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Compilation of State Statutes Relating to the Inherent Risks of Skiing

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The following compilation of state statutes relating to the inherent risks of skiing was downloaded from WESTLAW on February 10, 1992, and is as current as WESTLAW is as of that date. Some statutes are an integral part of the statutes regulating tramways, and, where the context is necessary for better understanding, the full tramway and inherent risk statutes are set forth. Most states with tramways have statutes regulating the installation and operation of the tramways, but this compilation does not include tramway statutes unless they are an integral part of the inherent risk statute.

Some states have statutes which address only certain aspects of skiing, such as California, which merely prohibits a skier involved in an accident from leaving the scene of the accident. Some statutes authorize a regulatory body to promulgate regulations. Most of the regulations relate to tramways, but some regulations may affect the inherent risks of skiing. Some states have broad inherent risk statutes which relate to skiing and a host of other sports.

TABLE OF CONTENTS

ALASKA	2	NORTH CAROLINA	39
CALIFORNIA	2	NORTH DAKOTA	41
COLORADO	2	OHIO	43
CONNECTICUT	8	OREGON	46
IDAHO	10	PENNSYLVANIA	48
MAINE	12	RHODE ISLAND	48
MASSACHUSETTS	13	TENNESSEE	49
MICHIGAN	14	UTAH	51
MONTANA	18	VERMONT	52
NEVADA	23	WASHINGTON	55
NEW HAMPSHIRE	25	WEST VIRGINIA	57
NEW JERSEY	30	WISCONSIN	59
NEW MEXICO	33	WYOMING	60
NEW YORK	36		

ALASKA

ALASKA STATUTES

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Title 9. Code of Civil Procedure.

Chapter 65. Miscellaneous Provisions.

Sec. 09.65.135. Limitations on claims arising from skiing. (a) A skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing unless the injury occurred when the ski area operator was not providing the information required by (b) of this section.

(b) 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 limitation on liability of the ski area operator provided by this section.

(c) In this section

(1) "inherent risks of skiing" means the danger 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) collisions with lift towers, other structures, and their components unless the skier is on the lift;

(F) collisions with other skiers; and

(G) a skier's failure to ski within the limits of the skier's ability;

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

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

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

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

CALIFORNIA

WEST'S ANNOTATED CALIFORNIA CODES
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PENAL CODE

PART 1. OF CRIMES AND PUNISHMENTS

TITLE 15. MISCELLANEOUS CRIMES

MISCELLANEOUS CRIMES

CHAPTER 2. OF OTHER AND MISCELLANEOUS
OFFENSES

§ 653i. Leaving scene of ski accident; infraction; punishment

Any person who is involved in a skiing accident and who leaves the scene of the accident knowing or having reason to believe that any other person involved in the accident is in need of medical and other assistance, except to notify the proper authorities or to obtain assistance, shall be guilty of an infraction punishable by fine not exceeding one thousand dollars (\$1,000).

COLORADO

WEST'S COLORADO REVISED STATUTES
ANNOTATED
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TITLE 33. WILDLIFE AND PARKS AND OUTDOOR
RECREATION
RECREATIONAL AREAS AND SKI SAFETY
ARTICLE 44. SKI SAFETY AND LIABILITY

Sections 1, 9 and 10 of Laws 1990, S.B.90-80, provide:

Section 1. Legislative declaration. The general assembly hereby finds and declares that the sport of skiing is practiced by a large number of residents of Colorado and attracts a large number of nonresidents, significantly contributing to the economy of this state. The general assembly further finds that, despite the passage of the "Ski Safety Act of 1979", ski area operators of this state continue to be subjected to claims and litigation involving accidents which occur during the course of the sport of snow skiing, which claims and litigation and threat thereof unnecessarily increase Colorado ski area operators' costs. The general assembly further finds that such increased costs are due, in part, to confusion under the "Ski Safety Act of 1979" as to whether a skier accepts and assumes the dangers and 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 dangers and risks inherent in that sport, to establish as a matter of law that certain dangers and 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 area operator for injuries resulting from those inherent dangers and risks.

Section 9. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Section 10. Effective date—applicability. This act shall take effect July 1, 1990, and shall apply to all civil actions filed on or after said date.

§ 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.; 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:

(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.

(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., 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 using a ski area for the purpose of skiing; for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, a snowboard, or any other device; or for the purpose of using any of the facilities of the ski area, including but not limited to ski slopes and trails.

(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.

(10) "Inherent dangers and risks of skiing" means those dangers or conditions which are an integral part of the sport of skiing, including changing weather conditions; snow conditions as they exist or may change, such as ice, hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface or subsurface conditions such as bare spots, forest growth, rocks, stumps, streambeds, and trees, or other natural objects, and collisions with such natural objects; impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes, other man-made structures and their components; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to roads and catwalks or other terrain modifications; collisions with other skiers; and the failure of skiers to ski within their own abilities. The term "inherent dangers and risks of skiing" does not include the negligence of a ski area operator as set forth in section 33-44-104(2). Nothing in this section shall be construed to limit the liability of the ski area operator for injury caused by the use or operation of ski lifts.

§ 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., shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of such operator.

(3) All rules adopted or amended by the passenger tramway safety board on or after July 1, 1979, shall be subject to sections 24-4-103(8)(c) and (8)(d) and 24-34-104(9)(b)(II), C.R.S.

§ 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 Tracks", "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 and notices 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. Danger areas do not include areas presenting inherent dangers and risks of skiing.

(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 adequately and appropriately cover such obstructions with a shock-absorbent material that will 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. Variations in steepness or terrain, whether natural or as a result of slope design or snowmaking or grooming operations, including but not limited to roads and catwalks or other terrain modifications, are not man-made structures, as that term is used in this article.

(8)(a) Each ski area operator shall post and maintain signs which contain the warning notice specified in paragraph (c) of this subsection (8). Such signs shall be placed in a clearly visible location at the ski area where the lift tickets and ski school lessons are sold and in such a position to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift. Each sign shall be no smaller than three feet by three feet. Each sign shall be white with black and red letters as specified in this paragraph (a). The words "WARNING" shall appear on the sign in red letters. The warning notice specified in paragraph (c) of this subsection (8) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height.

(b) Every ski lift ticket sold or made available for sale to skiers by any ski area operator shall contain in clearly readable print the warning notice specified in paragraph (c) of this subsection (8).

(c) The signs described in paragraph (a) of this subsection (8) and the lift tickets described in paragraph (b) of this subsection (8) shall contain the following warning notice:

WARNING

Under Colorado law, a skier assumes the risk of any injury to person or property resulting from any of the inherent dangers and risks of skiing and may not recover from any ski area operator for any injury resulting from any of the inherent dangers and risks of skiing, including: Changing weather conditions; existing and changing snow conditions; bare spots; rocks; stumps; trees; collisions with natural objects, man-made objects, or other skiers; variations in terrain; and the failure of skiers to ski within their own abilities.

§ 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. This subsection (5) shall not be construed to create an affirmative duty on the part of the ski area operator to protect skiers from their own or from another skier's carelessness or recklessness.

§ 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. Each skier expressly accepts and assumes the risk of and all legal responsibility for any injury to person or property resulting from any of the inherent dangers and risks of skiing; except that a skier is not precluded under this article from suing another skier for any injury to person or property resulting from such other skier's acts or omissions. Notwithstanding any provision of law or statute to the contrary, the risk of a skier/skier collision is neither an inherent risk nor a risk assumed by a skier in an action by one skier against another.

(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.

(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 pull, 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 controlled substance, as defined in

section 12-22-303(7), C.R.S., or other drug or while such person is under the influence of alcohol or any controlled substance, as defined in section 12-22-303(7), C.R.S., 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 two years after the claim for relief arises and not thereafter.

§ 33-44-112. Limitation on actions for injury resulting from inherent dangers and risks of skiing

Notwithstanding any judicial decision or any other law or statute to the contrary, including but not limited to sections 13-21-111 and 13-21-111.7, C.R.S., no skier may make any claim against or recover from any ski area

operator for injury resulting from any of the inherent dangers and risks of skiing.

§ 33-44-113. Limitation of liability

The total amount of damages which may be recovered from a ski area operator by a skier who uses 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, a snowboard, or any other device and who is injured, excluding those associated with an injury occurring to a passenger while riding on a passenger tramway, shall not exceed one million dollars, present value, including any derivative claim by any other claimant, which shall not exceed two hundred fifty thousand dollars, present value, and including any claim attributable to noneconomic loss or injury, as defined in sections 13-21-102.5(2)(a) and (2)(b), C.R.S., whether past damages, future damages, or a combination of both, which shall not exceed two hundred fifty thousand dollars. If, upon good cause shown, the court determines that the present value of the amount of lost past earnings and the present value of lost future earnings, or the present value of past medical and other health care costs and the present value of the amount of future medical and other health care costs, or both, when added to the present value of other past damages and the present value of other future damages, would exceed such limitation and that the application of such limitation would be unfair, the court may award damages in excess of the limitation equal to the present value of additional future damages, but only for the loss of such excess future earnings, or such excess future medical and other health care costs, or both. For purposes of this section, "present value" has the same meaning as that set forth in section 13-64-202(7), C.R.S., and "past damages" has the same meaning as that set forth in section 13-64-202(6), C.R.S. The existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.

§ 33-44-114. Inconsistent law or statute

Insofar as any provision of law or statute is inconsistent with the provisions of this article, this article controls.

CONNECTICUT

CONNECTICUT GENERAL STATUTES ANNOTATED

COPR. (c) WEST 1991 No Claim to Orig. Govt. Works TITLE 29. PUBLIC SAFETY AND STATE POLICE CHAPTER 538A. PASSENGER TRAMWAYS

§ 29-201. Definitions

As used in this chapter unless the context clearly indicates otherwise:

(a) "Passenger tramway" means a device used to transport passengers in cars on tracks or suspended in the air, or uphill on skis, by the use of steel cables, chains or belts or by ropes, and usually supported by trestles or towers with one or more spans, but shall not include any such device not available for public use and not subject to a fee for use of same. The term passenger tramway shall include the following: (1) Two-car aerial passenger tramways, which are devices used to transport passengers in two open or enclosed cars attached to, and suspended from, a moving wire rope, or attached to a moving wire rope and supported on a standing wire rope, or similar devices; (2) multicar aerial passenger tramways, which are devices used to transport passengers in several open or enclosed cars attached to, and suspended from, a moving wire rope, or attached to a moving wire rope and supported on a standing wire rope, or similar devices; (3) skimobiles, which are devices in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar devices; (4) chair lifts, which are devices which carry passengers on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one or more spans, or similar devices; (5) J bars, T bars, platter pulls and similar types of devices, which are means of transportation that pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans; (6) rope tows, which are devices that pull the skiers riding on skis as the skier grasps the rope manually, or similar devices.

(b) "Operator" means a person who owns or controls the operation of a passenger tramway or ski area. An operator of a passenger tramway shall be deemed not to be operating a common carrier.

(c) "Department" means the department of public safety.

(d) "Commissioner" means the commissioner of public safety.

(e) "Skier" shall include the following: (1) A person utilizing the ski area under control of the operator for the purpose of skiing, whether or not he is utilizing a passenger

tramway; (2) a person utilizing the passenger tramway whether or not that person is a skier, including riders on a passenger tramway operating during the nonskiing season.

§29-202. Requirements for passenger tramways in use

Each passenger tramway used or intended for use in this state shall be constructed, equipped, maintained and operated so as to transport passengers safely according to the provisions of this chapter and the regulations of the commissioner enacted hereunder.

§ 29-203. Regulations, standards

The commissioner shall adopt reasonable regulations relating to public safety in the construction, operation, maintenance and inspection of passenger tramways. The regulations authorized hereunder shall conform as nearly as practicable to established standards, if any, and shall not be discriminatory in their application to operators. Such regulations shall be promulgated in accordance with chapter 54, and shall in no way reduce or diminish the standard of care imposed upon passenger tramway operators under existing law.

§ 29-204. Plans and specifications, submission, approval, notice. Final inspection. Fee

No new passenger tramway shall be erected or installed and no passenger tramway shall be relocated or altered until detailed plans and specifications of the proposed construction or other work have been submitted in duplicate to the department for approval. A fee of one hundred dollars payable to the department of public safety shall accompany each such proposal. Notice that such plans are approved or disapproved shall be given within a reasonable time, and final inspection of the passenger tramway, when installed, relocated or altered, shall be made before final approval for operating is given by the department.

§ 29-205. Registration of each passenger tramway required

The operator of each passenger tramway covered by this chapter shall register with the department each passenger tramway operated by him, giving such information concerning such tramway as the commissioner may require. Such registration shall be made on a form to be furnished by the department.

§ 29-206. Operating certificate, inspections, fees

The department shall enforce the regulations adopted pursuant to section 29-203, and shall inspect the construction, operation and maintenance of passenger tramway to determine whether such regulations have been complied with by the operators. Each passenger tramway shall be thoroughly inspected by a qualified inspector approved by the department at least once every twelve months. More frequent inspections of any passenger tramway may be made if the condition thereof indicates that additional inspections are necessary or desirable. As soon as the department inspects and approves any passenger tramway as being fit for operation, it shall issue to the operator, upon receipt of a one-hundred-dollar fee, a certificate of operation with such conditions and limitations as the commissioner shall prescribe. Such certificate shall be valid for twelve months and shall be renewed yearly, if the department approves the passenger tramway, upon payment of a renewal fee of forty dollars. No passenger tramway may be operated without such operating certificate.

§ 29-207. Order to discontinue operation. Permission for resumption

If any passenger tramway is found to be, in the judgment of the department, dangerous to public safety or is being operated without the operating certificate required in section 29-204 or is being operated in violation of any regulation adopted under this chapter, the department may require the operator of such passenger tramway to discontinue its operation forthwith. When a passenger tramway has been placed out of service pursuant to this section, the operator of such tramway shall not again operate such tramway until repairs have been made, an operating certificate has been obtained, or the violation is discontinued and permission given by the commissioner or his authorized agent to resume operation of such tramway.

§ 29-208. Complaints

Any person may make a written complaint to the commissioner setting forth any alleged violation of this chapter or of any regulation promulgated under the authority of this chapter, or setting forth any condition in a passenger tramway which is alleged to endanger the safety of the public.

§ 29-209. Judicial review of commissioner's decisions

Any person aggrieved by any decision or order of the commissioner or department under the provisions of this

chapter may appeal therefrom in accordance with the provisions of section 4-183, except venue for such appeal shall be in the judicial district wherein such passenger tramway is situated.

§ 29-210. Penalties

Any person who violates any of the provisions of this chapter or any of the regulations adopted hereunder shall, for the first offense, be fined not less than twenty-five dollars nor more than one hundred dollars, and for each subsequent offense, shall be guilty of a class C misdemeanor.

§ 29-211. Duties of operator of passenger tramway or ski area

In the operation of a passenger tramway or ski area, each operator shall have the obligation to perform certain duties including, but not limited to: (1) Conspicuously marking all trail maintenance vehicles and furnishing the vehicles with flashing or rotating lights which shall be operated whenever the vehicles are working or moving within the skiing area; (2) conspicuously marking the location of any hydrant or similar device used in snowmaking operations and placed on a trail or slope; (3) conspicuously marking the entrance to each trail or slope with a symbol, adopted or approved by the National Ski Areas Association, which identifies the relative degree of difficulty of such trail or slope or warns that such trail or slope is closed; (4) conspicuously marking all lift towers within the confines of any trail or slope; (5) maintaining one or more trail boards at prominent locations within the ski area displaying such area's network of ski trails and slopes, designating each trail or slope in the same manner as in subdivision (3) and notifying each skier that the wearing of ski retention straps or other devices used to prevent runaway skis is required by this section, section 29-201 and sections 29-212 to 29-214, inclusive; (6) in the event maintenance men or equipment are being employed on any trail or slope during the hours at which such trail or slope is open to the public, conspicuously posting notice thereof at the entrance to such trail or slope; and (7) conspicuously marking trail or slope intersections.

§ 29-212. Assumption of risk of injury by skier, when

Each skier shall assume the risk of and legal responsibility for any injury to his person or property arising out of the hazards inherent in the sport of skiing, unless the injury was proximately caused by the negligent operation of the ski area by the ski area operator, his agents

or employees. Such hazards include, but are not limited to: (1) Variations in the terrain of the trail or slope which is marked in accordance with subdivision (3) of section 29-211 or variations in surface or subsurface snow or ice conditions, except that no skier assumes the risk of variations which are caused by the operator unless such variations are caused by snow making, snow grooming or rescue operations; (2) bare spots which do not require the closing of the trail or slope; (3) conspicuously marked lift towers; (4) trees or other objects not within the confines of the trail or slope; (5) boarding a passenger tramway without prior knowledge of proper loading and unloading procedures or without reading instructions concerning loading and unloading posted at the base of each passenger tramway or without asking for such instructions; and (6) collisions with any other person by any skier while skiing.

§ 29-213. Prohibited conduct by skiers

No skier shall: (1) Intentionally drop, throw or expel any object from a passenger tramway; (2) do any act which shall interfere with the running or operation of a passenger tramway; (3) use a passenger tramway without the permission of the operator; (4) place any object in the skiing area or on the uphill track of a passenger tramway which may cause a skier to fall; (5) cross the track of a J bar lift, T bar lift, platter pull or similar device or a rope tow, except at a designated location; (6) depart from the scene of a skiing accident when involved in the accident without leaving personal identification, including name and address, or before notifying the proper authorities and obtaining assistance when such skier knows that any other skier involved in the accident is in need of medical or other assistance; (7) fail to wear retention straps or other devices used to prevent runaway skis.

§ 29-214. Special defense to civil action against operator by skier

It shall be a special defense to any civil action against an operator by a skier that such skier: (1) Did not know the range of his own ability to negotiate any trail or slope marked in accordance with subdivision (3) of section 29-211; (2) did not ski within the limits of his own ability; (3) did not maintain reasonable control of speed and course at all times while skiing; (4) did not heed all posted warnings; (5) did not ski on a skiing area designated by the operator; or (6) did not embark on or disembark from a passenger tramway at a designated area. In such civil actions the law of comparative negligence shall apply.

IDAHO

IDAHO CODE

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TITLE 6. ACTIONS IN PARTICULAR CASES CHAPTER 11. RESPONSIBILITIES AND LIABILITIES OF SKIERS AND SKI AREA OPERATORS

6-1101. Legislative purpose.

The legislature finds that the sport of skiing is practiced by a large number of citizens of this state and also attracts a large number of nonresidents, significantly contributing to the economy of Idaho. Since it is recognized that there are inherent risks in the sport of skiing which should be understood by each skier and which are essentially impossible to eliminate by the ski area operation, it is the purpose of this chapter to define those areas of responsibility and affirmative acts for which ski area operators shall be liable for loss, damage or injury, and to define those risks which the skier expressly assumes and for which there can be no recovery.

6-1102. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section.

(1) "Aerial passenger tramway" means any device operated by a ski area operator used to transport passengers, by single or double reversible tramway; chair lift or gondola lift; T-bar lift, J-bar lift, platter lift or similar device; or a fiber rope tow, which is subject to regulations adopted by the proper authority.

(2) "Passenger" means any person who is lawfully using an aerial passenger tramway, or is waiting to embark or has recently disembarked from an aerial passenger tramway and is in its immediate vicinity.

(3) "Ski area" means the property owned or leased and under the control of the ski area operator within the state of Idaho.

(4) "Ski area operator" means any person, partnership, corporation or other commercial entity and their agents, officers, employees or representatives, who has operational responsibility for any ski area or aerial passenger tramway.

(5) "Skiing area" means all designated slopes and trails but excludes any aerial passenger tramway.

(6) "Skier" means any person present at a skiing area under the control of a ski area operator for the purpose of engaging in the sport of skiing by utilizing the ski slopes and trails and does not include the use of an aerial passenger tramway.

(7) "Ski slopes and trails" means those areas designated by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing.

6-1103. Duties of ski area operators with respect to ski areas.

Every ski area operator shall have the following duties with respect to their operation of a skiing area:

(1) To mark all trail maintenance vehicles and to furnish such vehicles with flashing or rotating lights which shall be in operation whenever the vehicles are working or are in movement in the skiing area;

(2) To mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski slopes and trails;

(3) To mark conspicuously the top or entrance to each slope or trail or area, with an appropriate symbol for its relative degree of difficulty; and those slopes, trails, or areas which are closed, shall be so marked at the top or entrance;

(4) To maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon as to its [its] relative degree of difficulty;

(5) To designate by trail board or otherwise which trails or slopes are open or closed;

(6) To place, or cause to be placed, whenever snowgrooming or snowmaking operations are being undertaken upon any trail or slope while such trail or slope is open to the public, a conspicuous notice to that effect at or near the top of such trail or slope;

(7) To post notice of the requirements of this chapter concerning the use of ski retention devices. This obligation shall be the sole requirement imposed upon the ski area operator regarding the requirement for or use of ski retention devices;

(8) To provide a ski patrol with qualifications meeting the standards of the national ski patrol system;

(9) To post a sign at the bottom of all aerial passenger tramways which advises the passengers to seek advice if not familiar with riding the aerial passenger tramway; and

(10) Not to intentionally or negligently cause injury to any person; provided, that except for the duties of the operator set forth in subsections (1) through (9) of this section and in section 6-1104, Idaho Code, the operator shall have no duty to eliminate, alter, control or lessen the risks inherent in the sport of skiing, which risks include but are not limited to those described in section 6-1106, Idaho Code; and, that no activities undertaken by the operator in an attempt to eliminate, alter, control or lessen such risks shall be deemed to impose on the operator any duty to

accomplish such activities to any standard of care.

6-1104. Duties of ski area operators with respect to aerial passenger tramways.

Every ski area operator shall have the duty to construct, operate, maintain and repair any aerial passenger tramway in accordance with the American national standards safety requirements for aerial passenger tramways.

6-1105. Duties of passengers.

Every passenger shall have the duty not to:

(1) Board or embark upon or disembark from an aerial passenger tramway except at an area designated for such purpose;

(2) Drop, throw or expel any object from an aerial passenger tramway;

(3) Do any act which shall interfere with the running or operation of an aerial passenger tramway;

(4) Use any aerial passenger tramway if the passenger does not have the ability to use it safely without instruction until the passenger has requested and received sufficient instruction to permit safe usage;

(5) Embark on an aerial passenger tramway without the authority of the ski area operator;

(6) Use any aerial passenger tramway without engaging such safety or restraining devices as may be provided.

6-1106. Duties of skiers.

It is recognized that skiing as a recreational sport is hazardous to skiers, regardless of all feasible safety measures which can be taken.

