill of skiing is its inherent risks. Without a strong inherent risk of skiing law the sport is destined to become more elitist as ticket prices will have to rise to pay for the additional costs of litigation. A reasonable person can enjoy getting outdoors, exercise, companionship, physical and mental challenges and the thrill of taking reasonable physical risks. Families as well as individuals enjoy the sport. As a Volunteer National Ski Patrolman I am doing my part to mitigate the risks and to help others. Please help me keep the sport of skiing in Alaska alive and well by supporting House Bill 491.

I recently returned from a ski trip to Utah where they do have a strong inherent risk law which goes so far as including snowmachines, grooming equipment and snowmaking equipment and part of the risk of skiing. Alaska's inherent risk law is very weak in comparison.

Please support House Bill 491.

Sincerely



Robert Day  
2221 Tasha Drive  
Anchorage, Alaska 99502

## PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE FINKELSTEIN

NAME: ALEXANDER ILCHENDO  
 TITLE:  
 ADDRESS: P.O. BOX 100940  
 CITY: ANCHORAGE ZIP: 99510  
 PHONE: N/R-  
 BILL NO:  
 SUBJECT: ANCHORAGE SOCIAL SERVICES BLOCK GRANTS  
 MESSAGE: PLEASE SUPPORT. /BN

*Add to  
CSC file*

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R.PHILLIPS	SHARP	STURGULEWSKI
TAYLOR	ULMER	UEHLING
ZAWACKI		ZHAROFF

## PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE FINKELSTEIN

NAME: MS. LOU MORGENSEN  
 TITLE:  
 ADDRESS: BOX 243053  
 CITY: ANC ZIP: 99524  
 PHONE: 266-6272  
 BILL NO: HB 491  
 SUBJECT: CIVIL LIABILITY FOR SKIING ACCIDENTS  
 MESSAGE: I OPPOSE HB 491. I FEEL IT IS A SELF-INTEREST BILL THAT DOES NOT  
 PROTECT THE CONSUMER. WHEN YOU PAY SOMEONE FOR A SERVICE, YOU EXPECT REASONABLE  
 LIABILITY TO BE ASSUMED BY THE VENDOR. /LD

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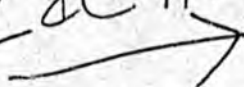
BRUCKMAN  
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 IVAN  
 PARNELL  
 TAYLOR  
 ZAWACKI

## PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE FINKELSTEIN

NAME: RICHARD A. ROLLAND  
 TITLE:  
 ADDRESS: 3300 C STREET  
 CITY: ANCHORAGE  
 PHONE: 562-4155  
 BILL NO: HB 467  
 SUBJECT: "ECONOMIC BENEFIT" IN SUBSISTENCE ECONOMY  
 MESSAGE: SB 398: I WRITE TO EXPRESS THE NORTH PACIFIC RIM'S SUPPORT FOR HB 467 AND SB 398 AMENDING THE OIL SPILL LAWS TO EXPLAIN MORE FULLY THAT ALL SUBSISTENCE DAMAGES MUST BE PAID IN TRAGEDIES LIKE THE EXXON VALDEZ OIL SPILL. PLEASE GET THIS BILL TO THE GOVERNOR. /JSM

ZIP: 99503

*add to  
L&C file*  


## PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE FINKELSTEIN

NAME: ELLEN HELLEN  
 TITLE:  
 ADDRESS: 1319 G STREET  
 CITY: ANCHORAGE  
 PHONE: 276-8523  
 BILL NO: HB 491  
 SUBJECT: SB 403  
 MESSAGE: PLEASE OPPOSE HB 491 AND SB 403. I HAVE SKIED AT ALYESKA FOR 10 YEARS AND MY FAMILY'S SAFETY DEPENDS ON HOW THE RESORT MAINTAINS, GROOMS, MARKS RUNS, ENFORCES SAFETY AND DECIDES OPENING AND CLOSING. I AM OUTRAGED THE RESORT IS TRYING TO SHIFT THESE DECISIONS ON INDIVIDUAL SKIERS./CMR

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