Each skier expressly assumes the risk of and legal responsibility for any injury to person or property which results from participation in the sport of skiing including any injury caused by the following, all whether above or below snow surface: variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, other forms of forest growth or debris, lift towers and components thereof; utility poles, and snowmaking and snowgrooming equipment which is plainly visible or plainly marked in accordance with the provisions of section 6-1103, Idaho Code. Therefore, each skier shall have the sole individual responsibility for knowing the range of his own ability to negotiate any slope or trail, and it shall be the duty of each skier to ski within the limits of the skier's own ability, to maintain reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator and to refrain from acting in a manner which may cause or

contribute to the injury of anyone. The responsibility for collisions by any skier while actually skiing, with any person, shall be solely that of the individual or individuals involved in such collision and not that of the ski area operator.

No person shall place any object in the skiing area or on the uphill track of any aerial passenger tramway which may cause a passenger or skier to fall; cross the track of any T-bar lift, J-bar lift, platter lift or similar device, or a fiber rope tow, except at a designated location; or depart when involved in a skiing accident, from the scene of the accident without leaving personal identification, including name and address, before notifying the proper authorities or obtaining assistance when that person knows that any other person involved in the accident is in need of medical or other assistance.

No skier shall fail to wear retention straps or other devices to help prevent runaway skis.

6-1107. Liability of ski area operators.

Any ski area operator shall be liable for loss or damages caused by its failure to follow the duties set forth in sections 6-1103 and 6-1104, Idaho Code, where the violation of duty is causally related to the loss or damage suffered. The ski area operators shall not be liable to any passenger or skier acting in violation of their duties as set forth in sections 6-1105 and 6-1106, Idaho Code, where the violation of duty is causally related to the loss or damage suffered; nor shall a ski area operator be liable for any injury or damage to a person who is not legally entitled to be in the ski area; or for any loss or damages caused by any object dropped, thrown or expelled by a passenger from an aerial passenger tramway.

6-1108. Liability of passengers.

Any passenger shall be liable for loss or damages resulting from violations of the duties set forth in section 6-1105, Idaho Code, and shall not be able to recover from the ski area operator for any losses or damages where the violation of duty is causally related to the loss or damage suffered.

6-1109. Liability of skiers.

Any skier shall be liable for loss or damages resulting from violations of the duties set forth in section 6-1106, Idaho Code, and shall not be able to recover from the ski area operator for any losses or damages where the violation of duty is causally related to the loss or damage suffered.

MAINE

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MAINE REVISED STATUTES ANNOTATED
TITLE 26. LABOR AND INDUSTRY
CHAPTER 5. HEALTH AND SAFETY
REGULATIONS
SUBCHAPTER V-A. ELEVATORS AND TRAMWAYS

§ 488. Skiers' and tramway passengers' responsibilities

It is hereby recognized that skiing as a recreational sport and the use of passenger tramways associated therewith may be hazardous to skiers or passengers, regardless of all feasible safety measures which can be taken. Therefore, each skier shall have the sole responsibility for knowing the range of his own ability to negotiate any slope or ski trail, and it shall be the duty of each skier to conduct himself within the limits of his own ability, to maintain control of his speed and course at all times while skiing, to heed all posted warnings and to refrain from acting in a manner which may cause or contribute to the injury of himself or others. Except as otherwise specifically provided in this subchapter, each skier who participates in the sport of skiing shall be deemed to have assumed the risk of the dangers inherent in the sport and assumed the legal responsibility for any injury to his person or property arising out of his participation in the sport of skiing, unless the injury or death was actually caused by the negligent operation or maintenance of the ski area by the ski area operator, its agents or employees. Except as provided in this section, the responsibility for collisions by any skier while actually skiing, with any person or object, shall be solely that of the skier or skiers involved in collision and not that of the ski area operator. This section shall not prevent the maintenance of an action against a ski area operator for the negligent design, construction, operation or maintenance of a tramway.

§ 489. Duties of skiers and tramway passengers; acts prohibited

No person engaged in skiing or riding on a tramway shall be authorized to:

1. Embark or disembark from tramway except as designated. Embark or disembark from any tramway, as defined in this subchapter, except at a designated area;

2. Throw or expel objects from a tramway. While riding on any tramway, as defined in this subchapter, or similar device, throw or expel therefrom any object, nor while riding on such tramway, shall the skier do any act or thing which shall interfere with the running of that

tramway;

3. Engage in harmful conduct. While riding on any tramway, as defined in this subchapter, willfully engaged in any type of conduct which will contribute to or cause injury to any person, or to the tramway, nor shall he willfully place any object in the uphill ski track which will cause injury to another person or cause damage or derailment of the tramway;

4. Closed trails. Ski or otherwise use a slope or trail which has been designated "closed" by the operator without written permission of the operator or his designee;

5. Removal or destruction of signs. Remove, alter, deface or destroy any sign or notice placed in the ski area or on the trail by the operator; or

6. Out-of-bounds areas. Ski or otherwise use any portion of the ski area that is not a part of a regular network of trails or areas open to the public, including wooded areas between trails, undeveloped areas and all other portions not open to the public, if the operator has properly posted these areas as being closed to public access.

§ 490. Penalties

Any owner, manager, or employee of any ski area, who finds a person in violation of section 489, may first issue a verbal warning to that individual or suspend his lift use privileges. Any person who fails to heed the warning issued by the ski area owner, manager or employee shall forfeit his ski lift ticket and ski lift use privileges and be refused issuance of another and shall be liable for any damages to the tramway and its incidental equipment which have been caused by his misconduct.

In the event that it is necessary to commence a rescue operation as a result of a violation of section 489, subsection 6, any person who has committed the violation will be liable for the cost of that rescue operation.

MASSACHUSETTS

MASSACHUSETTS GENERAL LAWS ANNOTATED
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PART I. ADMINISTRATION OF THE GOVERNMENT
TITLE XX. PUBLIC SAFETY AND GOOD ORDER
CHAPTER 143. INSPECTION AND REGULATION
OF, AND
LICENSES FOR, BUILDINGS, ELEVATORS AND
CINEMATOGRAPHS
RECREATIONAL TRAMWAYS

§ 71N. Duties of ski area operators

A ski area operator shall:

(1) whenever maintenance or snow-making equipment is being employed on any ski slope or trail open to the public, conspicuously place or cause to be placed, notice at or near the top of any ski slope or trail being maintained that such equipment is being so employed, and shall conspicuously indicate the location of any such equipment in a manner to afford skiers reasonable notice of the proximity of such equipment;

(2) mark and identify all trail maintenance and emergency vehicles, including snowmobiles, and furnish such vehicles with flashing or rotating lights, which shall be operated during the time that said vehicles are in operation within the ski area;

(3) with respect to the emergency use of vehicles within the ski area, including but not limited to uses for purposes of removing injured or stranded skiers, or performing emergency maintenance or repair work to slopes, trails or tramway equipment, not be required to post such signs as is required by clause (1), but shall be required to maintain such lighting equipment required by clause (2);

(4) mark the location of any hydrants used in snow-making operations and located within or upon a slope or trail;

(5) conspicuously place within the ski area, in such form, size and location as the board may require, and on the back of any lift ticket issued notice, in plain language, of the statute of limitations and notice period established in section seventy-one P; and

(6) maintain a sign system on all buildings, recreational tramways, ski trails and slopes in accordance with rules and regulations promulgated by the board and shall be responsible for the maintenance and operation of ski areas under its control in a reasonably safe condition or manner; provided, however, that ski area operators shall not be liable for damages to persons or property, while skiing, which arise out of the risks inherent in the sport of skiing.

§ 71O. Duties of skiers

No skier shall embark or disembark upon a recreational tramway except at a designated location and during designated hours of operation, throw or expel any object from any recreational tramway while riding thereon, act in any manner while riding on a recreational tramway that may interfere with its proper or safe operation, 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 cross the uphill track of a recreational tramway except at designated locations. A skier shall maintain control of his speed and course at all times, and shall stay clear of any snow-grooming equipment, any vehicle, towers, poles, or other equipment.

A skier who boards a recreational tramway shall be presumed to have sufficient abilities to use the same, and shall follow any written or oral instruction given regarding its use and no skier shall embark on a recreational tramway without authority of the operator. A skier skiing down hill shall have the duty to avoid any collision with any other skier, person or object on the hill below him, and, except as otherwise provided in this chapter, the responsibility for collisions by any skier with any other skier or person shall be solely that of the skier or person involved and not that of the operator, and the responsibility for the collision with any obstruction, man-made or otherwise, shall be solely that of the skier and not that of the operator, provided that such obstruction is properly marked pursuant to the regulations promulgated by the board. No skier shall ski on any ski slope or trail or portion thereof which has been designated closed, nor ski on other than an identified trail, slope or ski area. Any person skiing on other than an open slope or trail within the ski area shall be responsible for any injuries resulting from his action. A skier shall be presumed to know the range of his own ability to ski on any slope, trail or area. A skier shall be presumed to know of the existence of certain unavoidable risks inherent in the sport of skiing, which shall include, but not be limited to, variations in terrain, surface or subsurface snow, ice conditions or bare spots, and shall assume the risk of injury or loss caused by such inherent risks. A skier shall, prior to his entrance onto the slope or trail, other than one designated for cross-country skiing, or embarking on any recreational tramway, have attached on his skis, a strap or other device for the purpose of restraining or preventing a runaway ski. A ski area operator who finds a person in violation of this section, may issue an oral warning to that individual. A person who fails to heed the warning issued by such ski area operator shall forfeit his recreational tramway ticket and recreational tramway use privileges and may be refused issuance of another such ticket to the recreational tramway.

§ 71P. Actions against ski area operators; limitations

For the purpose of sections seventy-one I to seventy-one R, inclusive, in any action brought against a ski area operator based on negligence, it shall be evidence of due care where the conduct of an operator has conformed with the provisions of this chapter or rules or regulations of the board made pursuant to section seventy-one J.

No action shall be maintained against a ski area operator for injury to a skier unless as a condition precedent thereof the person so injured shall, within ninety days of the incident, give to such ski area operator notice, by registered mail, of the name and address of the person injured, the time, place and cause of the injury. Failure to give the

foregoing notice shall bar recovery, unless the court finds under the circumstances of the particular case that such ski area operator had actual knowledge of said injury or had reasonable opportunity to learn of said injury within said ninety-day period, or was otherwise not substantially prejudiced by reason of not having been given actual written notice of said injury within said period. In a case where lack of written notice, actual knowledge, or a reasonable opportunity to obtain knowledge of any injury within said ninety-day period is alleged by such ski area operator, the burden of proving substantial prejudice shall be on the operator.

An action to recover for such injury shall be brought within one year of the date of such injury.

§ 71Q. Leaving the scene of skiing accident; penalty

Any person who is knowingly involved in a skiing accident and who departs from the scene of such accident without leaving personal identification or otherwise clearly identifying himself and obtaining assistance knowing that any other person involved in the accident is in need of medical or other assistance shall be punished by a fine of not less than one hundred dollars.

MICHIGAN

MICHIGAN COMPILED LAWS ANNOTATED COPR. (c) WEST 1991 No Claim to Orig. Govt. Works CHAPTER 408. LABOR SKI AREA SAFETY ACT OF 1962

408.321. Ski area safety act of 1962; short title

Sec. 1. This act shall be known and may be cited as the "ski area safety act of 1962".

408.322. Ski area safety act of 1962; definitions

Sec. 2. As used in this act:

- (a) "Board" means the ski area safety board.
- (b) "Commissioner" means the director of licensing and regulation or an authorized representative of the director.
- (c) "Department" means the state department of licensing and regulation.
- (d) "Operator" means a person who owns or controls, or who has operational responsibility for, a ski area or ski lift. An operator includes this state or a political subdivision of this state.
- (e) "Passenger" means a person, skier or nonskier, who boards, disembarks from, or is transported by a ski lift, regardless of whether the ski lift is being used during the

skiing season or nonskiing season, and includes a person waiting for or moving away from the loading or unloading point of a ski lift.

(f) "Ski area" means an area used for skiing and served by 1 or more ski lifts.

(g) "Skier" means a person wearing skis, or a person not wearing skis while the person is in a ski area for the purpose of skiing.

(h) "Ski lift" means a device for transporting persons, uphill on skis, or in cars on tracks, or suspended in the air by the use of cables, chains, belts, or ropes, and usually supported by trestles or towers with 1 or more spans. Ski lift includes a rope tow.

408.323. Ski area safety board; members, qualifications

Sec. 3. A ski area safety board consisting of 7 members is created within the office of the commissioner. The board consists of 3 ski area managers, 1 from the Upper Peninsula and 2 from the Lower Peninsula; 1 engineer with skiing experience; 1 member of the central United States ski association, a nonprofit corporation; 1 person with skiing experience from the Upper Peninsula representing the general public; and 1 with skiing experience from the Lower Peninsula representing the general public. The commissioner and an officer of the Michigan tourist council are ex officio members of the board without vote.

408.324. Ski area safety board; appointment, terms, vacancies

Sec. 4. Members of the board shall be appointed by the governor with the advice and consent of the senate for terms of 4 years and until their successors are appointed and qualified. Vacancies in the board shall be filled for the unexpired term.

408.325. Ski area safety board; public meetings; election of officers; per diem

Sec. 5. (1) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The board shall elect a chairperson and other officers it considers necessary to perform its duties between meetings. A majority of the 7 voting members shall constitute a quorum. The board shall meet not less than once yearly on the call of the chairperson

or by written request of not less than 3 members.

(2) The per diem compensation of the members of the board, other than the commissioner, and the schedule for reimbursement of expenses shall be established annually by the legislature.

408.326. Ski area safety board; promulgation of rules for protection of public; fee schedule

Sec. 6. (1) The board shall promulgate rules for the safe construction, installation, repair, use, operation, maintenance, and inspection of all ski areas and ski lifts as the board finds necessary for protection of the general public while using ski areas and ski lifts. The rules shall be reasonable and based upon generally accepted engineering standards, formulas, and practices.

(2) The board, with the advice of the commissioner, shall propose legislation to establish the fee schedule for permits, inspections, and plain review activities. The fees shall reflect the actual costs and expenses of the department for issuing permits and conducting inspections and plan reviews.

408.326a. Operation of ski areas; vehicle lights; signs, symbols and posted notices

Sec. 6a. Each ski area operator shall, with respect to operation of a ski area, do all of the following:

(a) Equip each snow-grooming vehicle and any other authorized vehicle, except a snowmobile, with a flashing or rotating yellow light conspicuously located on the vehicle, and operate the flashing or rotating yellow light while the vehicle is moving on, or in the vicinity of, a ski run. A snowmobile operated in a ski area shall be operated with at least 1 operating white light located on the front of the snowmobile.

(b) Mark with a visible sign or other warning device the location of any hydrant or similar fixture or equipment used in snow-making operations located on a ski run, as prescribed by rules promulgated under section 20(3).

(c) Mark the top of or entrance to each ski run, slope, and trail to be used by skiers for the purpose of skiing, with an appropriate symbol indicating the relative degree of difficulty of the run, slope, or trail, using a symbols code prescribed by rules promulgated under section 20(3).

(d) Mark the top of or entrance to each ski run, slope, and trail which is closed to skiing, with an appropriate symbol indicating that the run, slope, or trail is closed, as prescribed by rules promulgated under section 20(3).

(e) Maintain 1 or more trail boards at prominent locations in each ski area displaying that area's network of ski runs, slopes, and trails and the relative degree of

difficulty of each ski run, slope, and trail, using the symbols code required under subdivision (c) and containing a key to that code, and indicating which runs, slopes, and trails are open or closed to skiing.

(f) Place or cause to be placed, if snow-grooming or snow-making operations are being performed on a ski run, slope, or trail while the run, slope, or trail is open to the public, a conspicuous notice at or near the top of or entrance to the run, slope, or trail indicating that those operations are being performed.

(g) Post the duties of skiers and passengers as prescribed in sections 21 and 22 and the duties, obligations, and liabilities of operators as prescribed in this section in and around the ski area in conspicuous places open to the public.

(h) Maintain the stability and legibility of all required signs, symbols, and posted notices.

408.327. Ski area safety board; rules, promulgation

Sec. 7. The rules shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

408.328. Commissioner, administration of act

Sec. 8. The commissioner, subject to the limitations herein contained and the rules and regulations of the board, shall administer and enforce the provisions of this act.

408.329. Ski lifts; permits; inspection; operation

Sec. 9. No person shall operate a ski lift without a permit issued by the commissioner. On or before October 1 of each year an operator shall apply for a permit to the commissioner on a form furnished by the commissioner and containing such information as the board may require. All ski lifts shall be inspected before they are originally put into operation for the public's use and thereafter at least once every 12 months, unless permitted to operate on a temporary permit.

408.330. Ski lifts; temporary permits

Sec. 10. The commissioner may issue a temporary permit for 30 calendar days to an operator, who has previously been operating in this state on a regular or annual basis, to continue operation. An inspection of his ski lifts shall be made within 30 days from the issuance of the permit. A ski lift inspected and covered by a permit in the preceding year may operate on a temporary basis until further inspected.

408.331. Ski lifts; permit, issuance, expiration

Sec. 11. If upon inspection a ski lift is found to comply with the rules and regulations of the board, the commissioner shall issue a permit to operate. A permit shall expire on September 30 of the following year.

408.332. Ski lifts; erection, alteration, moving, plans and specifications; rope tows

Sec. 12. Before a new ski lift is erected, or before a presently existing ski lift is moved to a different location, or whenever any additions or alterations are made which change the structure, mechanism, classification or capacity of any ski lift, the operator shall file with the department detailed, duplicate plans and specifications of such work. The plans and specifications shall be prepared by a qualified tramway firm or by an engineer, licensed in this state as a professional engineer, in accordance with Act No. 240 of the Public Acts of 1937, as amended, being sections 338.551 to 338.576 of the Compiled Laws of 1948. Upon approval of plans and specifications, the department shall issue a permit for such work. All rope tows shall be excluded from this section.

408.333. Ski lifts; order to cease operation

Sec. 13. The commissioner or board may order, in writing, a temporary cessation of operation of a ski lift if it has been determined after inspection to be hazardous or unsafe. Operation shall not resume until such conditions are corrected to the satisfaction of the commissioner or board.

408.334. Ski lifts; existing installations; construction of act

Sec. 14. This act shall not be construed to prevent the use of any existing installation, upon inspection found to be in a safe condition and to conform with the rules and regulations of the board.

408.335. Ski lifts; modification of rules and regulations for hardship, record

Sec. 15. If there are practical difficulties or unnecessary hardships for an operator to comply with the rules and regulations under this act, the commissioner, with the approval of the board, may modify the application of such rules or regulations to such a situation, if the spirit of the provisions shall be observed and the public safety is secured. Any operator may make a written request to the board stating his grounds and applying for such

modification. Any authorization by the commissioner and the board shall be in writing and shall describe the conditions under which the modification is permitted. A record of all modifications shall be kept in the department and open to the public.

408.336. Ski lifts; permit fees

Sec. 16. (a) Permit fees. An application for a permit shall be accompanied by fees of:

- \$25.00 for an annual permit, or
- \$2.00 for each rope tow,
- \$5.00 for each T bar, J bar or platter pull,
- \$15.00 for each chair lift or skimobile, and
- \$30.00 for each aerial tramway,

if greater than the \$25.00 annual permit fee.

(b) Inspection fees. Inspection fees shall be as follows:

- \$8.00 for each rope tow,
- \$20.00 for each T bar, J bar or platter pull,
- \$60.00 for each chair lift or skimobile,
- \$120.00 for each aerial tramway, and
- \$50.00 for reinspections or special inspections at an operator's request.

Any operator may employ any person, partnership or corporation, approved by the commissioner and board, to make the inspections. Inspections made by any person, partnership, or corporation, that may be employed by an operator, shall be on forms furnished or approved by the department. Inspection fees shall be waived when the annual permit application is accompanied by such an inspection report.

(c) Review and approval of plans fees. Fees for review and approval of plans prior to construction shall be \$200.00 for a chair lift, T bar, J bar, platter pull or tramway.

Fees for review and approval of plans for modification and alteration of an existing lift shall be \$50.00.

(d) Fees; payment, receipts. Fees shall be paid to the department, which shall give receipts therefor.

408.337. Chief inspector; inspection service

Sec. 17. The department, with the advice and consent of the board, shall employ or retain a person qualified in engineering and training who shall be designated chief inspector. The chief inspector and such additional inspectors and other employees as may be necessary to properly administer this act may be hired on a temporary basis or borrowed from other state departments, or the department may contract with persons, partnerships or corporations for such inspection services on an independent basis.

408.338. Revenue; disbursements

Sec. 18. All fees for permits or inspections, or any other income received under this act, shall be paid into the general fund. All salaries and other moneys expended under this act shall be paid by the state treasurer from a fund appropriated by the legislature.

408.339. Notice of public hearing

Sec. 19. (1) In addition to the notice prescribed in section 5(1) notice of a public hearing held under this act shall be published not less than once and not less than 10 days before the hearing, in newspapers of general circulation prescribed by the commissioner.

408.340. Violations; penalty

Sec. 20. (1) Except for sections 21 to 24, and except as provided in subsection (2), a person who violates this act, or a rule or order promulgated or issued pursuant to this act, or a person who interferes with, impedes, or obstructs the commissioner, an authorized representative of the commissioner, or a board member in the performance of duties prescribed by this act, is guilty of a misdemeanor. Each day a violation or other act continues shall be considered a separate offense.

(2) A member of the board who intentionally violates section 5(1) shall be subject to the penalties prescribed in Act No. 267 of the Public Acts of 1976, as amended.

(3) Not more than 270 days after the effective date of this subsection, the board shall, pursuant to section 7, promulgate rules consistent with this act to implement this act, except for subsection (2) and sections 21, 22, 23, and 24, not to exceed \$50.00 for each violation.

408.341. Ski lifts; conduct of skiers

Sec. 21. (1) A skier shall conduct himself or herself within the limits of his or her individual ability and shall not act or ski in a manner that may contribute to his or her injury or to the injury of any other person. A skier shall be the sole judge of his or her ability to negotiate a track, trail, or slope.

(2) While in a ski area, a skier or passenger shall not do any of the following:

(a) Board a ski lift which has been designated as closed.

(b) Wilfully board or embark upon, or disembark from, a ski lift, except at an area designated for those purposes.

(c) Intentionally drop, throw, or expel an object from a ski lift while riding on the lift.

(d) Do any act which interferes with the running or

operation of a ski lift, such as, but not limited to: swinging or bouncing on an aerial lift, attempting to contact supporting towers, machinery, guides, or guards while riding on a ski lift; or skiing out of the designated ski track on a surface lift or tow.

(e) Use a ski lift, unless the skier or passenger has the ability to use the lift safely without instruction on use of the lift by a ski area owner, manager, operator, or employee, or unless the skier or passenger requests and receives instruction before entering the boarding area of the ski lift.

(f) Use a ski lift or ski without properly engaging and using ski restraining devices, brakes, or restraining straps.

408.342. Ski areas; conduct of skiers; acceptance of risks

Sec. 22. (1) While in a ski area, each skier shall do all of the following:

(a) Maintain reasonable control of his or her speed and course at all times.

(b) Stay clear of snow-grooming vehicles and equipment in the ski area.

(c) Heed all posted signs and warnings.

(d) Ski only in ski areas which are marked as open for skiing on the trail board described in section 6a(e).

(2) Each person who participates in the sport of skiing accepts the dangers that inhere in that sport insofar as the dangers are obvious and necessary. Those dangers include, but are not limited to, injuries which can result from variations in terrain; surface or subsurface snow or ice conditions; bare spots; rocks, trees, and other forms of natural growth or debris; collisions with ski lift towers and their components, with other skiers, or with properly marked or plainly visible snow-making or snow-grooming equipment.

408.343. Skiing accidents; notice; identification of persons involved; penalties

Sec. 23. (1) A skier involved in an accident causing an injury to another person shall to the extent that he or she is reasonably able to do so immediately notify the ski patrol or the operator, or law enforcement or emergency personnel, and shall clearly identify himself or herself. A skier who wilfully fails to give identification after involvement in a skiing accident with another person, or a skier who is reasonably able to do so who fails to notify the proper authorities or to obtain assistance when the skier knows that another person involved in the accident is in need of medical or other assistance, is guilty of a misdemeanor, punishable by imprisonment for not more than 30 days, or a fine of not more than \$100.00, or both.

(2) A skier involved in an accident causing an injury to

himself or herself, but not to another person, shall immediately notify the ski patrol or the operator, or law enforcement or emergency personnel, if the accident created a known hazardous condition in the area where the accident occurred.

408.344. Violations; penalties

Sec. 24. A skier or passenger who violates this act, or an operator who violates this act shall be liable for that portion of the loss or damage resulting from that violation.

MONTANA

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MONTANA CODE ANNOTATED
TITLE 23. PARKS, RECREATION, SPORTS, AND
GAMBLING
CHAPTER 2. RECREATION
PART 7. TRAMWAYS -- SKI AREAS

23-2-701. Policy of state.

In order to safeguard the life, health, property, and welfare of the citizens of Montana while using passenger tramways, as defined in 23-2-702, it shall be the policy of the state to protect its citizens and visitors from unnecessary mechanical hazards in the design, construction, and operation of passenger tramways but not from the hazards inherent in the sports of mountaineering, skiing, and hiking or from the hazards of the area utilized by the skier or other sportsman and that periodic inspections be required of passenger tramways with a view to assuring that each one of them meets the rules set forth by the board. The state, through the board, shall register all passenger tramways in the state, establish reasonable standards of design, construction, and operational practices, and cause to be made such inspections as may be necessary in carrying this policy into effect.

23-2-702. Definitions.

As used in this part, the following definitions apply:

(1) "Area" means the area, terrain, or ski slopes served by a passenger tramway.

(2) "Board" means the board of passenger tramway safety provided for in 2-15-1896.

(3) "Industry" means the passenger tramway business activities of all those persons in the state who own, manage, or direct the operation of passenger tramways.

(4) "Operator" means a person, including any political

subdivision or instrumentality thereof, who owns, manages, or directs the operation of a passenger tramway.

(5) "Passenger tramway" means a device used to transport passengers by means of any of the following:

(a) two-car aerial passenger tramway, a device used to transport passengers in two open or enclosed cars attached to and suspended from a moving wire rope or attached to a moving wire rope and supported on a standing wire rope or similar devices;

(b) multicar aerial passenger tramway, a device used to transport passengers in several open or enclosed cars or carrying device attached to and suspended from a moving wire rope or attached to a moving wire rope and supported on a standing wire rope or similar devices;

(c) skimobile, a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable or similar devices;

(d) chair lift, a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain, or link belt supported by trestles or towers with one or more spans or similar devices;

(e) a J-bar, T-bar, or platterpull, so-called, and similar types of devices or means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans;

(f) rope tow, a type of transportation which pulls the skier, riding on skis as the skier grasps the rope or wire rope manually, or similar devices.

23-2-703. Tramways not common carriers or public utilities.

Passenger tramways shall not be construed to be common carriers or public utilities for the purposes of regulation within the meaning of the laws of the state of Montana.

23-2-704. Unlawful to endanger life or cause damage.

(1) It shall be unlawful for any person riding or using a passenger tramway to do so in such manner as to endanger the life and safety of other persons or cause damage to passenger tramway equipment.

(2) Any person who violates this section shall be guilty of a misdemeanor.

23-2-705. Liability limits.

The board, individual board members, technical advisers appointed by the board, and any independent

contractor with whom the board contracts must be provided all protections of governmental immunity granted to public employees by 2-9-305, including but not limited to the provision of legal defense, the payment of court costs, and the payment of judgments and settlements. These protections are provided only with regard to actions brought because of acts or omissions committed by such persons in the course of official tramway duties.

23-2-706 through 23-2-710 reserved.

23-2-711. Registration of tramways required.

No passenger tramway shall be operated in this state unless it has been and continues to be registered with the board, provided that the initial application for the registration of a passenger tramway shall permit the operator to operate such passenger tramway until final action on the application shall have been taken by the board. If an operator files an application with the board for the registration of a passenger tramway, which at that time is registered, then the operator may continue the operation of such passenger tramway under the existing registration until the board takes final action on the pending application and shall have:

- (1) issued a certificate to the operator; or
- (2) given written notice to the operator that the passenger tramway has not qualified for certification.

23-2-712. Application for registration.

Each year on or before October 1, every operator of a passenger tramway shall apply to the board, on forms prepared by it, for registration of the passenger tramways owned, operated, or managed by him. The application shall contain such information as the board may reasonably require in order for it to determine whether the passenger tramways sought to be registered comply with the intent of this part as specified in 23-2-701 and the rules promulgated by the board pursuant to 23-2-721.

23-2-713. Issuance of certificates.

(1) The board shall issue to the applying operator annual registration certificates for each passenger tramway owned, managed, or operated by such operator when it is satisfied:

- (a) that the facts stated in the application are sufficient to enable the board to fulfill its duties under this part; and
- (b) that each such passenger tramway sought to be registered complies with the rules of the board promulgated pursuant to 23-2-721.

(2) In order to satisfy itself that the conditions

described in subsections (1)(a) and (1)(b) of this section have been fulfilled, the board may cause to be made such inspections described in 23-2-722 as it may reasonably deem necessary.

(3) When an operator installs a passenger tramway subsequent to October 1 of any year, such operator shall file a supplemental application for registration of such passenger tramway. Upon the receipt of such supplemental application, the board shall proceed immediately to initiate proceedings leading to the registration or rejection of registration of such passenger tramway pursuant to the provisions of this part.

(4) Each annual registration shall expire on September 30 of the year next following the year of issuance.

(5) Each operator shall cause the registration certificate for each passenger tramway registered to be displayed conspicuously at the place where passengers load.

23-2-714. Fees.

(1) The application for annual registration or supplemental application shall be accompanied by such annual fees as the board may by rule fix from year to year, not to exceed the following annual fees:

(a) passenger tramways described in subsections (5)(e) and (5)(f) of 23-2-702, \$25 each;

(b) passenger tramways described in subsections (5)(c) and (5)(d) of 23-2-702, \$50 each;

(c) passenger tramways described in subsections (5)(a) and (5)(b) of 23-2-702, \$100 each.

(2) All fees collected by the board shall be deposited in the state special revenue fund.

23-2-715. Assessment on passenger tramway receipts.

(1) The board is hereby authorized to impose an assessment of up to 1/4 of 1% on the gross receipts of all passenger tramways operated in the state of Montana. A minimum of \$100 shall be collected annually from the owner of a passenger tramway facility. The assessment shall be calculated upon gross receipts received during the period July 1 of any year through June 30 of the following year. The assessments shall be collected by the department of commerce and remitted to the state special revenue fund by December 31 of each year.

(2) All proceeds of the gross receipts assessment and the fees collected under 23-2-714 shall be used only to support the duties of the board set forth in this part.

23-2-716. Penalty and interest for delinquency -- waiver.

(1) Assessments due under this chapter are delinquent if not paid on or before December 31. The department of revenue shall add to the amount of each delinquent assessment a penalty of 10% of the amount of the assessment plus interest at the rate of 1% per month or fraction of a month computed on the total amount of assessment. Interest is computed from the date the assessment was due to the date of payment.

(2) The 10% penalty may be waived by the department of revenue if reasonable cause is established for the failure or neglect to file the return required by 23-2-715 or to pay the assessment due to the department of revenue.

23-2-717. Credit for overpayment -- interest on overpayment.

(1) If the department of revenue determines that the amount of the assessment, penalty, or interest paid for any year is more than the amount due, the amount of the overpayment must be credited against any assessment, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer, to the taxpayer's successor through reorganization, merger, or consolidation, or to the taxpayer's shareholders upon dissolution. (2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on deficiency assessments provided in 23-2-715(2) from the due date of the return or from the date of overpayment, whichever is later, to the date the department of revenue approves refunding or crediting of the overpayment.

(3) (a) Interest does not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department of revenue for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

(c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one reasonably assumed to be imposed by this chapter is considered an overpayment with respect to which interest is allowable.

23-2-718. Statute of limitations.

(1) Except as provided in subsection (3), a deficiency may not be assessed or collected with respect to the year for which a statement of gross receipts is filed unless the

notice of the proposed additional assessment is mailed within 5 years from the date the statement of gross receipts was filed. For purposes of this section, a statement of gross receipts filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment, consents in writing to an extended time, the assessment may be made at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a statement of gross receipts is filed after 5 years from the last day prescribed for filing the statement of gross receipts or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim or the department of revenue determines the existence of the overpayment and approves the refund or credit. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department of revenue may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a statement of gross receipts is required to be filed and the taxpayer fails to file the statement of gross receipts, the tax may be assessed or an action to collect the tax may be brought at any time. If a statement of gross receipts is required to be filed and the taxpayer files a fraudulent statement of gross receipts, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department of revenue.

23-2-719 and 23-2-720 reserved.

23-2-721. Additional powers and duties of board.

In addition to all other powers and duties conferred and imposed upon the board by this part, the board shall:

(1) adopt reasonable rules relating to public safety in the design, construction, and operation of passenger tramways but which may not relate or pertain to an area served by a passenger tramway. In adopting such rules the board shall:

(a) use as a guideline the standards contained in "The American National Standards for Passenger Tramways--Aerial Tramways and Lifts, Surface Lifts, and Tows--Safety Requirements", ANSI B 77.1--1982, as amended from time to time, or equivalent and as amended or supplemented from time to time by the board;

(b) hold hearings and take in all evidence relating to the adoption of rules;

(c) supply to each operator a copy of its rules and each amendment thereto or revision thereof;

(d) avoid discrimination in application of the rules to operators of passenger tramways;

(2) The board may:

(a) hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board, subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers, and records relevant to any inquiry;

(b) approve, deny, revoke, and renew the registrations provided for in this part;

(c) cause the prosecution and enjoinder of all persons violating the provisions of this part and incur the necessary expenses thereof;

(d) prescribe the duties of such personnel as the board considers necessary.

23-2-722. Inspection of tramways.

The board may cause to be made such inspection of the design, construction, operation, and maintenance of passenger tramways as the board may reasonably require. The board may employ qualified engineers to make such inspections for reasonable fees plus expenses. If, as the result of an inspection, it is found that a violation of the board's rules exists or a condition in passenger tramway design, construction, operation, or maintenance exists endangering the safety of the public, an immediate report shall be made to the operator whose passenger tramway has received such inspection and to the board for appropriate investigation and order.

23-2-723. Order for corrective action and compliance.

If, after investigation, the board finds that a violation of this part or any of its rules exists or that there is a condition in passenger tramway design, construction, operation, or maintenance endangering the safety of the public, it shall forthwith issue its written order setting forth its findings and the corrective action to be taken and fixing a reasonable time for compliance therewith. Such order shall be served upon the operator involved in such violation personally or by certified mail.

23-2-724. Remedies to enforce compliance.

If any operator fails to comply with a legal order or rule of the board, the board, at its election, may:

(1) suspend the registration of the affected passenger tramway until the operator complies therewith; or

(2) bring injunctive proceedings in the district court of the judicial district in which the affected passenger tramway

is located to compel compliance therewith. In such proceedings the board shall not be required to post bond.

23-2-725. Judicial review.

Any order of the board adverse to an operator may be appealed by the operator to the district court of the district wherein is located his passenger tramway which is the subject of such order, and said district court shall conduct a proceeding, de novo, and the decision of the district court shall be subject to appeal to the supreme court of Montana, as in civil cases.

23-2-726 through 23-2-730 reserved.

23-2-731. Purpose.

The legislature finds that skiing is a major recreational sport and a major industry in the state and recognizes that among the attractions of the sport are risks, inherent and otherwise. The state has a legitimate interest in maintaining the economic viability of the ski industry by discouraging claims based on damages resulting from risks inherent in the sport, defining inherent risks, and establishing the duties of skiers and ski area operators.

23-2-732. Definitions.

As used in 23-2-731 through 23-2-736, the following definitions apply:

(1) "Ski area operator" or "operator" means a person, firm, or corporation, and its agents and employees, having operational and administrative responsibility for ski trails and improvements.

(2) "Skier" means any person admitted to a ski area or using the ski trails, areas, and other improvements within the ski area. The term does not include a person using an aerial passenger tramway.

(3) "Ski trails" means those areas designated by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing.

23-2-733. Duties of operator regarding ski areas.

Consistent with the duty of reasonable care owed by a ski area operator to a skier, a ski area operator shall:

(1) mark all trail grooming vehicles by furnishing the vehicles with flashing or rotating lights that must be in operation whenever the vehicles are working or are in movement in the ski area;

(2) mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski trails;

(3) maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and the relative degree of difficulty of the ski trails at that area;

(4) post a notice requiring the use of ski-retention devices;

(5) designate at the start of each day, by trail board or otherwise, which trails are open or closed and amend those designations as openings and closures occur during the day;

(6) post in a conspicuous location the skier responsibility code that is published by the national ski areas association and that is current on April 4, 1989; and

(7) post a copy of 23-2-736 in a conspicuous location.

23-2-734. Duties of operator with respect to passenger tramways.

A ski area operator shall construct, operate, maintain, and repair any passenger tramway in accordance with the rules of the board. However, nothing in this section relieves an operator from the duty of taking whatever other actions are necessary to properly construct, operate, maintain, and repair a passenger tramway.

23-2-735. Duties of passenger.

No passenger may:

(1) board or disembark from a passenger tramway except at an area designated for such purposes;

(2) throw or expel any object from a passenger tramway;

(3) commit an act that interferes with the running or operation of a passenger tramway;

(4) use a passenger tramway unless the passenger has the ability to use it safely without any instruction on its use by the operator or requests and receives instruction before boarding;

(5) embark on a passenger tramway without the authority of the operator.

23-2-736. Skier's conduct -- inherent risks.

(1) A skier has the duty to conduct himself at all times so that he avoids injury to himself and others and to be aware of the inherent risks of the sport.

(2) A skier:

(a) must know the range of his ability and safely conduct himself within the limits of that ability and his equipment so as to negotiate any section of terrain or ski trail safely and without injury or damage. A skier must know that his ability may vary because of trail changes caused by weather, grooming changes, or skier use.

(b) shall maintain control of speed and course so as to

prevent injury to himself or others;

(c) must abide by the requirements of the skier responsibility code that is published by the national ski areas association and that is current on April 4, 1989; and

(d) shall obey all posted or other warnings and instructions of the ski area operator.

(3) A person may not:

(a) place an object in the ski area or on the uphill track of a passenger tramway that may cause a passenger or skier to fall;

(b) cross the track of a passenger tramway except at a designated and approved point; or

(c) if involved in a skiing accident, depart from the scene of the accident without:

(i) leaving personal identification; or

(ii) notifying the proper authorities and obtaining assistance when he knows that a person involved in the accident is in need of medical or other assistance.

(4) A skier must accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of skiing. Risks inherent in the sport of skiing are:

(a) variations in skiing terrain, including surface and subsurface snow or ice conditions naturally occurring or resulting from weather changes, skier use, or grooming or snowmaking operations;

(b) bare spots and thin snow cover caused by limited snowfall, melting, wind erosion, skier action, grooming, or unconsolidated base;

(c) forest growth on designated trails;

(d) skiing in an area not designated as a ski trail;

(e) clearly visible or plainly marked improvements or equipment;

(f) clearly visible or plainly marked mobile equipment and attachments, whether moving or stationary, used by the ski area operator; and

(g) avalanches, except on open, designated ski trails.

NEVADA

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NEVADA REVISED STATUTES

TITLE 40. PUBLIC HEALTH AND SAFETY.

CHAPTER 455A. SKIER SAFETY.

455A.010. Short title.

This chapter may be cited as the Skier Safety Act.

455A.020. Definitions.

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 455A.030 to 455A.090, inclusive, have the meanings ascribed to them in those sections.

455A.030. "Passenger" defined.

"Passenger" means a person who utilizes a ski lift for transportation.

455A.040. "Ski area" defined.

"Ski area" means the slopes, trails, runs and other areas under the control of a skiing operator that are intended to be used for skiing or for the observation of the sport.

455A.050. "Ski lift" defined.

"Ski lift" means a device, except for an elevator, that carries, pulls or pushes a person along a level or inclined path to, from or within a ski area by means of a rope, cable or other flexible element that is driven by an essentially stationary source of power.

455A.060. "Ski patrol" defined.

"Ski patrol" means agents or employees of a skiing operator who patrol the ski area.

455A.070. "Skier" defined.

"Skier" means a person who skis in a ski area.

455A.080. "Skiing operator" defined.

"Skiing operator" means a person, or a governmental agency or political subdivision of this state, who controls or operates an area where persons ski.

455A.090. "Surface lift" defined.

"Surface lift" means a ski lift designed for skiers to remain in contact with the ground or snowy surface during transportation.

455A.100. Prohibited acts while on ski lift; skier prohibited from skiing in area posted as closed.

A skier shall not:

1. Embark upon a ski lift:

(a) When he knows that he has insufficient knowledge or physical ability to use the ski lift safely; or

(b) That is posted as closed or not in operation;

2. Purposefully embark upon or disembark from a ski lift, except at an area designated for such a purpose or at the direction and under the direct supervision of an authorized agent or employee of a skiing operator;

3. Toss, throw or cast or intentionally drop, expel or eject an object from a ski lift;

4. Toss, throw or cast an object in the direction of a ski lift;

5. Fail or refuse to comply with:

(a) Reasonable instructions given to him by an authorized agent or employee of a skiing operator regarding the use of a ski lift; or

(b) A sign posted pursuant to NRS 455A.130 or 455A.140;

6. Place any object in the uphill path of a surface lift;

7. Conduct himself in a manner that interferes with the safe operation of a ski lift or with the safety of a passenger or skier; or

8. Ski in an area within the ski area which is posted, as provided in NRS 207.200, as closed.

455A.110. Duties of skier.

A skier shall, to the extent that the matter is within his control:

1. Locate and ascertain the meaning of signs in his vicinity posted pursuant to NRS 455A.130 and 455A.140;

2. Heed warnings and other information posted by a skiing operator;

3. Remain a safe distance from vehicles, signs and equipment for grooming snow or for transportation;

4. Avoid skiers in motion when entering a ski slope, run or trail, and when commencing to ski from a stationary position;

5. Maintain a proper lookout and control of his speed to avoid downhill objects and skiers to the best of his ability; and

6. Conduct himself in such a manner as to avoid injury to persons and property in a ski area.

455A.120. Prohibited acts while skiing.

A skier shall not:

1. Use a ski unless it is attached to the skier by a strap or equipped with a device capable of stopping the movement of the ski when not attached to the skier;

2. Cross the uphill path of a surface lift, except at locations designated by a skiing operator; or

3. Willfully stop where he obstructs a ski slope, run or trail, or where he is not safely visible to uphill skiers.

455A.130. Signs at ski lifts: Requirements; inspection.

1. A skiing operator shall prominently post and maintain signs in simple and concise language:

(a) By each ski lift, with information for the protection and instruction of passengers; and

(b) At or near the points where passengers are loaded on a ski lift, directing persons who are not familiar with the operation of the ski lift to ask an authorized agent or employee of the skiing operator for assistance and instruction.

2. A skiing operator shall prominently post and maintain signs with the following inscriptions at all ski lifts in the locations indicated:

(a) "Remove pole straps from wrists" at an area for loading skiers;

(b) "Safety gate" where applicable;

(c) "Stay on tracks" where applicable;

(d) "Keep ski tips up" ahead of any point where skis can regain contact with the ground or snowy surface after a passenger departs from an area for loading skiers;

(e) "Prepare to unload" and "check for loose clothing and equipment" not less than 50 feet from an area for unloading skiers; and

(f) "Unload here" at an area for unloading skiers.

3. A skiing operator shall inspect a ski area for the presence and visibility of the signs required to be posted by this section each day before opening the ski area for business.

455A.140. Ski slopes, runs or trails: System of signs required; vehicles used by skiing operator to be equipped with light.

1. A skiing operator shall post and maintain a system of signs:

(a) At the entrances to an established ski slope, run or trail to indicate:

(1) Whether any portion of the ski slope, run or trail is closed; and

(2) The relative degree of difficulty of the ski slope, run or trail;

(b) To indicate the boundary of the ski area, except in heavily wooded areas or other terrain that cannot be skied readily; and

(c) To warn of each area within the boundary of the ski area where there is a danger of avalanche by posting signs stating "Warning: Avalanche Danger Area."

2. A skiing operator shall equip vehicles it uses on or in the vicinity of a ski slope, run or trail with a light visible to skiers when the vehicle is in motion.

455A.150. Illumination of signs at night.

A sign required to be posted pursuant to NRS 455A.130 and 455A.140 must be adequately illuminated at night, if the ski area is open to the public at night, and be readable and recognizable under ordinary conditions of visibility.

455A.160. Skier to notify skiing operator or ski patrol of injury; limitation on liability of skiing operator; duty of skiing operator to minimize dangers.

1. A skier who sustains a personal injury shall notify the skiing operator or a member of the ski patrol of the injury as soon as reasonably possible after discovery of the injury.

2. A skiing operator is not liable for the death or injury of a person or damages to property caused or sustained by a skier who knowingly enters an area which is not designated for skiing or which is outside the boundary of a ski area.

3. A skiing operator shall take reasonable steps to minimize dangers and conditions within his control.

455A.170. Unlawful acts; penalty.

1. A skier shall not ski, or embark on a ski lift that is proceeding predominantly uphill, while intoxicated or under the influence of a controlled substance as defined in chapter 453 of NRS, unless in accordance with a prescription issued to the person by a physician, podiatrist or dentist.

2. A skier who is involved in a collision in which another person is injured shall provide his name and current address to the injured person, the skiing operator or a member of the ski patrol:

(a) Before he leaves the vicinity of the collision; or

(b) As soon as reasonably possible after leaving the vicinity of the collision to secure aid for the injured person.

3. A person who violates a provision of this section is guilty of a misdemeanor.

455A.180. Revocation of license or privilege to ski.

A skiing operator may revoke the license or privilege to ski of a person in a ski area who violates any of the provisions of NRS 455A.100 to 455A.120, inclusive, and 455A.170.

455A.190. County, city or unincorporated town may enact ordinance not in conflict with provisions of chapter.

This chapter does not prohibit a county, city or

unincorporated town from enacting an ordinance, not in conflict with the provisions of this chapter, regulating skiers or skiing operators.

NEW HAMPSHIRE

NEW HAMPSHIRE STATUTES ANNOTATED
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**TITLE XIX. FORESTS, FORESTRY, SOIL
CONSERVATION, AND PUBLIC RECREATION
CHAPTER 225-A. SKIERS, SKI AREA AND
PASSENGER TRAMWAY SAFETY**

225-A:1. Declaration of Policy

The state of New Hampshire finds that the sport of skiing is practiced by a large number of citizens of the state of New Hampshire, and also that skiing attracts to the state of New Hampshire large numbers of nonresidents significantly contributing to the economy of New Hampshire. Therefore, it shall be the policy of the state of New Hampshire to protect its citizens and visitors from unnecessary mechanical hazards in the operation of ski towns, lifts, jumps and tramways, to ensure that proper design and construction are used, that board accepted safety devices and sufficient personnel are provided for, and that periodic inspections and adjustments are made which are deemed essential to the safe operation of ski tows, ski lifts, ski jumps and passenger tramways. The primary responsibility for operation, construction, maintenance and inspection rests with the operators of such passenger tramway devices. The state, through its passenger tramway safety board, as hereinafter provided, shall register all ski lift devices and ski jumps, establish reasonable standards of design and operational practices and make such independent inspections as may be necessary in carrying out this policy. Further, it shall be the policy of the state of New Hampshire to define the primary areas of responsibility of skiers and other users of alpine (downhill) and nordic (cross country and ski jumps) areas, recognizing that the sport of skiing and other ski area activities involve risks and hazards which must be assumed as a matter of law by those engaging in such activities, regardless of all safety measures taken by the ski area operators.

225-A:1-a. Administratively Attached

The passenger tramway safety board shall be an administratively attached agency, under RSA 21-G:10, to the department of safety, division of safety services.

225-A:2. Definition of Terms

The following terms shall be construed as follows:

I. A passenger tramway is a device used to transport passengers uphill on skis, or in cars on tracks or suspended in the air, by the use of steel cables, chains or belts or by ropes, and usually supported by trestles or towers with one or more spans. The term passenger tramway shall include the following:

(a) Two-car aerial passenger tramway, a device used to transport passengers in 2 open or enclosed cars attached to, and suspended from, a moving wire rope, or attached to a moving wire rope and supported on a standing wire rope, or similar devices.

(b) Multi-car aerial passenger tramway, a device used to transport passengers in several open or enclosed cars attached to, and suspended from, a moving wire rope, or attached to a moving wire rope and supported on a standing wire rope, or similar devices.

(c) Skimobile, a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar devices.

(d) Chair lift, a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one or more spans, or similar devices.

(e) J bar, T bar or platter pull, so-called, and similar types of devices are means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans.

(f) Rope tow, a type of transportation which pulls the skier riding on skis as the skier grasps the rope manually, or similar devices.

(g) Wire rope tow means a type of transportation by which skiers are pulled on skis while manually gripping a bar attached to a wire hauling cable. The hauling cable is maintained at a constant height range between the loading and unloading points, and there is only one span with no intermediate towers.

II. Skier shall mean a person utilizing the ski area under the control of a ski area operator for the purpose of utilizing the ski slopes, trails, jumps or other areas.

III. Passenger shall mean any person including skiers while being transported or conveyed by a passenger tramway, or while waiting in the immediate vicinity for such transportation or conveyance, or while moving away from the disembarkation or unloading point of a passenger tramway to clear the way for the following passengers, or while in the act of boarding or embarking upon or disembarking from a passenger tramway.

areas designated by the alpine or nordic ski operator on

trail boards or maps supplied by such operator, to be used by skiers for the purpose of participating in the sport of skiing.

V. Ski areas shall mean all passenger tramways and all designated trails and slopes and ski jumps under the control of the alpine and nordic ski area operator and open to the public for recreation or competition.

VI. Ski area operator is a person who owns or controls the operation of a ski area. The word "operator" shall include the state or any political subdivision. An operator of a passenger tramway shall be deemed not to be operating a common carrier. Ski area operator shall be hereinafter referred to in this chapter as "operator."

VII. Industry shall mean the activities of all those persons in the state who own or control the operation of ski areas.

VIII. [Repealed.]

VIII-a. Board shall mean the passenger tramway safety board.

IX. Department shall mean the department of safety, division of safety services.

225-A:3. Passenger Tramway Safety Board
[Repealed 1987, 124:26, IV, eff. July 1, 1987.]

225-A:3-a. Passenger Tramway Safety Board

There shall be a passenger tramway safety board of 4 appointive members and the director of safety services ex officio. The appointive members shall be appointed by the governor, with the advice and consent of the council, from persons representing the following interests: one member who operates a "surface lift" as defined in RSA 225-A:2, I(e)-(g) only and one member from the cable and other passenger carrying devices industry, and in making such appointments consideration shall be given to recommendations made by members of the industry, so that both the devices which pull skiers riding on skis and the devices which transport passengers in cars or chairs shall have proper representation; one member to represent the public at large; and one member to represent insurance companies which engage in insuring passenger tramway operations, and in appointing such member consideration shall be given to recommendations made by such insurance companies. The authority of such board shall not extend to any other matter relative to the operation of a ski area.

225-A:4. Term of Office [Repealed 1987, 124:26, IV, eff. July 1, 1987.]

225-A:4-a. Term of Office

Of the first appointments under this section one member shall be appointed for a term of one year, one for a term of 2 years, one for a term of 3 years and one for a term of 4 years, and until their successors are appointed and qualified, and thereafter each of the appointed members shall be appointed for a term of 4 years and until his successor is appointed and qualified. Vacancies in the board shall be filled for the unexpired term.

225-A:5. Removal [Repealed 1987, 124:26, IV, eff. July 1, 1987.]

225-A:5-a. Removal

The appointive members of the board may only be removed from office as provided in RSA 4:1.

225-A:6. Compensation [Repealed 1987, 124:26, IV, eff. July 1, 1987.]

225-A:6-a. Compensation

The appointive members of the board shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in official duties.

225-A:7. Records [Repealed 1987, 124:26, IV, eff. July 1, 1987.]

225-A:7-a. Records

The department shall provide the board with such office and clerical assistance as may be necessary to carry on the work of the board, in accordance with RSA 225-A:1-a. The department shall also preserve the records, codes, inspection reports, and business records of the board.

225-A:8. Rulemaking

The board with the approval of the commissioner of safety shall adopt, under RSA 541-A, rules after public hearing, relating to public safety in the construction, operation and maintenance of passenger tramways. The rules shall be in accordance with established standards, if any, and shall not be discriminatory in their application to operators of passenger tramways. The board shall also give notice of any public hearing under RSA 541-A for such rules by registered mail to each registered operator at least 14 days before the hearing.

225-A:9. Declaratory Judgment [Repealed 1987, 124:26, IV, eff. July 1, 1987.]

225-A:9-a. Declaratory Judgment

The validity or reasonableness of any rule adopted by the board may be judicially determined upon a petition to the superior court for declaratory judgment, brought within 30 days after the effective date of such rule. The court shall hear the petition and render a declaratory judgment only when it appears that the rule, or its threatened application, interferes with or impairs or threatens to interfere with or impair the legal rights and privileges of the petitioner. In rendering judgment the court shall give effect to any pertinent constitutional limitations upon the powers of the board, the limits of the authority and jurisdiction of the board as conferred under this chapter, and the procedural requirements of this chapter.

225-A:10. Inspections

The department may make such inspection of the construction, operation and maintenance of passenger tramways as the board may reasonably require. The department may, at its own expense, employ other qualified engineers to make such inspections.

225-A:10-a. Review of Plans and Specifications

Prior to the construction of a new, or the alteration of an existing, passenger tramway, the operator or prospective operator shall submit plans and specifications to the department. The department may make recommendations relative to safety of the layout and equipment, but such recommendation shall not relieve the operator or prospective operator of his primary responsibility as set forth in RSA 225-A:1.

225-A:11. Operator to Pay Certain Costs [Repealed 1973, 52:5, eff. May 23, 1973.]

225-A:12. Inspection Reports

If, as the result of an inspection, it is found that a violation of the board's rules, regulations or code exists, or a condition in passenger tramway construction, operation or maintenance exists endangering the safety of the public, an immediate report shall be made to the board for appropriate investigation and order.

225-A:13. Complaints

Any person may make written complaint to the board setting forth any thing or act claimed to be done or omitted to be done by any registered operator which is alleged to be in violation of any rule, regulation or code adopted by the board, or setting forth any condition in passenger tramway construction, operation or maintenance which is alleged to endanger the safety of the public. Thereupon the board shall cause a copy of said complaint to be forwarded to the registered operator complained of, which may be accompanied by an order requiring that the matters complained of be answered in writing within a time to be specified by the board. The board may investigate the matter complained of if it shall appear to the board that there are reasonable grounds therefor.

225-A:14. Registration Required

No passenger tramway shall be operated in this state unless the operator thereof was registered by the board.

225-A:15. Application for Registration

On or before November 1 of each year every operator of a passenger tramway shall apply to the board, on forms prepared by it, for registration hereunder. The application shall contain such information as the board may reasonably require.

225-A:16. Fees

The application for registration shall be accompanied by the applicable annual fees; provided, however, that when an operator operates either a chair lift, skimobile, gondola or aerial tramway during both a summer and winter season, the annual fee shall be 1- 1/2 times the annual fee for the respective lift. The fees for registration shall be set by the board by rule adopted pursuant to RSA 541-A.

225-A:17. Registration

The board, if satisfied with the facts stated in the application, shall issue a registration certificate to the operator. Each registration shall expire on October 31 next following the day of its issue.

225-A:18. Fees

All fees collected by the board hereunder shall be credited to the special appropriation for the department to be expended for purposes of this chapter.

225-A:18-a. Emergency Shut-down

When facts are presented to the board, or to any member thereof, tending to show that an unreasonable hazard exists in the continued operation of a tramway, the board or member, after such verification of said facts as is practical under the circumstances and consistent with the public safety, may, by an emergency order require the operator of said tramway forthwith to cease using the same for the transportation of passengers. Such emergency order shall be in writing and notice thereof may be served by any person upon the operator or his agent immediately in control of said tramway by a true and attested copy of such order, the return of such service to be shown by an affidavit on the back thereof. Such emergency order shall be effective for a period not to exceed 48 hours from the time of service. Immediately after the issuance of an emergency order hereunder, the board shall conduct an investigation into the facts of the case as contemplated in RSA 225-A:19, and shall take such action under said RSA 225-A:19 as may be appropriate.

225-A:19. Orders

If, after investigation, the commissioner of safety or the board finds that a violation of any of the rules exists, or that there is a condition in passenger tramway construction, operation or maintenance endangering the safety of the public, either the commissioner of safety or the board shall forthwith issue a written order setting forth his or its findings, the corrective action to be taken, and fixing a reasonable time for compliance therewith. Such order shall be served upon the operator involved by registered mail, and shall become final, unless the operator shall apply to the board for a hearing in the manner hereinafter provided.

225-A:19-a. Operation Forbidden

If in any such case the commissioner of safety or the board is of the opinion that the public safety would be endangered by the use of the tramway for the transportation of passengers prior to the taking of some or all of such corrective action, he or it shall so state in said order, and shall require in said order that the tramway shall not be so used until specified corrective action shall have been taken. From and after receipt of the order by the operator said tramway shall not be used for the transportation of passengers without the approval of the commissioner of safety or the board. Application for a hearing before the board shall not have the effect of suspending said order. Operation of the tramway following receipt of such order may be enjoined by the superior court.

225-A:20. Hearing

Any such operator, who is aggrieved by any such order, may, within 10 days after the service of such order upon him as hereinbefore provided, apply to the board for a review of such order. It shall be the duty of the board to hear the same at the earliest convenient date. At such hearing the operator shall have the right to be heard personally or by counsel, to cross-examine witnesses appearing against him, and to produce evidence in his own behalf. After such hearing, the board shall report its findings in writing to the commissioner of safety and make such order as the facts may require.

225-A:21. Appeal

Any such operator, who is aggrieved by any such post-hearing order of the board, may, within 14 days after the entry thereof, appeal therefrom to the superior court. No such appeal shall suspend the operation of the order made by the board; provided that the superior court may suspend the order of the board pending the determination of such appeal whenever, in the opinion of the court, justice may require such suspension. The superior court shall hear such appeal at the earliest convenient day and shall make such decree as justice may require.

225-A:22. Suspension of Registration

If any such operator fails to comply with the lawful order of the board issued under RSA 225-A:19 and 20 and within the time fixed thereby, the board may suspend the registration of such operator for such time as it may consider necessary for the protection of the safety of the public.

225-A:23. Responsibilities of the Ski Area Operator

It shall be the responsibility of the operator to maintain the following signs and designations:

I. General Designations. The following color code is hereby established in accordance with the National Trail Marking System as may be amended from time to time:

(a) Green circle: On area's easiest trails and slopes.

(b) Black diamond: On area's most difficult trails and slopes.

(c) Blue square: On area's trails and slopes which fall between the green circle and black diamond designation.

(d) Yellow triangle with red exclamation point inside with a red band around the triangle: Extrahazardous.

(e) Octagonal shape with red border around white interior with a black figure in the shape of a skier inside with a black band running diagonally across the sign from

the upper right hand side to the lower left hand side with the word "closed" beneath the emblem: Trail or slope closed.

II. Base Area; Information to Skiers and Passengers.

(a) A trail board shall be maintained at a prominent locating listing the ski area's network of ski trails and slopes in accordance with the aforementioned color code and containing a key to the code in accordance with the above designations; said trail board shall further designate which trails and slopes are open or closed.

(b) The ski area operator shall warn skiers and passengers by use of the trail board or otherwise, if applicable, that snow grooming or snow making operations are routinely in progress on the slopes and trails serviced by each tramway.

(c) A map shall be available with or without charge to all skiers and passengers desiring one indicating the system of trails and slopes at all ski areas.

III. Ski Trails and Slopes; Information and Warning to Skiers and Other Persons.

(a) The operator shall mark the beginning of each ski trail or slope with the appropriate symbol for that particular trail's or slope's degree of difficulty in accordance with RSA 225-A:23, I(a), (b) and (c).

(b) The operator shall mark the beginning of, and designated access points to, each alpine trail or slope that is closed with a sign in accordance with RSA 225-A:23, I(e).

IV. Ski Jumps The operator shall provide a sign in a prominent location at or near the ski jump facility, which sign shall warn the ski jumper that the use of the ski jump is entirely at the ski jumper's own risk. Further, the ski area operator shall be responsible for the design, construction and structural maintenance of all ski jumps.

225-A:24. Responsibilities of Skiers and Passengers

It is hereby recognized that, regardless of all safety measures which may be taken by the ski area operator, skiing as a sport and the use of passenger tramways associated therewith may be hazardous to the skiers or passengers. Therefore:

I. Each person who participates in the sport of skiing accepts as a matter of law, the dangers inherent in the sport, and to that extent may not maintain an action against the operator for any injuries which result from such inherent risks, dangers, or hazards. The categories of such risks, hazards or dangers which the skier or passenger assumes as a matter of law include but are not limited to the following: variations in terrain, surface or subsurface snow or ice conditions; bare spots; rocks, trees, stumps and other forms of forest growth or debris; lift towers and components thereof (all of the foregoing whether above or below snow surface); pole lines and plainly marked or

visible snow making equipment; collisions with other skiers or other persons or with any of the categories included in this paragraph.

II. Each skier and passenger shall have the sole responsibility for knowing the range of his own ability to negotiate any slope, trail or passenger tramway. Any passenger who boards such tramway shall be presumed to have sufficient abilities to negotiate the lift, and no liability shall attach to any operator or attendant for failure to instruct persons on the use thereof.

III. Each skier or passenger shall conduct himself within the limits of his own ability, maintain control of his speed and course at all times while skiing, heed all posted warnings and refrain from acting in a manner which may cause or contribute to the injury of himself or others.

IV. Each passenger shall be the sole judge of his ability to negotiate any uphill track, and no action shall be maintained against any operator by reason of the condition of said track unless the board, upon appropriate evidence furnished to it, makes a finding that the condition of the track, at the time and place of an accident, did not meet the board's requirements, provided however, that the ski area operator shall have had notice, prior to the accident, of the board's requirements the violation of which is claimed to be the basis for any action by the passenger.

V. No skier, passenger or other person shall:

(a) Embark or disembark upon a passenger tramway except at designated areas.

(b) Throw or drop any object while riding on a passenger tramway nor do any act or thing which shall interfere with the running of said tramway.

Engage in any type of conduct which will contribute to cause injury to any other person nor shall he willfully place any object in the uphill ski track which may cause another to fall, while riding in a passenger tramway.

(d) Ski or otherwise use a slope or trail which has been designated "closed" by the operator without written permission of said operator or designee.

(e) Remove, alter, deface or destroy any sign or notice placed in the ski area or on the trail board by the operator.

(f) Cross the uphill track of a J bar, T bar, rope tow, wire rope, or similar device except at locations approved by the board.

225-A:25. Insurance; Limitations

I. Unless an operator of a passenger tramway is in violation of this chapter or the rules of the board, which violation is causal of the injury complained of, no action shall lie against any operator by any passenger or his representative; this prohibition shall not, however, prevent the maintenance of an action against an operator for negligent operation, construction or maintenance of the

passenger tramway itself.

II. Except as limited by paragraph III, each operator of a passenger tramway shall maintain liability insurance with limits of not less than \$300,000 per accident.

III. The requirements of paragraph II shall not apply to an operator of a passenger tramway which is not open to the general public and operated without charge to users. Nonprofit ski clubs, outing clubs, or other similar organizations, which are operators of rope or wire rope tows shall also be excepted from the requirements of paragraph II if the organization's bylaws so provide, each member of the organization is provided with a copy of such bylaws, and use of the rope or wire rope tows operated by the organization is restricted to members of that organization. This paragraph shall not relieve the state or any political subdivision operating a rope or wire rope tow from the requirement of maintaining liability insurance in accordance with paragraph II.

IV. No action shall be maintained against any operator for injuries to any skier or passenger unless the same is commenced within 2 years from the time of injury provided, however, that as a condition precedent thereof the operator shall be notified by certified return receipt mail within 90 days of said injury. The venue of any action against an operator shall be in the county in which the passenger tramway base station is located and not otherwise.

225-A:26. Penalty

Any person convicted of operating a passenger tramway without having been registered by the board, or violating this chapter or rules of the board shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person. Any operator who operates after his registration has been suspended by the board, shall be guilty of a violation for each day of illegal operation.

NEW JERSEY

NEW JERSEY STATUTES ANNOTATED
COPR. (c) No Claim to Orig. Govt. Works
TITLE 5. AMUSEMENTS, PUBLIC EXHIBITIONS
AND MEETINGS
CHAPTER 13. SKIING

5:13-1. Legislative findings; purpose of law

a. The Legislature finds that the sport of skiing is practiced by a large number of citizens of this State and also attracts to this State large numbers of nonresidents, significantly contributing to the economy of this State and,

therefore, the allocation of the risks and costs of skiing are an important matter of public policy.

b. The purpose of this law is to make explicit a policy of this State which clearly defines the responsibility of ski area operators and skiers, recognizing that the sport of skiing and other ski area activities involve risks which must be borne by those who engage in such activities and which are essentially impractical or impossible for the ski area operator to eliminate. It is, therefore, the purpose of this act to state those risks which the skier voluntarily assumes for which there can be no recovery.

5:13-2. Definitions

As used in this act

a. "Operator" means a person or entity who owns, manages, controls or directs the operation of an area where individuals come to ski, whether alpine, touring or otherwise, or operate skimobiles, toboggans, sleds or similar vehicles and pay money or tender other valuable consideration for the privilege of participating in said activities, and includes an agency of this State, political subdivisions thereof or instrumentality of said entities, or any individual or entity acting on behalf of an operator for all or part of such activities.

b. "Ski area" includes all of the real and personal property, under the control of the operator or on the premises of the operator which are being occupied, by license, lease, fee simple or otherwise, including but not limited to all passenger tramways, designated trails, slopes and other areas utilized for skiing, operating toboggans, sleds, or similar vehicles during the skiing season.

c. "Skier" means a person utilizing the ski area for recreational purposes such as skiing or operating toboggans, sleds or similar vehicles, and including anyone accompanying the person. Skier also includes any person in such ski area who is an invitee, whether or not said person pays consideration.

d. "Slopes and trails" means those areas designated as such by the operator.

5:13-3. Responsibility of operator

a. It shall be the responsibility of the operator to the extent practicable, to:

(1) Establish and post a system generally identifying slopes and trails and designating relative degrees of difficulty thereof; and to make generally available to skiers information in the form of trail maps or trail reports.

(2) Make generally available either by oral or written report or otherwise, information concerning the daily conditions of the slopes and trails.

(3) Remove as soon as practicable obvious, man-made

hazards.

b. No operator shall be responsible to any skier or other person because of its failure to comply with any provisions of subsection 3.a. if such failure was caused by:

(1) Abrupt changes in weather conditions;

(2) Hazards normally associated with the varying conditions of snow or undercover, including skier use; or

(3) Subject to the provisions of subsection 3.a.(3), the location of man-made facilities and equipment necessary for the ordinary operation of the ski area, such as transportation or grooming vehicles, which are marked by flashing lights or other suitable sight or sound devices towers, fencing of any type, racing poles, or any other object or piece of equipment utilized in connection with the maintenance of trails, buildings or other facilities used in connection with skiing.

c. Grooming shall be at the discretion of the operator.

d. No operator shall be liable to any skier unless said operator has knowledge of the failure to comply with the duty imposed by this section or unless said operator should have reasonably known of such condition and having such knowledge has had a reasonable time in which to correct any condition or comply with any duty set forth in this section.

e. Nothing contained in this act shall be construed as limiting or otherwise affecting the liability and responsibilities of a ski area operator under the "Ski Lift Safety Act" (P.L.1975, c. 226, C. 34:4A-1 et seq.), or shall prevent the maintenance of an action against a ski area operator for negligent construction, maintenance or operation of a passenger tramway.

5:13-4. Duties of skiers

a. 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.

b. No skier shall:

(1) Board or dismount from a ski lift except at a designated area;

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

(3) Act in any manner contrary to posted rules 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;

(4) Knowingly engage in any act or activity by his skiing or frolicking which injures other skiers while such other skiers are either descending any trail, or standing or congregating in a reasonable manner, and due diligence shall be exercised in order to avoid hitting, colliding with

or injuring any other skier or invitee.

(5) Knowingly 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;

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

c. Every skier shall maintain control of his speed and course at all times, and shall stay clear of any snow grooming equipment, any vehicle, any lift tower, and any other equipment on the mountain.

d. A skier shall be the sole judge of his ability to negotiate any trail, slope, or uphill track and shall not attempt to ski or otherwise traverse any trail, slope or other area which is beyond the skier's ability to negotiate.

e. No skier shall board a rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device unless he has sufficient knowledge and ability to use the lift. If the skier does not have such knowledge or ability, he shall ask for and receive, or follow any posted, written or oral instructions prior to using such device.

f. No person shall ski on other than designated trails or slopes.

g. No person on foot or on any type of sliding device shall knowingly operate said device so as to cause injury to himself or others, whether such injury results from a collision with another person or with an object.

h. A person embarking on a lift or tow without authority, or failing to pay appropriate consideration for its use shall be considered to be a trespasser.

5:13-5. Assumption of risk of skier

A skier is deemed to have knowledge of and to assume the inherent risks of skiing, operating toboggans, sleds or similar vehicles created by weather conditions, conditions of snow, trails, slopes, other skiers, and all other inherent conditions. Each skier is assumed to know the range of his ability, and it shall be the duty of each skier to conduct himself within the limits of such ability, to maintain control of his speed and course at all times while skiing, to heed all posted warnings and to refrain from acting to a manner which may cause or contribute to the injury of himself or others.

5:13-6. Application of law on comparative negligence

The assumption of risk set forth in section 5 shall be a complete bar of suit and shall serve as a complete defense to a suit against an operator by a skier for injuries resulting from the assumed risks, notwithstanding the provisions of P.L.1973, c. 146 (C. 2A:15-5.1 et seq.), relating to

comparative negligence, unless an operator has violated his duties or responsibilities under this act, in which case the provisions of P.L.1973, c. 146 shall apply. Failure to adhere to the duties set out in sections 4 and 5 shall bar suit against an operator to compensate for injuries resulting from skiing activities, where such failure is found to be a contributory factor in the resulting injury, unless the operator has violated his duties or responsibilities under the act, in which case the provisions of P.L.1973, c. 146 shall apply.

5:13-7. Report of injury; precondition to suit; limitation on time

As a precondition to bringing any suit in connection with a skiing injury against an operator, a skier shall report in writing to the ski area operator all the details of any accident as soon as possible, but in no event longer than 90 days from the time of the incident giving rise to the suit.

The report shall include at least the following: name, address, brief description of incident, location, alleged cause, others involved and witnesses, if any. If it is not practicable to give the report because of severe physical disability resulting from a skiing accident or incident, the report shall be given as soon as practicable. This section is not applicable with respect to a ski area unless the operator conspicuously posts notice to skiers of the requirements of the section.

A skier who fails to give the report within 90 days from the time of the accident or incident may be permitted to give the report at any time within 1 year after the accident or incident, in the discretion of a judge of the superior court, if the ski area operator is not substantially prejudiced thereby. Application to the court for permission to give a late report shall be made upon motion based upon affidavits showing sufficient reasons for the skier's failure to give the report within 90 days from the time of the accident or incident.

5:13-8. Limitation of action

Sections 2, 3, 4 and 5, and any other law notwithstanding, an action for injury or death against a ski area operator, ski area or its employees or owner, whether based upon tort or breach of contract or otherwise arising out of skiing, operating toboggans, sleds or similar vehicles shall be commenced no later than 2 years after the occurrence of the incident or earliest of incidents giving rise to the cause of action.

5:13-9. Minors; tolling of limitations

If a skiing accident or incident, or an action based upon a skiing accident or incident, involves a minor, the time limits set forth in sections 7 and 8 shall not begin to run against the minor until he reaches the age of majority.

5:13-10. Provisions of act cumulative with defenses under Tort Claims Act

The provisions of this act are cumulative with the defenses available to a public entity or public employee under the New Jersey Tort Claims Act (P.L.1972, c. 45, C. 59:1-1 et seq.).

5:13-11. Severability

The provisions of this act shall be deemed to be severable, and if any phrase, clause, sentence or provision of this act is declared to be unconstitutional or the applicability thereof to any person is held invalid, the remainder of this act shall not thereby be deemed to be unconstitutional or invalid.

NEW MEXICO

NEW MEXICO STATUTES 1978, ANNOTATED
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CHAPTER 24. Health and Safety ARTICLE 15. Ski Safety

24-15-1. Short title.

Chapter 24, Article 15 NMSA 1978 may be cited as the "Ski Safety Act".

24-15-2. Purpose of act.

In order to safeguard life, health, property and the welfare of this state, it is the policy of New Mexico to protect its citizens and visitors from unnecessary hazards in the operation of ski lifts and passenger aerial tramways and to require liability insurance to be carried by operators of ski lifts and tramways. The primary responsibility for the safety of operation, maintenance, repair and inspection of ski lifts and tramways rests with the operators of such devices. The primary responsibility for the safety of the individual skier while engaging in the sport of skiing rests with the skier himself. The state, through the Ski Safety Act [this article], recognizes these responsibilities and duties on the part of the ski area operator and the skier.

It is recognized that there are inherent risks in the sport of skiing which should be understood by each skier and which are essentially impossible to eliminate by the ski area operator. It is the purpose of the Ski Safety Act to define those areas of responsibility and affirmative acts for which ski area operators shall be liable for loss, damage or injury and those risks which the skier expressly assumes and for which there can be no recovery.

24-15-3. Definitions.

As used in the Ski Safety Act [this article]:

A. "ski lift" means any device operated by a ski area operator used to transport passengers by single or double reversible tramway, chair lift or gondola lift, T-bar lift, J-bar lift, platter lift or similar device or a fiber rope tow;

B. "passenger" means any person who is lawfully using a ski lift or is waiting to embark or has recently disembarked from a ski lift and is in its immediate vicinity;

C. "ski area" means the property owned, permitted, leased or under the control of the ski area operator and administered as a single enterprise within the state;

D. "ski area operator" means any person, partnership, corporation or other commercial entity and its agents, officers, employees or representatives, who has operational responsibility for any ski area or ski lift;

E. "skiing area" means all slopes and trails not including any ski lift;

F. "skier" means any person present at a skiing area under the control of a ski area operator for the purpose of engaging in the sport of skiing by utilizing the ski slopes and trails and does not include the use of a ski lift;

G. "ski slopes and trails" means those areas designated by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing; and

H. "ski retention device" means a device designed to help prevent runaway skis.

24-15-4. Insurance.

Every operator shall file with the state corporation commission and keep on file therewith proof of financial responsibility in the form of a current insurance policy in form approved by the commission, issued by an insurance company authorized to do business in the state, conditioned to pay, within the limits of liability herein prescribed, all final judgments for personal injury or property damage proximately caused or resulting from negligence of the operator covered thereby, as such negligence is defined and limited by the Ski Safety Act [this article]. The minimum limits of liability insurance to be provided by operators shall be as follows:

Kind and number of lifts operated	Limits for bodily injury to or death of one person	Limits for bodily injury to or death of all persons injured or killed in any one accident	Property damage
Not more than three surface lifts	\$ 25,000	\$ 75,000	\$ 1,000
Not more than three ski lifts, including one or more chair lifts	50,000	150,000	2,500
More than three ski lifts or one or more tramways	100,000	300,000	5,000

No ski lift or tramway shall be operated in this state after the effective date of the Ski Safety Act unless a current insurance policy as required herein is in effect and properly filed with the state corporation commission. Each policy shall contain a provision that it cannot be canceled prior to its expiration date without thirty days' written notice of intent to cancel served by registered mail on the insured and on the commission.

24-15-5. Penalty.

Any operator convicted of operating a ski lift or aerial passenger tramway without having filed an insurance policy as required by the Ski Safety Act [this article] is guilty of a misdemeanor punishable by a fine of not more than one hundred dollars (\$100) for each day of illegal operation. The attorney general or the district attorney of the county where the ski area is located has the power to bring proceedings in the district court of the county in which the ski area is located to enjoin the operation of any ski lift or tramway being operated without a current insurance policy, in the amounts prescribed herein, being on file and covering the operator concerned.

24-15-6. Provisions in lieu of others.

Provisions of the Ski Safety Act [this article] are in lieu

of all other regulations, registration or licensing requirements for ski areas, ski lifts and tramways. Ski lifts and tramways shall not be construed to be common carriers within the meaning of the laws of New Mexico.

24-15-7. Duties of ski area operators with respect to skiing areas.

Every ski area operator shall have the following duties with respect to the operation of a skiing area:

A. to mark all snow-maintenance vehicles and to furnish such vehicles with flashing or rotating lights which shall be in operation whenever the vehicles are working or are in movement in the skiing area;

B. to mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snow-making operations and located on ski slopes and trails;

C. to mark conspicuously the top or entrance to each slope, trail or area with the appropriate symbol for its relative degree of difficulty; and those slopes, trails or areas which are closed, or portions of which present an unusual obstacle or hazard, shall be marked at the top or entrance with the appropriate symbols as are established or approved by the national ski areas association as of the effective date of the Ski Safety Act and as shall be modified by the association from time to time;

D. to maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated in accordance with the symbols and containing a key to the symbols;

E. to designate by trail board or otherwise which trails or slopes are open or closed;

F. to place, or cause to be placed, whenever snow-maintenance vehicles or snow-making operations are being undertaken upon any trail or slope while such trail or slope is open to the public, a conspicuous notice to that effect at or near the top of such trail or slope;

G. to provide ski patrol personnel trained in first aid, which training meets the requirements of the American Red Cross advanced first aid course, and also trained in winter rescue and toboggan handling to serve the anticipated number of injured skiers and to provide personnel trained for the evacuation of passengers from stalled aerial ski lifts. A first aid room or building shall be provided with adequate first aid supplies, and properly equipped rescue toboggans shall be made available at all reasonable times at the top of ski slopes and trails to transport injured skiers from the ski slopes and trails to the first aid room;

H. to post notice of the requirements of the Ski Safety Act [this article] concerning the use of ski retention devices; and

I. to warn of or correct particular hazards or dangers known to the operator where feasible to do so.

24-15-8. Duties of ski area operators with respect to ski lifts.

Every ski area operator shall have the duty to operate, repair and maintain all ski lifts in safe condition. The ski area operator, prior to December 1 of each year, shall certify to the state corporation commission the policy number and name of the company providing liability insurance for the ski area and the date of the ski lift inspections and the name of the person making such inspections.

24-15-9. Duties of passengers.

Every passenger shall have the duty to conduct himself carefully and not to:

A. board or embark upon or disembark from a ski lift except at an area designated for such purpose;

B. drop, throw or expel any object from a ski lift;

C. do any act which shall interfere with the running or operation of a ski lift;

D. use any ski lift unless the passenger has the ability to use it safely without any instruction on its use by the ski area operator or requests and receives instruction before boarding the ski lift;

E. willfully or negligently engage in any type of conduct which contributes to or causes injury to any person;

F. embark on a ski lift without the authority of the ski area operator;

G. use any ski lift without engaging such safety or restraining devices as may be provided; or

H. wear skis without properly securing ski retention devices; or

I. use a ski lift while intoxicated or under the influence of any controlled substance.

24-15-10. Duties of the skiers.

A. It is recognized that skiing as a recreational sport is inherently hazardous to skiers, and it is the duty of each skier to conduct himself carefully.

B. A person who takes part in the sport of skiing accepts as a matter of law the dangers inherent in that sport insofar as they are obvious and necessary. Each skier expressly assumes the risk of and legal responsibility for any injury to person or property which results from participation in the sport of skiing, in the skiing areas, including any injury caused by the following: variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees or other forms of forest growth or

debris; lift towers and components thereof, pole lines, and snow-making equipment which are plainly visible or are plainly marked in accordance with the provisions of Section 24-15-7 NMSA 1978; except for any injuries to persons or property resulting from any breach of duty imposed upon ski area operators under the provisions of Sections 24-15-7 and 24-15-8 NMSA 1978. Therefore, each skier shall have the sole individual responsibility for knowing the range of his own ability to negotiate any slope or trail, and it shall be the duty of each skier to ski within the limits of the skier's own ability, to maintain reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator and to refrain from acting in a manner which may cause or contribute to the injury of anyone. The responsibility for collisions by any skier while actually skiing, with any person or object, shall be solely that of the individual or individuals involved in such collision, except where the ski area operator is involved in such collision or where such collision resulted from any breach of duty imposed upon the ski area operator under the provisions of Sections 24-15-7 and 24-15-8 NMSA 1978.

C. No person shall:

(1) place any object in the skiing area or on the uphill track of any ski lift which may cause a passenger or skier to fall;

(2) cross the track of any T-bar lift, J-bar lift, platter lift or similar device or a fiber rope tow, except at a designated location;

(3) when injured while skiing or using a ski lift or, while skiing, when involved in a collision with any skier or object in which an injury results, leave the ski area before giving his name and current address to the ski area operator, or representative or employee of the ski area operator and the location where the injury or collision occurred and the circumstances thereof; provided, however, in the event a skier fails to give the notice required by this paragraph, a court, in determining whether or not such failure constitutes a violation of the Ski Safety Act [this article], may consider the reasonableness or feasibility of giving such notice; or

(4) use a ski lift while intoxicated or under the influence of any controlled substance.

D. No skier shall fail to wear retention straps or other devices to help prevent runaway skis.

E. Any skier upon being injured shall indicate, to the ski patrol personnel offering first aid treatment or emergency removal to a first aid room, his acceptance or rejection of such services as provided by the ski area operator. If such service is not refused or if the skier is unable to indicate his acceptance or rejection of such service, the acceptance of the service is presumed to have been accepted by the skier. Such acceptance shall not

constitute a waiver of any action for negligent provision of the service by the ski patrol personnel.

24-15-11. Liability of ski area operators.

Any ski area operator shall be liable for loss or damages caused by the failure to follow the duties set forth in Sections 24-15-7 and 24-15-8 NMSA 1978 where the violation of duty is causally related to the loss or damage suffered, and shall continue to be subject to liability in accordance with common-law principles of vicarious liability for the willful or negligent actions of its principals, agents or employees which cause injury to a passenger, skier or other person. The ski area operator shall not be liable to any passenger or skier acting in violation of his duties as set forth in Sections 24-15-9 and 24-15-10 NMSA 1978 where the violation of duty is causally related to the loss or damage suffered.

24-15-12. Liability of passengers.

Any passenger shall be liable for loss or damages resulting from violations of the duties set forth in Section 24-15-9 NMSA 1978, and shall not be able to recover from the ski area operator for any losses or damages where the violation of duty is causally related to the loss or damage suffered.

24-15-13. Liability of skiers.

Any skier shall be liable for loss or damages resulting from violations of the duties set forth in Section 24-15-10 NMSA 1978, and shall not be able to recover from the ski area operator for any losses or damages where the violation of duty is causally related to the loss or damage suffered.

24-15-14. Limitation of actions; notice of claim.

A. Unless a ski area operator is in violation of the Ski Safety Act [this article], with respect to the skiing area and ski lifts, and the violation is a proximate cause of the injury complained of, no action shall lie against such ski area operator by any skier or passenger or any representative of a skier or passenger. This prohibition shall not prevent the bringing of an action against a ski area operator for damages arising from injuries caused by negligent operation, maintenance or repair of the ski lift.

B. No suit or action shall be maintained against any ski area operator for injuries incurred as a result of the use of a ski lift or ski area unless the same is commenced within three years of the time of the occurrence of the injuries complained of.

NEW YORK

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GENERAL OBLIGATIONS LAW
CHAPTER 24-A OF THE CONSOLIDATED LAWS
ARTICLE 18--SAFETY IN SKIING CODE

§ 18-101. Legislative purpose

The legislature hereby finds that alpine or downhill skiing is both a major recreational sport and a major industry within the state of New York. The legislature further finds: (1) that downhill skiing, like many other sports, contains inherent risks including, but not limited to, the risks of personal injury or death or property damage, which may be caused by variations in terrain or weather conditions; surface or subsurface snow, ice, bare spots or areas of thin cover, moguls, ruts, bumps; other persons using the facilities; and rocks, forest growth, debris, branches, trees, roots, stumps or other natural objects or man-made objects that are incidental to the provision or maintenance of a ski facility in New York state; (2) that downhill skiing, without established rules of conduct and care, may result in injuries to persons and property; (3) that it is appropriate, as well as in the public interest, to take such steps as are necessary to help reduce the risk of injury to downhill skiers from undue, unnecessary and unreasonable hazards; and (4) that it is also necessary and appropriate that skiers become apprised of, and understand, the risks inherent in the sport of skiing so that they may make an informed decision of whether or not to participate in skiing notwithstanding the risks. Therefore, the purpose and intent of this article is to establish a code of conduct for downhill skiers and ski area operators to minimize the risk of injury to persons engaged in the sport of downhill skiing and to promote safety in the downhill ski industry.

§ 18-102. Definitions

The following words and phrases when used in this article shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

1. "Lift ticket" means any item issued by a ski area operator to any skier that is intended to be affixed to the outerwear of the skier, or otherwise displayed by a skier, to signify lawful entry upon and use of the passenger tramways or ski slopes or trails maintained by the ski area operator.

2. "Passenger tramway" means a mechanical device intended to transport skiers for the purpose of providing

access to ski slopes and trails as defined by the commissioner of labor pursuant to section two hundred two-c or eight hundred sixty-seven of the labor law.

3. "Passenger" means a person in or on or being transported by a tramway.

4. "Ski area" means all ski slopes, ski trails and passenger tramways administered as a single enterprise within this state.

5. "Ski area operator" means a person, firm or corporation, and its agents and employees, having operational and administrative responsibility for any ski area, including any agency of the state, any political subdivision thereof, and any other governmental agency or instrumentality.

6. "Skier" means any person wearing a ski or skis and any person actually on a ski slope or trail located at a ski area, for the purpose of skiing.

7. "Ski slopes and trails" mean those areas designated by the ski area operator for skiing.

§ 18-103. Duties of ski area operators

Every ski area operator shall have the following duties:

1. To equip all trail maintenance vehicles with such warning implements or devices as shall be specified by the commissioner of labor pursuant to section eight hundred sixty-seven of the labor law. Such implements or devices shall be present and operating whenever the vehicle is within the borders of any slope or trail.

2. To post in a location likely to be seen by all skiers signs of such size and color as will enable skiers to have knowledge of their responsibilities under this article.

3. To hold employee training sessions at least once before the beginning of each season, the contents of which shall be specified by the commissioner of labor upon the recommendation of the passenger tramway advisory council, as follows:

a. for operators of trail maintenance equipment concerning the safe operation of such vehicles in the ski area;

b. for passenger tramway attendants concerning the safe operation of passenger tramways;

c. for ski personnel charged with the responsibility of evacuating passengers from passenger tramways concerning proper evacuation techniques; and

d. for all other personnel charged with on-mountain maintenance, inspection or patrol duties as to methods to be used for summoning aid in emergencies.

4. To conspicuously mark with such implements as may be specified by the commissioner of labor pursuant to section eight hundred sixty-seven of the labor law, the location of such man-made obstructions as, but not limited to, snow-making equipment, electrical outlets, timing

equipment, stanchions, pipes, or storage areas that are within the borders of the designated slope or trail, when the top of such obstruction is less than six feet above snow level.

5. To maintain in a central location at the ski area an information board or boards showing at a minimum the following:

a. the location of tramways, slopes or trails;

b. the status of each trail--open or closed;

c. the location of emergency communications or medical equipment and sites designated by the ski area operator for receipt of notice from skiers pursuant to subdivision thirteen of this section;

d. the relative degree of difficulty of each slope or trail (at a minimum easier, more difficult, most difficult); and

e. the general surface condition of each slope and trail as most recently recorded in the log required to be maintained by subdivision six of this section.

6. To inspect each open slope or trail that is open to the public within the ski area at least twice a day, and enter the results of such inspection in a log which shall be available for examination by the commissioner of labor. The log shall note:

a. the general surface conditions of such trail at the time of inspection (powder, packed powder, frozen granular, icy patches or icy surface, bare spots or other surface conditions);

b. the time of inspection and the name of the inspector;

c. the existence of any obstacles or hazards other than those which may arise from:

(i) skier use;

(ii) weather variations including freezing and thawing;

or

(iii) mechanical failure of snow grooming or emergency equipment which may position such equipment within the borders of a slope or trail.

7. To develop and maintain a written policy consistent with the regulations of the commissioner of labor upon the advice of the passenger tramway advisory council for situations involving the reckless conduct of skiers, which shall include, but not be limited to:

a. a definition of reckless conduct; and

b. procedures for approaching and warning skiers of reckless conduct and procedures for dealing with such skiers which may include the revocation of the lift tickets of such skiers.

8. To designate personnel to implement the ski area's policy on reckless conduct.

9. To report to the commissioner of labor by telephone within twenty-four hours any fatality or injury resulting in a fatality at the ski area.

10. To conspicuously post and maintain such ski area signage, including appropriate signage at the top of affected

ski slopes and trails, notice of maintenance activities and for passenger tramways as shall be specified by the commissioner of labor pursuant to section two hundred two-c or eight hundred sixty-seven of the labor law.

11. To post in a conspicuous location at each lift line a sign, which shall indicate the degree of difficulty of trails served by that lift with signs as shall be specified by the commissioner of labor pursuant to section two hundred two-c or eight hundred sixty-seven of the labor law.

12. To ensure that lift towers located within the boundaries of any ski slope or trail are padded or otherwise protected and that no protruding metal or wood objects, such as ladders or steps, shall be installed on the uphill or side portion of lift towers within the borders of a ski slope or trail, unless such objects are below the snow line, at least six feet above it, or padded or otherwise protected with such devices as, but not limited to, the following:

- a. commercially available tower padding;
- b. air or foam filled bags;
- c. hay bales encased in a waterproof cover; or
- d. soft rope nets properly spaced from the tower.

13. To, within a reasonable amount of time after the inspection required by subdivision six of this section, conspicuously mark with such implements as may be specified by the commissioner of labor pursuant to section eight hundred sixty-seven of the labor law and to provide sufficient warning to skiers by such marking or remove such obstacles or hazards which are located within the boundaries of any ski slope or trail and were noted pursuant to paragraph c of subdivision six of this section; and to also conspicuously mark with such implements and provide such warning or remove such obstacles or hazards within a reasonable amount of time after receipt of notice by the ski area operator from any skier as to the presence of such obstacles or hazards when notice is given at sites designated by the ski area operator for such receipt and the locations of which are made known to skiers pursuant to paragraph c of subdivision five of this section.

14. To have present at all times when skiing activity is in progress, individuals properly and appropriately trained for the safe operation of on-slope vehicles; trail maintenance equipment; tramways; tramway evacuations; implementation of the reckless skier policy; first aid and outdoor rescue; and, to have present according to a schedule posted for access by skiers, by the ski area operator, personnel appropriately trained in the instruction of skiers and passengers in methods of risk reduction while using ski slopes and passenger tramways and the instruction of skiers with respect to the risks inherent in the sport.

§ 18-104. Duties of passengers

All passengers shall have the following duties:

1. To familiarize themselves with the safe use of any tramway prior to its use;
2. To remain in the tramway if the operation of a passenger tramway, as defined pursuant to section two hundred two-c of the labor law, is interrupted for any reason, until instructions or aid are provided by the ski area operator;
3. To board or disembark from passenger tramways only at points or areas designated by the ski area operator;
4. Not to eject any objects or material from a passenger tramway;
5. To use restraint devices in accordance with posted instructions;
6. To wear retention straps or other devices to prevent runaway skis;
7. Not to interfere with the operation of a passenger tramway;
8. Not to place or caused to be placed on the uphill track of a surface lift any object which may interfere with its normal operation; and
9. Not to wear loose scarves, clothing or accessories or expose long hair which may become entangled with any part of the device.

§ 18-105. Duties of skiers

All skiers shall have the following duties:

1. Not to ski in any area not designated for skiing;
2. Not to ski beyond their limits or ability to overcome variations in slope, trail configuration and surface or subsurface conditions which may be caused or altered by weather, slope or trail maintenance work by the ski area operator, or skier use;
3. To abide by the directions of the ski area operator;
4. To remain in constant control of speed and course at all times while skiing so as to avoid contact with plainly visible or clearly marked obstacles and with other skiers and passengers on surface operating tramways;
5. To familiarize themselves with posted information before skiing any slope or trail, including all information posted pursuant to subdivision five of section 18-103 of this article;
6. Not to cross the uphill track of any surface lift, except at points clearly designated by the ski area operator;
7. Not to ski on a slope or trail or portion thereof that has been designated as "closed" by the ski area operator;
8. Not to leave the scene of any accident resulting in personal injury to another party until such times as the ski area operator arrives, except for the purpose of summoning aid;

9. Not to overtake another skier in such a manner as to cause contact with the skier being overtaken and to yield the right-of-way to the skier being overtaken;

10. Not to willfully stop on any slope or trail where such stopping is likely to cause a collision with other skiers or vehicles;

11. To yield to other skiers when entering a trail or starting downhill;

12. To wear retention straps or other devices to prevent runaway skis;

13. To report any personal injury to the ski area operator before leaving the ski area; and

14. Not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements, or other safety devices placed and maintained by the ski area operator pursuant to the requirements of section 18-103 of this article.

§ 18-106. Duties of skiers and ski area operators with respect to inherent risks

It is recognized that skiing is a voluntary activity that may be hazardous regardless of all feasible safety measures that can be undertaken by ski area operators. Accordingly:

1. Ski area operators shall have the following additional duties:

a. To post at every point of sale or distribution of lift tickets, whether on or off the premises of the ski area operator, a conspicuous "Warning to Skiers" relative to the inherent risks of skiing in accordance with regulations promulgated by the commissioner of labor pursuant to subdivision four of section eight hundred sixty-seven of the labor law, and to imprint upon all lift tickets sold or distributed, such text and graphics as the commissioner of labor shall similarly specify, which shall conspicuously direct the attention of all skiers to the required "Warning to Skiers";

b. To post at every point of sale or distribution of lift tickets at a ski area notice to skiers and passengers that this article prescribes certain duties for skiers, passengers and ski area operators, and to make copies of this article in its entirety available without charge upon request to skiers and passengers in a central location at the ski area;

c. To make available at reasonable fees, as required by subdivision thirteen of section 18-103 of this article, instruction and education for skiers relative to the risks inherent in the sport and the duties prescribed for skiers by this article, and to conspicuously post notice of the times and places of availability of such instruction and education in locations where it is likely to be seen by skiers; and

d. To post notice to skiers of the right to a refund to the purchaser in the form and amount paid in the initial sale of any lift ticket returned to the ski area operator, intact and

unused, upon declaration by such purchaser that he or she is unprepared or unwilling to ski due to the risks inherent in the sport or the duties imposed upon him or her by this article.

2. Skiers shall have the following additional duties to enable them to make informed decisions as to the advisability of their participation in the sport:

a. To seek out, read, review and understand, in advance of skiing, a "Warning to Skiers" as shall be defined pursuant to subdivision five of section eight hundred sixty-seven of the labor law, which shall be displayed and provided pursuant to paragraph a of subdivision one of this section; and

b. To obtain such education in the sport of skiing as the individual skier shall deem appropriate to his or her level of ability, including the familiarization with skills and duties necessary to reduce the risk of injury in such sport.

§ 18-107. Construction

Unless otherwise specifically provided in this article, the duties of skiers, passengers, and ski area operators shall be governed by common law.

§ 18-108. Severability

If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

NORTH CAROLINA

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GENERAL STATUTES OF NORTH CAROLINA CHAPTER 99C. ACTIONS RELATING TO SKIER SAFETY AND SKIING ACCIDENTS.

§ 99C-1. Definitions.

When used in this Chapter, unless the context otherwise requires:

(1) "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.

(2) "Passenger" means any person who is being transported or is awaiting transportation, or being conveyed

on a passenger tramway or is moving from the disembarkation point of a passenger tramway or is in the act of embarking upon or disembarking from a passenger tramway.

(3) "Passenger Tramway" shall mean any device used to transport passengers uphill on skis, or in cars on tracks, or suspended in the air, by the use of steel cables, chains, belts or ropes. Such definition shall include such devices as a chair lift, J Bar, or platter pull, rope tow, and wire tow.

(4) "Ski Area" means all the ski slopes, ski trails, and passenger tramways, that are administered or operated as a ski area enterprise within this State.

(5) "Ski Area Operator" means a person, corporation, or organization that is responsible for the safe operation and maintenance of the ski area.

(6) "Skier" means any person who is wearing skis or any person who for the purpose of skiing is on a designated and clearly marked ski slope or ski trail that is located at a ski area, or any person who is a passenger or spectator at a ski area.

§ 99C-2. Duties of ski operators and skiers.

(a) A ski area operator shall be responsible for the maintenance and safe operation of any passenger tramway in his ski area and insure that such is in conformity with the rules and regulations prescribed and adopted by the North Carolina Department of Labor pursuant to G.S. 95-120(1) as such appear in the North Carolina Administrative Procedures Act. The North Carolina Department of Labor shall conduct certifications and inspections of passenger tramways.

A ski area operator's responsibility regarding passenger tramways shall include, but is not limited to, insuring operating personnel are adequately trained and are adequate in number; meeting all standards set forth for terminals, stations, line structures, and line equipment; meeting all rules and regulations regarding the safe operation and maintenance of all passenger lifts and tramways, including all necessary inspections and record keeping.

(b) A skier and/or a passenger shall have the following responsibilities:

(1) To know the range of his own abilities to negotiate any ski slope or trail and to ski within the limits of such ability;

(2) 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 visible objects;

(3) To stay clear of snow grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails;

(4) 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;

(5) To wear retention straps, ski brakes, or other devices to prevent runaway skis;

(6) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, to avoid moving skiers already on the ski slope or trail;

(7) To not 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 any drug;

(8) If involved in a collision with another skier or person, to not leave the vicinity of the collision before giving his name and current address to an employee of the ski area operator, a member of the ski patrol, or the other skier or person with whom the skier collided, except in those cases when medical treatment is required; in which case, said information shall be provided as soon as practical after the medical treatment has been obtained. If the other person involved in the collision is unknown, the skier shall leave the personal identification required by this subsection with the ski area operator;

(9) Not to embark upon or disembark from a passenger tramway except at an area that is designated for such purpose;

(10) Not to throw or expel any object from a passenger tramway;

(11) Not to perform any action that interferes with the operation or running of a passenger tramway;

(12) Not to use such tramway unless he has the ability to use it with reasonable safety;

(13) Not to engage willfully or negligently in any type conduct that contributes to or causes injury to another person or his properties;

(14) Not to embark upon a passenger tramway without the authority of the ski area operator.

(c) A ski area operator shall have the following responsibilities:

(1) To mark all trails and maintenance vehicles and to furnish such vehicles with flashing or rotating lights that shall be in operation whenever the vehicles are working or moving in the ski area;

(2) To mark with a visible sign or other warning implement the location of any hydrant or similar equipment that is used in snowmaking operations and located anywhere in the ski area;

(3) To indicate the relative degree of difficulty of a slope or trail by appropriate signs. Such signs are to be prominently displayed at the base of a slope where skiers embark on a passenger tramway serving the slope or trail, or at the top of a slope or trail. The signs must be of the type that have been approved by the National Ski Areas

Association and are in current use by the industry;

(4) To post at or near the top of or entrance to, any designated slope or trail, signs giving reasonable notice of unusual conditions on the slope or trail;

(5) To provide adequate ski patrols;

(6) To mark clearly any hidden rock, hidden stump, or any other hidden hazard known by the ski area operator to exist;

(7) Not to engage willfully or negligently in any type conduct that contributes to or causes injury to another person or his properties.

§ 99C-3. Violation constitutes negligence.

A violation of any responsibility placed on the skier, passenger or ski area operator as set forth in G.S. 99C-2, to the extent such violation proximately causes injury to any person or damage to any property, shall constitute negligence on the part of the person violating the provisions of that section.

§ 99C-4. Competition.

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. The competitor shall be held to assume 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.

§ 99C-5. Operation of passenger tramway.

The operation of a passenger tramway shall not constitute the operation of a common carrier.

NORTH DAKOTA

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NORTH DAKOTA CENTURY CODE TITLE 53. SPORTS AND AMUSEMENTS CHAPTER 53-09. SKIING RESPONSIBILITY ACT

53-09-01. Legislative purpose.

The legislative assembly finds that the sport of skiing is practiced in this state by a growing number of North

Dakota citizens and nonresidents. Since it is recognized that there are inherent risks in the sport of skiing which should be understood by each skier and which are essentially impossible to eliminate by the ski area operator, it is the purpose of this chapter to define those areas of responsibility and affirmative acts for which ski area operators shall be liable for loss, damage, or injury and those risks which the skier expressly assumes and for which there can be no recovery.

53-09-02. Definitions.

The following words and phrases when used in this chapter have, unless the context clearly indicates otherwise, the meaning given to them in this section:

1. "Aerial passenger tramway" means any device operated by a ski area operator used to transport passengers, by single or double reversible tramway; chairlift or gondola lift; t-bar lift, j-bar lift, platter lift, or similar device; or a fiber rope tow.

2. "Passenger" means any person who is lawfully using an aerial passenger tramway, or is waiting to embark or has recently disembarked from an aerial passenger tramway and is in its immediate vicinity.

3. "Ski area" means property owned or leased and under the control of the ski area operator and administered as a single enterprise within the state of North Dakota.

4. "Ski area operator" means any person, partnership, corporation, or other commercial entity and their agents, officers, employees, or representatives, who has operational responsibility for any ski area or aerial passenger tramway.

5. "Ski slopes and trails" means those areas designed by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing.

6. "Skier" means any person present at a skiing area under the control of the ski operator for the purpose of engaging in the sport of skiing by utilizing the ski slopes and trails and does not include the use of an aerial passenger tramway.

7. "Skiing area" means all slopes and trails not including any aerial passenger tramway.

53-09-03. Duties of ski operators with respect to ski areas.

Every ski operator shall have the following duties with respect to its operation of a skiing area:

1. To mark all trail maintenance vehicles and to furnish such vehicles with flashing or rotating lights which must be in operation whenever the vehicles are working or are in movement in the skiing area.

2. To mark with a visible sign or other warning implement the location of any hydrant or similar equipment

used in snowmaking operations and located on ski slopes and trails.

3. To mark conspicuously the top or entrance to each slope or trail, or area with the appropriate symbol for its relative degree of difficulty and those slopes, trails, or areas which are closed, or portions of which present an unusual obstacle, must be marked at the top or entrance with appropriate symbols.

4. To maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon in accordance with the symbols provided for in subsection 3.

5. To designate by trail board or other means which trails or slopes are open or closed.

6. To place, or cause to be placed, whenever snow grooming or snowmaking operations are being undertaken upon any trail or slope while such trail or slope is open to the public a conspicuous notice to that effect at or near the top of such trail or slope.

7. To post notice, at or near the boarding area for each aerial passenger tramway designed to transport passengers with skis attached to boots, of the requirements of this chapter concerning the use of ski retention devices. This obligation is the sole requirement imposed upon the ski area operator regarding the requirement for or use of ski retention devices.

53-09-04. Duties of ski area operators with respect to aerial passenger tramways.

Every ski area operator shall have the duty to construct, operate, maintain, and repair any aerial passenger tramway in a safe and responsible manner.

53-09-05. Duties of passengers.

Every passenger shall have the duty not to:

1. Board or embark upon or disembark from an aerial passenger tramway except at an area designated for such purpose.

2. Intentionally drop, throw, or expel any object from an aerial passenger tramway.

3. Do any act which interferes with the running or operation of an aerial passenger tramway.

4. Use any aerial passenger tramway unless the passenger has the ability to use it safely without any instruction on its use by the ski area operator or requests and receives instructions before entering the boarding area of the aerial passenger tramway.

5. Engage in any harmful conduct, or willfully or negligently engage in any type of conduct which contributes to or causes injury to another person.

6. Embark on an aerial passenger tramway without the authority of the ski area operator.

7. Use any aerial passenger tramway without engaging such safety or restraining devices as may be provided.

8. Wear skis without properly securing ski retention straps.

53-09-06. Duties of skiers.

It is recognized that skiing as a recreational sport is hazardous to skiers, regardless of all feasible safety measures which can be taken. Each skier expressly assumes the risk of and legal responsibility for any injury to person or property which results from participation in the sport of skiing including any injury caused by the following: variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, or other forms of forest growth or debris, lift towers and components thereof; pole lines; and snowmaking equipment which are plainly visible or are plainly marked in accordance with the provisions of section 53-09-03. Therefore, each skier shall have the sole individual responsibility for knowing the range of his own ability to negotiate any slope, trail, or aerial passenger tramway, and it is the duty of each skier to ski within the limits of the skier's own ability, to make reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator, and to refrain from acting in a manner which may cause or contribute to the injury of anyone. The responsibility for collisions by any skier while actually skiing, with any person or object, is solely that of the individual or individuals involved in such collision and not that of the ski area operator. No person may:

1. Unless authorized by the ski area operator, place any object in the skiing area or on the uphill track of any aerial passenger tramway which may cause a passenger or skier to fall.

2. Cross the track of a t-bar lift, j-bar lift, platter lift or similar device, or a fiber rope tow except at a designated location.

3. Fail to wear retention straps or other devices to help prevent runaway skis.

53-09-07. Liability of ski area operators.

Any ski area operator is liable for loss or damages caused by its failure to follow the duties set forth in sections 53-09-03 and 53-09-04 where the violation of duty is causally related to loss or damage suffered. A ski area operator is not liable to any passenger or skier acting in violation of his duties as set forth in sections 53-09-05 and 53-09-06, where the violation of duty by the passenger or

skier is causally related to the loss or damage suffered; nor is a ski area operator liable for any loss or damage caused by any object dropped, thrown, or expelled by a passenger from an aerial passenger tramway.

53-09-08. Liability of passengers.

Any passenger is liable for loss or damages resulting from violation of the duties set forth in section 53-09-05, and shall not be able to recover from the ski area operator for any losses or damages where a violation of the duties set forth in section 53-09-05 is causally related to the loss or damage suffered by the passenger.

53-09-09. Liability of skiers.

Any skier is liable for loss or damages resulting from violation of the duties set forth in section 53-09-06, and shall not be able to recover from the ski area operator for losses or damages where the violation of the skier's duty is causally related to the loss or damage suffered by the skier.

53-09-10. Effect of comparative negligence.

Notwithstanding section 9-10-07, any person is, consistent with the provisions of this chapter, barred from recovery for loss or damage resulting from a risk inherent in the sport of skiing, and likewise is so barred where it is established that a person has knowingly exposed himself or herself to the real or potential hazards of a situation.

53-09-11. Warning to users.

Before any owner or operator may claim any provision of this chapter as a defense to any claim or action brought against him, he shall establish that he has conspicuously placed on the premises a warning as follows: **WARNING TO USERS** North Dakota law severely limits your right to compensation for injuries caused by the negligence of the owner or operator.

OHIO

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TITLE 41: LABOR AND INDUSTRY
CHAPTER 4169: SKIING SAFETY

§ 4169.01 Definitions.

As used in Chapter 4169. of the Revised Code:

(A) "Skier" means any person who is wearing skis or any person who for the purpose of skiing is on a ski slope or ski trail that is located at a ski area.

(B) "Passenger" means any person who is:

(1) Being transported or conveyed by a passenger tramway;

(2) Waiting in the immediate vicinity of a passenger tramway for transportation or conveyance;

(3) Moving from the disembarkation point of a passenger tramway in order to clear the way for subsequent passengers; or

(4) In the act of embarking upon or disembarking from a passenger tramway.

(C) "Ski slopes" or "ski trails" means those sites that are reserved or maintained for skiing as designated by a ski area operator.

(D) "Ski area" means all the ski slopes, ski trails, and passenger tramways that are administered or operated as a single enterprise within this state.

(E) "Ski area operator" means a person or organization that is responsible for the operation of a ski area, including an agency of this state or of a political subdivision thereof.

(F) "Passenger tramway" means a device used to transport passengers uphill on skis, or in cars on tracks or suspended in the air, by the use of steel cables, chains, or belts or by ropes, and that is usually supported by trestles or towers with one or more spans. "Passenger tramway" includes:

(1) Aerial passenger tramway, a device used to transport passengers in several open or enclosed cars attached to and suspended from a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices;

(2) Skimobile, a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar devices;

(3) Chair lift, a device on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain, or link belt supported by trestles or towers with one or more spans, or similar devices;

(4) J bar, T bar, or platter pull, devices that pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans, or similar devices;

(5) Rope tow, a device with one span and no intermediate towers that pulls skiers riding on skis as they grasp a rope manually, or similar devices;

(6) Wire rope tow, a device with one span and no intermediate towers by which skiers are pulled on skis while manually grasping a bar attached to a wire hauling cable.

The operation of a passenger tramway shall not constitute the operation of a common carrier.

§ 4169.02 Safety in skiing board created to regulate passenger tramways associated with ski areas.

(A) For the purposes of regulating the construction, maintenance, mechanical operation, and inspection of passenger tramways that are associated with ski areas and of registering operators of passenger tramways in this state, there is hereby established in the department of industrial relations a safety in skiing board to be appointed by the governor, with the advice and consent of the senate. The board shall consist of three members, one of whom shall be a public member who is an experienced skier and familiar with ski areas in this state, one of whom shall be a ski area operator actively engaged in the business of recreational skiing in this state, and one of whom shall be a professional engineer who is knowledgeable in the design or operation of passenger tramways. Of the initial appointments, one member shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Thereafter, each of the members shall be appointed for a term of three years. Each member shall hold office from the date of his appointment until the end of the term for which he was appointed. In the event of a vacancy, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which his predecessor was appointed. A member shall continue in office subsequent to the expiration date of his term until his successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The governor may remove any member of the board at any time for misfeasance, nonfeasance, or malfeasance in office after giving him a copy of the charges against him and an opportunity to be heard publicly in person or by counsel in his defense. Any such act of removal by the governor is final. A statement of the findings of the governor, the reason for his action, and the answer, if any, of the member shall be filed by the governor with the secretary of state and shall be open to public inspection.

Members of the board shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

The department of industrial relations shall provide the board with such offices and such clerical, professional, and other assistance as may be reasonably necessary for the board to carry on its work. The department of industrial relations shall maintain accurate copies of the board's rules as promulgated in accordance with division (B) of this section and shall keep all of the board's records, including business records, and inspection reports as well as its own records and reports. The board shall reimburse the department of industrial relations for all costs of service.

(B) In accordance with Chapter 119. of the Revised

Code, the board shall adopt and may amend or rescind rules relating to public safety in the construction, maintenance, mechanical operation, and inspection of passenger tramways. The rules shall be in accordance with established standards in the business of ski area operation, if any, and shall not discriminate in their application to ski area operators.

No person shall violate the rules of the board.

(C) The authority of the board shall not extend to any matter relative to the operation of a ski area other than the construction, maintenance, mechanical operation, and inspection of passenger tramways.

(D) A majority of the board constitutes a quorum and may perform and exercise all the duties and powers devolving upon the board.

§ 4169.03 Registration of passenger tramway operators.

(A) Before he may operate any passenger tramway in the state, a passenger tramway operator shall apply to the safety in skiing board, on forms prepared by it, for registration by the board. The application shall contain an inventory of the passenger tramways that the applicant intends to operate and such other information as the board may reasonably require and shall be accompanied by the following annual fees:

- (1) Each aerial passenger tramway, three hundred dollars;
- (2) Each skimobile, one hundred fifty dollars;
- (3) Each chair lift, one hundred fifty dollars;
- (4) Each J bar, T bar, or platter pull, seventy-five dollars;
- (5) Each rope tow, twenty dollars;
- (6) Each wire rope tow, fifty dollars.

When an operator operates an aerial passenger tramway, a skimobile, or a chair lift during both a winter and summer season, the annual fee shall be one and one-half the above amount for the respective passenger tramway.

(B) Upon payment of the appropriate annual fees in accordance with division (A) of this section, the board shall issue a registration certificate to the operator. Each certificate shall remain in force until the thirtieth day of September next ensuing. The board shall renew an operator's certificate in accordance with the standard renewal procedure in Chapter 4745. of the Revised Code upon payment of the appropriate annual fees.

(C) Money received from the registration fees and from the fines collected pursuant to section 4169.99 of the Revised Code shall be paid into the state treasury to the credit of the industrial relations operating fund created in section 4101.021 [4101.02.1] of the Revised Code.

(D) No person shall operate a passenger tramway in this state unless he has been registered by the board.

§ 4169.04 Inspection; report of violation.

(A) The department of industrial relations shall make such inspection of the construction, maintenance, and mechanical operation of passenger tramways as the safety in skiing board may reasonably require. The department may contract with other qualified engineers to make such inspection or may accept the inspection report by any qualified inspector of an insurance company authorized to insure passenger tramways in this state.

(B) If, as the result of an inspection, the department finds that a violation of the board's rules exists or a condition in passenger tramway construction, maintenance, or mechanical operation exists that endangers public safety, it shall make an immediate report to the board for appropriate investigation and order.

§ 4169.05 Written complaint alleging violation.

Any person may make a written complaint to the safety in skiing board setting forth an alleged violation of the board's rules by a registered passenger tramway operator or a condition in passenger tramway construction, maintenance, or mechanical operation that allegedly endangers public safety. The board shall forward a copy of the complaint to the operator named in it and may accompany it with an order that requires the operator to answer the complaint in writing within a specified period of time. The board may investigate the complaint if it determines that there are reasonable grounds for such an investigation.

§ 4169.06 Emergency order; investigation and order; suspension of certificate.

(A) When facts are presented to any member of the safety in skiing board that indicate that immediate danger exists in the continued operation of a passenger tramway, any member of the board, after such verification of the facts as is practical under the circumstances and consistent with immediate public safety, may by an emergency written order require the operator of the tramway to cease using the tramway immediately for the transportation of passengers. Any person may serve notice on the operator or his agent who is in immediate control of the tramway by delivering a true and attested copy of the order, and the operator or his agent shall furnish proof of his receipt of such notice by signing an affidavit on the back of the copy of the order. The emergency order shall be effective for a period not to exceed forty-eight hours from the time of notification.

(B) Immediately after the issuance of an emergency order pursuant to this section, the board shall investigate the facts of the case. If the board finds that a violation of any of its rules exists or that a condition in passenger tramway construction, maintenance, or mechanical operation exists that endangers public safety, it shall issue a written order setting forth its findings and the corrective action to be taken and fixing a reasonable time for compliance.

(C) After an investigation pursuant to division (B) of this section, if the board determines that danger to public safety exists in the continued operation of a passenger tramway, it shall so state in the order, describe in detail the basis for its findings, and in the order may require the operator not to operate the tramway until he has taken the corrective action ordered pursuant to this section. If the operator continues to use the tramway following his receipt of such order, the board may request the court of common pleas having jurisdiction in the county where the tramway is located to issue an injunction forbidding operation of the tramway.

(D) An operator of a passenger tramway may request a hearing by the board on any order issued pursuant to this chapter and may appeal the results of such a hearing in accordance with Chapter 119. of the Revised Code. An operator may appeal an order suspending the operation of his tramway without first requesting a hearing.

(E) If an operator fails to comply with an order of the board issued pursuant to this chapter within the specified time, the board may suspend the registration certificate of the operator for such time as it considers necessary to gain compliance with its order.

No operator shall operate a passenger tramway while his registration certificate is under suspension by the board.

§ 4169.07 Responsibilities of ski area operator and tramway passengers.

(A) A ski area operator shall be responsible for the construction, maintenance, and operation of any passenger tramway in his ski area.

(B) A passenger shall be responsible for: not embarking upon or disembarking from a passenger tramway except at an area that is designated for such purpose; not throwing or expelling any object from a passenger tramway; not performing any action that interferes with the running or operation of a passenger tramway; learning how to use a passenger tramway before the time that he desires to embark upon it; not using such a tramway unless he has the ability to use it safely without any on-the-spot instruction from the ski area operator; not engaging willfully or negligently in any type of conduct that contributes to or causes injury to another person; and not embarking upon a passenger tramway without the authority of the ski area

operator.

§ 4169.08 Risks assumed by skier; responsibilities of operator and skier.

(A) The general assembly recognizes that skiing as a recreational sport is hazardous to skiers regardless of all feasible safety measures that can be taken. It further recognizes that a skier expressly assumes the risk of and legal responsibility for any losses or damages that result from skiing, including, but not limited to, losses or damages caused by variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, stumps, and other forms of forest growth or debris; lift towers and their components, either above or below the snow surface; utility poles; and plainly marked or visible snowmaking equipment.

(B) Therefore, a ski area operator shall have the following responsibilities:

(1) To mark all trail maintenance vehicles and to furnish such vehicles with flashing or rotating lights that shall be in operation whenever the vehicles are working or are moving in the ski area;

(2) To mark with a visible sign or other warning implement the location of any hydrant or similar equipment that is used in snowmaking operations and located anywhere in the ski area;

(3) To mark, at the base of a slope or hill where skiers embark on a passenger tramway serving the slope or hill or at the top of a trail or slope, such slopes, trails, and hills with signs indicating their relative degree of difficulty. The signs must be the type that have been approved by the national ski areas association and are in current use by the industry.

(C) Therefore, a skier shall have the following responsibilities:

(1) To know the range of his ability to negotiate any slope or trail or to use any passenger tramway that is associated with a slope or trail, to ski within the limits of his ability, to ski only on designated slopes and trails, to maintain control of speed and course at all times while skiing, to heed all posted warnings, and to not cross the track of a passenger tramway except at a designated area;

(2) To refrain from acting in a manner that may cause or contribute to the injury of another person, to refrain from causing collision with any person or object while skiing, and to not place any object in a ski area that may cause another skier or a passenger to fall;

(3) When involved in a skiing accident in which another person is involved who needs medical or other assistance, to obtain assistance for the person, to notify the proper authorities, and to not depart from the scene of the accident without leaving personal identification.

§ 4169.09 Liability of operator, tramway passenger or skier.

A ski area operator, a tramway passenger, or a skier is liable for losses or damages caused by his failure to fulfill any of the responsibilities required by this chapter. A ski area operator, a tramway passenger, or a skier is not liable for any losses or damages caused by another's failure to fulfill any of the responsibilities required of another by this chapter. A ski area operator, a tramway passenger, or a skier is not entitled to recover for any losses or damages caused by his failure to fulfill any of the responsibilities required by this chapter.

§ 4169.10 Operator's liability to violators of theft statute.

A ski area operator is not liable for any losses or damages suffered by a person who was in violation of section 2913.02 of the Revised Code at the time that the losses or damages occurred.

§ 4169.99 Penalties.

(A) Whoever violates division (B) of section 4169.02 or division (D) of section 4169.03 of the Revised Code shall be fined not more than one hundred dollars.

(B) Whoever violates division (E) of section 4169.06 of the Revised Code shall be fined fifty dollars for every day that the violation continues.

OREGON

**1989 OREGON REVISED STATUTES
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TITLE 3. REMEDIES AND SPECIAL ACTIONS AND
PROCEEDINGS
CHAPTER 30. ACTIONS AND SUITS IN
PARTICULAR CASES SKIING ACTIVITIES**

30.970. Definitions for ORS 30.970 to 30.990.

As used in ORS 30.970 to 30.990:

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

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

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

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

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

30.975. Skiers assume certain risks.

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

30.980. Notice to ski area operator of injury to skier; injuries resulting in death; statute of limitations; informing skiers of notice requirements.

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

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

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

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

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

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

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

(5) Ski area operators shall give to skiers, in a manner reasonably calculated to inform, notice of the requirements for notifying a ski area operator of injury and the effect of

a failure to provide such notice under this section.

30.985. Duties of skiers; effect of failure to comply.

(1) Skiers shall have duties which include but are not limited to the following:

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

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

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

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

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

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

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

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

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

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

(k) A skier who is injured should, if reasonably possible, give notice of the injury to the ski area operator before leaving the ski area.

(l) Skiers shall not embark or disembark from a ski lift except at designated areas or by the authority of the ski area operator.

(2) Violation of any of the duties of skiers set forth in subsection (1) of this section entitles the ski area operator to withdraw the violator's privilege of skiing.

30.990. Operators required to give skiers notice of duties.

Ski area operators shall give notice to skiers of their duties under ORS 30.985 in a manner reasonably calculated to inform skiers of those duties.

PENNSYLVANIA

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TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE
PART VII. CIVIL ACTIONS AND PROCEEDINGS
CHAPTER 71. GENERAL PROVISIONS

§ 7102. Comparative negligence

(a) General rule.--In all actions brought to recover damages for negligence resulting in death or injury to person or property, the fact that the plaintiff may have been guilty of contributory negligence shall not bar a recovery by the plaintiff or his legal representative where such negligence was not greater than the causal negligence of the defendant or defendants against whom recovery is sought, but any damages sustained by the plaintiff shall be diminished in proportion to the amount of negligence attributed to the plaintiff.

(b) Recovery against joint defendant; contribution.--Where recovery is allowed against more than one defendant, each defendant shall be liable for that proportion of the total dollar amount awarded as damages in the ratio of the amount of his causal negligence to the amount of causal negligence attributed to all defendants against whom recovery is allowed. The plaintiff may recover the full amount of the allowed recovery from any defendant against whom the plaintiff is not barred from recovery. Any defendant who is so compelled to pay more than his percentage share may seek contribution.

(c) Downhill skiing.--

(1) The General Assembly finds that the sport of downhill skiing is practiced by a large number of citizens of this Commonwealth and also attracts to this Commonwealth large numbers of nonresidents significantly contributing to the economy of this Commonwealth. It is recognized that as in some other sports, there are inherent risks in the sport of downhill skiing.

(2) The doctrine of voluntary assumption of risk as it applies to downhill skiing injuries and damages is not modified by subsections (a) and (b).

(d) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Defendant or defendants against whom recovery is sought." Includes impleaded defendants.

"Plaintiff." Includes counterclaimants and cross-claimants.

RHODE ISLAND

GENERAL LAWS OF RHODE ISLAND
ANNOTATED, 1956
REENACTMENT OF 1990

TITLE 41. SPORTS, RACING, AND ATHLETICS
CHAPTER 8. RESPONSIBILITY AND LIABILITY OF
SKI OPERATORS AND SKIERS

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41-8-1. Duties of ski area operators.

It shall be the duty of a ski area operator to comply with the following requirements and regulations:

(1) Whenever maintenance equipment is being employed upon any trail or slope while the trail or slope is open to the public, the ski operator shall place or cause to be placed, notice to that effect at or near the top of any tramway or surface lift servicing any trail or slope in the area being maintained.

(2) The ski area operator shall also have the duty to maintain and to identify all trail maintenance vehicles and to furnish the vehicles with flashing or rotating lights, which lights shall be operated during the time that the vehicles are working such trails or slopes, and likewise during the time the vehicle is in movement from its normal and customary storage location to any other point within the ski area.

(3) With respect to the emergency use of motor driven vehicles within the ski area, including but not limited to uses for purposes of removing injured or stranded skiers, or performing emergency maintenance or repair work to slopes, trails, or tramway equipment, the ski area operator shall not be required to post such signs as is required by subdivision (1) above but shall be required to maintain such lighting equipment required by subdivision (2) above.

(4) All snowmobiles operated on the trails or slopes of the ski area shall be equipped with a lighting device, which device shall be in operation while the vehicle is in operation.

(5) The ski area shall likewise have the responsibility to mark the location of any hydrants used in snow making operations and located within or upon a slope or trail.

(6) Ski area operators shall maintain and operate, or cause to be maintained and operated, the ski areas under the control in a reasonably safe condition or manner, and shall be required to maintain a sign system on all buildings, tramways, ski trails, and slopes.

41-8-2. Duties of a skier.

(1) It shall be the duty of each skier to conduct him or herself within the limitation of his or her ability, and to do no act or thing which can contribute to the injury of him or herself or others.

(2) No skier shall:

(a) Embark or disembark upon a ski lift except at a designated area and during designated hours of operation;

(b) Throw or expel any object from any tramway, ski lift, 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) Willfully 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 skier shall maintain control of his or her speed and course at all times, and shall stay clear of any snow grooming equipment, any vehicle, any lift tower, any snowmaking equipment, and any other equipment;

(4) A skier shall be the sole judge of his or her ability to negotiate any cross country track, trail, or slope;

(5) A skier shall be the sole judge of his or her ability to negotiate any downhill track, trail, or slope;

(6) Any skier 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 same, and shall follow any written or verbal instructions that are given regarding its use;

(7) A skier skiing downhill shall have the primary duty to avoid any collision with any other skier below him or her, and except as otherwise provided in this chapter, the responsibility for collisions by any skier with any other skier or person shall be solely that of the skier or skiers or person involved and not that of the operator;

(8) No spectators are to be allowed on areas specifically designated as skiing areas;

(9) Any person skiing on other than improved trails or slopes within the area shall be responsible for any injuries resulting from his or her action;

(10) Any skier embarking on a lift or tow without authority of the operator shall be guilty of trespassing;

(11) All skiers shall, prior to their entrance onto the trails or slopes, or embarking on any lift or tramway, have attached or on their skis, a device for the purpose of restraining or preventing a runaway ski;

(12) No skier shall ski on a slope or trail or portion

thereof which has been designated closed, nor ski on other than identified trails, slopes, or trail areas;

(13) The primary responsibility for the collision with any obstruction, man made or otherwise, shall be that of the skier and not that of the operator;

(14) Any owner, manager, or employee of any ski area who finds a person in violation of this section, may first issue a verbal warning to that individual or suspend his or her recreational tramway privileges. Any person who fails to heed the warning issued by the owner or employee or agent of the operator shall forfeit his or her recreational tramway ticket and recreational tramway use privileges and be refused issuance of another ticket to the recreational tramway.

41-8-3. Leaving the scene of an accident.

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 and shall be punished by a fine of not more than two hundred dollars (\$200.00).

41-8-4. Severability.

The provisions of this chapter are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining provisions.

TENNESSEE

TENNESSEE CODE ANNOTATED

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TITLE 68. SAFETY AND HEALTH

CHAPTER 48. SKI AREA SAFETY AND LIABILITY

68-48-101. Short title.

This chapter shall be known as the "Ski Area Safety and Liability Act."

68-48-102. Definitions.

For the purposes of this chapter, unless the context otherwise requires:

(1) "Industry" means generally the activities of all ski

area operators;

(2) "Passenger" means any person while being transported or conveyed by a passenger tramway, or while waiting in the immediate vicinity for such transportation or conveyance, or while moving away from the disembarkation or unloading point of a passenger tramway to clear the way for the passengers following, or while in the act, of boarding or embarking upon or disembarking from, a passenger tramway;

(3) "Passenger tramway" means those devices described in American National Standards Institute Code section B 77.1 -- 1973 and supplements thereto;

(4) "Ski area" means all the ski slopes and ski trails and passenger tramways administered or operated as a single enterprise within this state;

(5) "Ski area operator" means a person or organization having operational responsibility for any ski area, including an agency of this state or a political subdivision thereof; and

(6) "Skier" means any person while wearing skis, and any person while actually on a ski slope or trail located at a ski area for the purpose of skiing.

68-48-103. Responsibility of skier and passenger.

It is hereby recognized that Alpine or downhill skiing as a recreational sport and the use of passenger tramways associated therewith may be hazardous to skiers or passengers, regardless of all feasible safety measures which can be taken. Therefore, each skier and each passenger shall have the sole responsibility for knowing the range of his own ability to negotiate any slope, ski trail or associated passenger tramway, and it shall be the duty of each skier and passenger to conduct himself within the limits of his own ability, to maintain control of his speed and course at all times while skiing, to heed all posted warnings and to refrain from acting in a manner which may cause or contribute to the injury of himself or others. Except as otherwise specifically provided in this chapter, each skier or passenger shall be deemed to have assumed the risk of and legal responsibility for any injury to his person or property arising out of his participation in Alpine or downhill skiing or the use of any passenger tramways associated therewith. The responsibility for collisions by any skier while actually skiing, with any person or object, shall be solely that of the skier or skiers involved in such collision and not that of the ski area operator.

68-48-104. Violations.

No passenger or skier shall:

(1) Board or embark upon or disembark from a passenger tramway except at an area designated for such purpose;

(2) Throw or expel any object from a passenger tramway;

(3) Do any act which shall interfere with the running or operation of a passenger tramway;

(4) Place any object in the uphill track of a surface lift which may cause a passenger to fall;

(5) Except at designated locations, cross the uphill track of any surface lift; or

(6) Ski on a slope or ski trail which has been designated "closed" as provided by this chapter.

68-48-105. Tramways.

The ski area operator shall have the primary responsibility for the design, construction, maintenance, and inspection of any passenger tramway. All passenger tramways shall be designed, constructed, and maintained in accordance with standards of the American National Standards Institute section B 77.1 -- 1973 and supplements thereto. The operation of a passenger tramway shall be deemed not to be the operation of a common carrier.

68-48-106. Signs and designations.

It shall be the duty of the ski area operator to maintain the following signs and designations:

(1) Base Stations:

(A) A color code is hereby established in accordance with the following:

(i) Green circle -- to designate the ski area's least difficult trails and slopes;

(ii) Black diamond -- to designate the ski area's most difficult trails and slopes;

(iii) Blue square -- to designate the ski area's trails and slopes which fall between the green circle and black diamond designations;

Yellow triangle with red exclamation point inside with a red band around the triangle -- to designate danger areas; and

(v) Octagonal shape with red border around white interior with a black figure in the shape of a skier inside with a black band running diagonally across the sign from the upper right hand side to the lower left hand side with the word "closed" beneath the emblem -- to designate a closed trail or slope; and

(B) A trail board shall be maintained at one (1) or more prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon in accordance with the aforementioned color code and containing a key to the code in accordance with the above designations; the trail board shall further designate which ski trails and slopes are open and their condition; and

(2) Trails or Slopes:

(A) The ski area operator shall conspicuously mark the top of each trail or slope with the appropriate symbol for that particular trail's or slope's degree of difficulty in accordance with the provisions of this chapter. Those portions of the trails or slopes which are of extra hazardous nature or are closed shall be marked at the top with the appropriate symbol; and

(B) Whenever maintenance personnel or equipment are being employed upon any trail or slope while such trail or slope 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 such trail or slope.

68-48-107. Actions against ski area operators -- Insurance.

(a) Unless a ski area operator is in violation of this chapter or other state acts pertaining to ski areas, which violation is causal of the injury complained of, no action shall lie against any such operator by any skier or passenger or representative thereof; this prohibition shall not, however, prevent the maintenance of an action against a ski area operator for negligent design construction, or operation maintenance of the passenger tramway itself.

(b) Each ski area operator responsible for a passenger tramway shall maintain liability insurance with limits of not less than one hundred thousand dollars (\$100,000) per person per accident and two hundred thousand dollars (\$200,000) per accident, except that such insurance need not be maintained with respect to passenger tramways not open to the general public, operated without charge to the users thereof. This exception shall not apply, however, to passenger tramways operated by schools, ski clubs and other similar organizations.

(c) No action shall be maintained against any ski area operator for injuries to any skier or passenger unless the same is commenced within one (1) year from the time of injury; provided, however, that as a condition precedent thereof the ski area operator shall be notified by registered mail within ninety (90) days of the injury as to the alleged violation of this chapter or other acts pertaining to ski areas, unless the court finds under the circumstances of the particular case that such operator or any of its employees either had actual knowledge of the injury or had a reasonable opportunity to learn of the injury within the ninety-day period, or was otherwise not substantially prejudiced by reason of not having been given actual written notice of the injury within the period; provided that in any case where lack of written notice, actual knowledge, or a reasonable opportunity to obtain knowledge of any injury within the ninety-day period is alleged by a ski area operator, the burden of proof shall be on such operator to

show that it was substantially prejudiced thereby.

UTAH

UTAH CODE, 1953

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TITLE 78. JUDICIAL CODE

PART III. Procedure

CHAPTER 27. MISCELLANEOUS PROVISIONS

78-27-51. Inherent risks of skiing -- Public policy.

The Legislature finds that the sport of skiing is practiced by a large number of residents of Utah and attracts a large number of nonresidents, 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.

78-27-52. Inherent risks of skiing -- Definitions.

As used in this act:

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

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

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

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

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

78-27-53. Inherent risks of skiing -- Bar against claim or recovery from operator for injury from risks inherent in sport.

Notwithstanding anything in Sections 78-27-37 through 78-27-43 to the contrary, no skier may make any claim against, or recover from, any ski area operator for injury resulting from any of the inherent risks of skiing.

78-27-54. Inherent risks of skiing -- Trail boards listing inherent risks and limitations on liability.

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

78-27-55. Repealed.

VERMONT

VERMONT STATUTES ANNOTATED

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Commission for the State of Vermont

TITLE THIRTY-ONE. RECREATION AND SPORTS

CHAPTER 15. SKI TRAMWAYS

§ 701. Declaration of policy

It shall be the policy of the state of Vermont to prevent unnecessary hazards in the operation of ski tows, lifts and tramways, to insure that reasonable design and construction are used, that accepted safety devices are provided for and that periodic inspections and adjustments are made, all for the purpose of making safe the operation of ski tows, ski lifts and passenger tramways.

§ 702. Definition of terms

The following terms shall be construed as follows:

(1) "A passenger tramway" is a device used to transport passengers uphill on skis, or in cars on tracks or suspended in the air, by the use of steel cables, chains or belts or by ropes and usually supported by trestles or towers with one or more spans. The terms passenger tramway shall include the following:

(A) "Two-car passenger tramway," a device used to transport passengers in two open or enclosed cars attached to, and suspended from, a moving wire rope, or attached to a moving wire rope and supported on a standing wire rope, or similar devices.

(B) "Multi-car passenger tramway," a device used to

transport passengers in several open or enclosed cars attached to, and suspended from, a moving wire rope, or attached to a moving wire rope and supported on a standing wire rope, or similar devices.

(C) "Skimobile," a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar devices.

(D) "Chair lift," a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one or more spans, or similar devices.

(E) "Surface lift," a type of transportation which pulls skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans. Surface lifts include so-called T bars, J bars, poma lifts, platter pulls and similar type devices.

(F) "Rope tow," a type of transportation which pulls the skiers riding on skis as the skier grasps the rope manually, or similar devices.

(2) "Industry" shall mean the activities of all those persons in the state who own or control the operation of passenger tramways.

(3) "Operator" is a person who owns or controls the operation of a passenger tramway. The word "operator" shall include the state or any political subdivision.

(4) "Board" shall mean the passenger tramway board.

(5) "Department" shall mean the department of labor and industry.

(6) "Lineal footage" is one-half of the total length of the cable or rope as determined when the tramway is installed.

§ 703. Passenger tramway board

There is hereby created a passenger tramway board within the department of labor and industry which shall consist of the commissioner of labor and industry, ex officio, who shall serve as chairman, and four appointive members. The appointive members of said board shall be appointed by the governor. Two of the appointive members who are first appointed shall be designated to serve terms of two years and two of the appointive members shall be designated to serve terms of four years, but thereafter appointive members shall be appointed for terms of four years except that all vacancies shall be filled for the unexpired term. An appointive member shall hold office until his successor has been appointed and has qualified. Two appointive members shall be engaged in the industry and two shall be representatives of the public at large. Appointive members of the board shall receive as compensation the sum of \$15.00 per diem for their services and their necessary expenses when in the performance of

their duties.

§ 704. Rules

The board may, in accordance with chapter 25 of Title 3, adopt reasonable rules relating to public safety in the construction, operation, maintenance and inspection of passenger tramways. The rules authorized hereunder shall conform as nearly as practicable to established standards, if any, and shall not be discriminatory in their application to operators of passenger tramways. Rules adopted by the board shall in no way reduce or diminish the standard of care imposed upon passenger tramway operators under existing law.

§ 705. Enforcement, certificate

The department shall enforce the rules adopted by the board, and inspect the construction, operation and maintenance of passenger tramways to determine whether the rules adopted by the board have been complied with by the operators. Certification of compliance by a qualified inspector who has been approved by the department may be accepted by the department instead of other inspection. In any legal proceedings, a certificate of compliance issued pursuant to this section shall be competent evidence only for the purpose of establishing the fact of issuance of said certificate and for no other purpose.

§ 706. Operators to pay cost of inspection

The expenses of the department in connection with making the inspections under section 705 of this title shall be paid in the first instance by the department. However, each operator shall, upon notification by the department of the amount due, reimburse the department for the expense of specialized assistance which may be employed by the department in making inspections. The department shall not charge in excess of \$25.00 per hour for the services of special assistants. It may include traveling time and expenses in addition. The reimbursement shall be credited to the revolving fund created under this chapter.

§ 707. Registration and fees

(a) A passenger tramway shall not be operated in this state unless the operator thereof has been registered by the department. On or before the 1st day of November in each year every operator of a passenger tramway shall apply to the department on forms prepared by it for registration hereunder. The application shall contain such information as the department may require and shall be accompanied by a registration fee as determined by the board, according to

the formula stated in this section. The department shall assess total registration fees in the sum of \$150,000.00 annually herein called "Fee Due State."

(b) Each operator shall pay a proportionate share of the total registration fees as determined by the total lineal feet of each type of tramway operated by him as follows:

(1) the operator's total lineal footage of multi-car passenger tramways times the sum of the base rate and \$.0075;

(2) the operator's total lineal footage of chair lifts times the sum of the base rate and \$.005;

(3) the operator's total lineal footage of surface lifts times the sum of the base rate and \$.0025;

(4) the operator's total lineal footage of rope tows times the base rate only;

(5) all tramways being registered for the first time shall pay a sum equal to five times the registration fee required to be paid for similar type tramways which have previously been registered;

(6) all major modifications of existing passenger tramways where the department has determined that a 50 percent alteration or upgrade of structural, mechanical, or electrical systems has occurred or where the department has determined that a full load test of the lift is required, shall pay a fee according to the following schedule:

(A) drive terminal, tension terminal, or mid-station terminal M-modification (50 percent or more) shall pay an equivalent annual registration fee times two;

(B) any two of the above M-modifications (50 percent or more) shall pay an equivalent annual registration fee times three;

(C) any three of the above M-modifications (50 percent or more) shall pay an equivalent annual registration fee times four;

(D) towers, structures, and foundation M-modification (50 percent or more) not including any of the M-modifications listed in subdivision (b)(6)(A) of this section shall pay an equivalent annual registration fee times two;

(E) any combination of the above in aggregate shall never exceed five times the registration fee required for first time registration;

(7) any passenger tramway that operates for more than five days singly or in aggregate, between the periods of June 1 through October 30, shall pay an annual registration fee equal to that of a similar type tramway plus 25 percent.

(c) The base rate shall be the quotient obtained by dividing the total lineal footage of all tramways into the difference of the following:

(1) the Fee Due State minus

(2) the total two-car and multi-car lineal footage times \$.0075 minus

(3) the total chair lift lineal footage times \$.005 minus

(4) the total surface lift lineal footage times \$.0025.

For purposes of computing the base rate, "lineal footage" means the total lineal footage of each type of tramway registered during the previous operating year.

(d) [Repealed.]

(e) The board may, after thirty days notice to all registered operators, for the year beginning November 1, increase or decrease the "Fee Due State" by an amount not to exceed thirty percent of that fee.

(f) All fees collected under this section shall be credited to a special appropriation for the department to be expended for carrying out its duties under this chapter.

§ 708. Orders

If, after investigation, the department finds that a violation of any of the rules exists, or that there is a condition in passenger tramway construction, operation or maintenance endangering the safety of the public, it shall forthwith issue its written order setting forth its findings, the corrective action to be taken, and fixing a reasonable time for compliance therewith. The order shall be served upon the operator involved by registered mail and shall become final unless the operator applies to the board for a hearing in the manner provided in section 709 of this title.

§ 708a. Emergency orders

Whenever the condition is deemed to be imminently hazardous, involving the safety of passengers, the department's representative shall be authorized to order the operator in writing to immediately suspend operation of the tramway, until such time as the hazardous condition has been remedied.

§ 709. Hearing

Any operator who is aggrieved by department order may, within ten days after service thereof upon him, apply to the board for a review of the order. The board shall hold a hearing thereon at the earliest convenient day. At the hearing, the operator shall have a right to a full hearing, including the right to be heard personally and by counsel, to cross-examine witnesses and to produce evidence in his own behalf. After the hearing, the board shall report its findings, in writing, and make such order as the facts may require.

§ 710. Appeal

Any operator who is aggrieved by any order of the department following the hearing provided in section 709 of this title may, within thirty days after entry thereof, appeal to the superior court for the county in which the passenger

tramway is located. An appeal shall not suspend the operation of the order made by the board, but the superior court may suspend the order of the board pending determination of the appeal whenever, in the opinion of the court, justice may require its suspension. The superior court shall hear the appeal and make such decree as justice may require.

§ 711. Suspension

If any operator fails to comply with a lawful order issued under sections 708 and 709 of this title, the department may order the operator to cease operations for such time as it considers necessary for the protection of the safety of the public.

§ 712. Penalties

(a) Operating without registration. Any operator who operates a passenger tramway without being registered by the department shall be fined not more than \$50.00 for each day of operation.

(b) After suspension. Any person who operates a passenger tramway after being ordered to cease operations shall be fined not more than \$100.00 for each day of illegal operation.

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TITLE TWELVE. COURT PROCEDURE
PART 2. PROCEEDINGS BEFORE TRIAL
CHAPTER 23. LIMITATION OF TIME FOR
COMMENCEMENT OF ACTIONS
SUBCHAPTER 2. ACTIONS LIMITED

§ 513. Skiing, injuries sustained while participating in sport of

An action to recover for injuries sustained while participating in the sport of skiing shall be commenced within one year after the cause of action accrues, and not after.

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TITLE TWELVE. COURT PROCEDURE
PART 2. PROCEEDINGS BEFORE TRIAL
CHAPTER 27. PLEADING AND PRACTICE
SUBCHAPTER 2. PLEADINGS GENERALLY

§ 1037. Acceptance of inherent risks

Notwithstanding the provisions of section 1036 of this title, a person who takes part in any sport accepts as a matter of law the dangers that inhere therein insofar as they are obvious and necessary.

WASHINGTON

WEST'S REVISED CODE OF WASHINGTON
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TITLE 70. PUBLIC HEALTH AND SAFETY
CHAPTER 70.88--CONVEYANCES FOR PERSONS IN
RECREATIONAL ACTIVITIES

70.88.010. Safe and adequate facilities and equipment required of owner and operator--Operator not common carrier

Every owner or operator of any recreational device designed and operated for the conveyance of persons which aids in promoting entertainment, pleasure, play, relaxation, or instruction, specifically including devices generally associated with winter sports activities such as ski lifts, ski tows, j-bars, t-bars, ski mobiles, chair lifts, and similar devices and equipment, shall construct, furnish, maintain, and provide safe and adequate facilities and equipment with which safely and properly to receive and transport all persons offered to and received by the owner or operator of such devices, and to promote the safety of such owner's or operator's patrons, employees and the public. The owner or operator of the devices and equipment covered by this section shall be deemed not to be a common carrier.

WEST'S REVISED CODE OF WASHINGTON
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TITLE 70. PUBLIC HEALTH AND SAFETY
CHAPTER 70.117--SKIING AND COMMERCIAL SKI
ACTIVITY

70.117.010. Ski area sign requirements

(1) The operator of any ski area shall maintain a sign system based on international or national standards.

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 "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 a person is 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:

(1) "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 two operations shall be adequately lighted for night skiing.

(7) If a particular trail or run has been closed to the public by an operator, the operator shall place a notice thereof at the top of the trail or run involved, and no person shall ski on a run 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) Any snow making machines or equipment shall be clearly visible and clearly marked. Snow grooming equipment or any other vehicles shall be equipped with a yellow flashing light at any time the vehicle is moving on or in the vicinity of a ski run; however, low profile vehicles, such as snowmobiles, may be identified in the alternative with a flag on a mast of not less than six feet in height.

(10) 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 runs served by the device shall be classified "easiest", "more difficult", and "most difficult".

70.117.015. "Trails" or "runs" defined

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

"Trails" or "runs" means those trails or runs that have been marked, signed, or designated by the ski area operator as ski trails or ski runs within the ski area boundary.

70.117.020. Standard of conduct--Prohibited acts--Responsibility

(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 snow grooming equipment, any vehicle, any lift tower, and any other equipment on the mountain.

(4) A person shall be the sole judge of his or her ability to negotiate any trail, run, or uphill track and no action shall be maintained against any operator by reason of the condition of the track, trail, or run 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 device. 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 risks 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) Any person skiing outside the confines of trails open for skiing or runs open for skiing within the ski area boundary shall be responsible for any injuries or losses resulting from his or her action.

(8) 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.

**70.117.025. Skiing outside of trails or boundaries--
Notice of skier responsibility**

Ski area operators shall place a notice of the provisions of RCW 70.117.020(7) on their trail maps, at or near the ticket booth, and at the bottom of each ski lift or similar device.

**70.117.030. Leaving scene of skiing accident--
Penalty--Notice**

(1) 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.

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

70.117.040. Insurance requirements for operators

(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.

WEST VIRGINIA

WEST VIRGINIA CODE 1966

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**CHAPTER 20. NATURAL RESOURCES.
ARTICLE 3A. SKIING RESPONSIBILITY ACT.**

§ 20-3A-1. Legislative purpose.

The legislature finds that the sport of skiing is practiced by a large number of citizens of West Virginia and also attracts to West Virginia a large number of nonresidents, significantly contributing to the economy of West Virginia. Since it is recognized that there are inherent risks in the sport of skiing which should be understood by each skier and which are essentially impossible to eliminate by the ski area operator, it is the purpose of this article to define those areas of responsibility and affirmative acts for which ski area operators shall be liable for loss, damage or injury and those risks which the skier expressly assumes for which there can be no recovery.

§ 20-3A-2. Definitions.

Unless the context of usage clearly requires otherwise:

(a) "Aerial passenger tramway" means any device operated by a ski area operator used to transport passengers, by single or double reversible tramway; chair lift or gondola lift; T-bar lift, J-bar lift, platter lift or similar device; or a fiber rope tow.

(b) "Passenger" means any person who is lawfully using an aerial passenger tramway, or is waiting to embark or has recently disembarked from an aerial passenger tramway and is in its immediate vicinity.

(c) "Ski area" means any property owned or leased and under the control of the ski area operator or operators within West Virginia.

(d) "Ski area operator" means any person, partnership, corporation or other commercial entity and their agents, officers, employees or representatives, or the state of West Virginia, or any political subdivision thereof, who has operational responsibility for any ski area or aerial passenger tramway.

(e) "Skiing area" means all slopes and trails not including any aerial passenger tramway.

(f) "Skier" means any person present at a skiing area under the control of a ski area operator for the purpose of engaging in the sport of skiing by utilizing the ski slopes and trails, but does not include a passenger using an aerial passenger tramway.

(g) "Ski slopes and trails" means those areas designated by the ski area operator to be used by skiers for the purpose

of participating in the sport of skiing.

§ 20-3A-3. Duties of ski area operators with respect to ski areas.

Every ski area operator shall:

(1) Mark all trail maintenance vehicles and furnish such vehicles with flashing or rotating lights which shall be in operation whenever the vehicles are working or are in movement in the skiing area.

(2) Mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski slopes and trails.

(3) Mark conspicuously the top or entrance to each ski slope, trail or area to designate open or closed and relative degree of difficulty using the appropriate symbols approved by the national ski areas association as of the effective date of this article [June 8, 1984] and as may thereafter be modified by the association.

(4) Maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon in accordance with the aforementioned symbols' code and containing a key to the code in accordance with designations in subdivision (3) herein.

(5) Designate by trail board or otherwise which trails or slopes are open or closed.

(6) Place, or cause to be placed, whenever snow grooming or snowmaking operations are being undertaken upon any trail or slope while such trail or slope is open to the public, a conspicuous notice to that effect at or near the top of the trail or slope.

(7) Post notice at prominent locations of the requirements of this article concerning the use of ski retention devices. This obligation shall be the sole requirement imposed upon the ski area operator regarding the requirement for or use of ski retention devices.

(8) Maintain the ski areas in a reasonably safe condition, except that such operator shall not be responsible for any injury, loss or damage caused by the following: Variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, other forms of forest growth or debris; collisions with pole lines, lift towers or any component thereof; or, collisions with snowmaking equipment which is marked by a visible sign or other warning implement in compliance with subdivision two of this section.

(9) When no certified ambulance service is available in the vicinity, have on duty at or near the skiing area, during all times that skiing areas are open for skiing, at least one trained and currently certified emergency medical technician.

§ 20-3A-4. Responsibilities of passengers.

No passenger shall:

(1) Board or embark upon or disembark from an aerial passenger tramway except at an area designated for such purpose;

(2) Drop, throw or expel any object from an aerial passenger tramway;

(3) Perform any act which interferes with the running or operation of an aerial passenger tramway;

(4) Enter the boarding area of or use any aerial passenger tramway without requesting and receiving instruction on its use from the ski area operator, unless the passenger has the ability to use it safely without instruction;

(5) Engage in any harmful conduct, or willfully or negligently engage in any type of conduct which contributes to or causes injury to any person; or

(6) Embark on an aerial passenger tramway without the authority, express or implied, of the ski area operator.

§ 20-3A-5. Duties of skiers.

It is recognized that skiing as a recreational sport is hazardous to skiers, regardless of all feasible safety measures which can be taken.

Each skier expressly assumes the risk of and legal responsibility for any injury, loss or damage to person or property which results from participation in the sport of skiing including, but not limited to, any injury, loss or damage caused by the following: Variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, other forms of forest growth or debris; collisions with pole lines, lift towers or any component thereof; or, collisions with snow-making equipment which is marked by a visible sign or other warning implement in compliance with section three [s 20-3A-3] of this article. Each skier shall have the sole individual responsibility for knowing the range of his own ability to negotiate any slope or trail, and it shall be the duty of each skier to ski within the limits of the skier's own ability, to maintain reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator and to refrain from acting in a manner which may cause or contribute to the injury of anyone. If while actually skiing, any skier collides with any object or person, except an obviously intoxicated person of whom the ski area operator is aware, the responsibility for such collision shall be solely that of the skier or skiers involved and not that of the ski area operator.

No person shall place any object in the skiing area or on the uphill track or on any aerial passenger tramway which may cause a passenger or skier to fall; or which

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

of participating in the sport of skiing.

§ 20-3A-3. Duties of ski area operators with respect to ski areas.

Every ski area operator shall:

(1) Mark all trail maintenance vehicles and furnish such vehicles with flashing or rotating lights which shall be in operation whenever the vehicles are working or are in movement in the skiing area.

(2) Mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski slopes and trails.

(3) Mark conspicuously the top or entrance to each ski slope, trail or area to designate open or closed and relative degree of difficulty using the appropriate symbols approved by the national ski areas association as of the effective date of this article [June 8, 1984] and as may thereafter be modified by the association.

(4) Maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon in accordance with the aforementioned symbols code and containing a key to the code in accordance with designations in subdivision (3) herein.

(5) Designate by trail board or otherwise which trails or slopes are open or closed.

(6) Place, or cause to be placed, whenever snow grooming or snowmaking operations are being undertaken upon any trail or slope while such trail or slope is open to the public, a conspicuous notice to that effect at or near the top of the trail or slope.

(7) Post notice at prominent locations of the requirements of this article concerning the use of ski retention devices. This obligation shall be the sole requirement imposed upon the ski area operator regarding the requirement for or use of ski retention devices.

(8) Maintain the ski areas in a reasonably safe condition, except that such operator shall not be responsible for any injury, loss or damage caused by the following: Variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, other forms of forest growth or debris; collisions with pole lines, lift towers or any component thereof; or, collisions with snowmaking equipment which is marked by a visible sign or other warning implement in compliance with subdivision two of this section.

(9) When no certified ambulance service is available in the vicinity, have on duty at or near the skiing area, during all times that skiing areas are open for skiing, at least one trained and currently certified emergency medical technician.

§ 20-3A-4. Responsibilities of passengers.

No passenger shall:

(1) Board or embark upon or disembark from an aerial passenger tramway except at an area designated for such purpose;

(2) Drop, throw or expel any object from an aerial passenger tramway;

(3) Perform any act which interferes with the running or operation of an aerial passenger tramway;

(4) Enter the boarding area of or use any aerial passenger tramway without requesting and receiving instruction on its use from the ski area operator, unless the passenger has the ability to use it safely without instruction;

(5) Engage in any harmful conduct, or willfully or negligently engage in any type of conduct which contributes to or causes injury to any person; or

(6) Embark on an aerial passenger tramway without the authority, express or implied, of the ski area operator.

§ 20-3A-5. Duties of skiers.

It is recognized that skiing as a recreational sport is hazardous to skiers, regardless of all feasible safety measures which can be taken.

Each skier expressly assumes the risk of and legal responsibility for any injury, loss or damage to person or property which results from participation in the sport of skiing including, but not limited to, any injury, loss or damage caused by the following: Variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, other forms of forest growth or debris; collisions with pole lines, lift towers or any component thereof; or, collisions with snow-making equipment which is marked by a visible sign or other warning implement in compliance with section three [s 20-3A-3] of this article. Each skier shall have the sole individual responsibility for knowing the range of his own ability to negotiate any slope or trail, and it shall be the duty of each skier to ski within the limits of the skier's own ability, to maintain reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator and to refrain from acting in a manner which may cause or contribute to the injury of anyone. If while actually skiing, any skier collides with any object or person, except an obviously intoxicated person of whom the ski area operator is aware, the responsibility for such collision shall be solely that of the skier or skiers involved and not that of the ski area operator.

No person shall place any object in the skiing area or on the uphill track or on any aerial passenger tramway which may cause a passenger or skier to fall; or which

crosses the track of any T-bar lift, J-bar lift, platter lift or similar device, or a fiber rope tow except at a designated location; nor shall any person involved in a skiing accident depart the ski area without leaving personal identification, including name and address, or without notifying the proper authorities or without obtaining assistance when that person knows or reasonably should know that any other person involved in the accident is in need of medical or other assistance. No skier shall fail to wear retention straps or other devices to help prevent runaway skis.

§ 20-3A-6. Liability of ski area operators.

Any ski area operator shall be liable for injury, loss or damage cause by failure to follow the duties set forth in section three [§ 20-3A-3] of this article where the violation of duty is causally related to the injury, loss or damage suffered. A ski area operator shall not be liable for any injury, loss or damage caused by the negligence of any person who is not an agent or employee of such operator, nor shall a ski area operator be liable for any injury, loss or damage cause by any object dropped, thrown or expelled by a passenger from an aerial passenger tramway. Every ski area operator shall carry public liability insurance in limits of no less than one hundred thousand dollars per person, three hundred thousand dollars per occurrence and ten thousand dollars for property damage.

§ 20-3A-7. Liability of passengers.

Any passenger shall be liable for injury, loss or damage resulting from violations of the duties set forth in section four [§ 20-3A-4].

§ 20-3A-8. Liability of skiers.

Any skier shall be liable for injury, loss or damage resulting from violations of the duties set forth in section five [§ 20-3A-5].

WISCONSIN

WISCONSIN STATUTES ANNOTATED
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CHAPTER 895. MISCELLANEOUS GENERAL
PROVISIONS

895.525. Participation in recreational activities

(1) Legislative purpose. The legislature intends by this section to establish the responsibilities of participants in

recreational activities in order to decrease uncertainty regarding the legal responsibility for injuries that result from participation in recreational activities and thereby to help assure the continued availability in this state of enterprises that offer recreational activities to the public.

(2) Definition. In this section, "recreational activity" means any activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" includes, but is not limited to, hunting, fishing, trapping, camping, bowling, billiards, picnicking, exploring caves, nature study, dancing, bicycling, horseback riding, horseshoe-pitching, bird-watching, motorcycling, operating an all-terrain vehicle, ballooning, curling, throwing darts, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, participation in water sports, weight and fitness training, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature and any other sport, game or educational activity.

(3) Appreciation of risk. A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities accepts the risks inherent in the recreational activity of which the ordinary prudent person is or should be aware. In a negligence action for recovery of damages for personal injury or property damage, conduct by a participant who accepts the risks under this subsection is contributory negligence, to which the comparative negligence provisions of s. 895.045 shall apply.

(4) Responsibilities of participants.

(a) A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities is responsible to do all of the following:

1. Act within the limits of his or her ability.
2. Heed all warnings regarding participation in the recreational activity.
3. Maintain control of his or her person and the equipment, devices or animals the person is using while participating in the recreational activity.
4. Refrain from acting in any manner that may cause or contribute to injury to himself or herself or to other persons while participating in the recreational activity.

(b) A violation of this subsection constitutes negligence. The comparative negligence provisions of s. 895.045 apply to negligence under this subsection.

(5) Effect on related provision. Nothing in this section affects the limitation of property owners' liability under s. 895.52.

WYOMING

WYOMING STATUTES 1977
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TITLE 1. Code of Civil Procedure
CHAPTER 1. General Provisions as to Civil Actions

§ 1-1-122. Definitions.

(a) As used in this act:

(i) "Inherent risk" means any risk that is characteristic of or intrinsic to any sport or recreational opportunity and which cannot reasonably be eliminated, altered or controlled;

(ii) "Provider" means any person or governmental entity which for profit or otherwise, offers or conducts a sport or recreational opportunity. This act does not apply to a cause of action based upon the design or manufacture of sport or recreational equipment or products or safety equipment used incidental to or required by the sport or recreational opportunity;

(iii) "Sport or recreational opportunity" means commonly understood sporting activities including baseball, softball, football, soccer, basketball, swimming, hockey, dude ranching, nordic or alpine skiing, mountain climbing, river floating, hunting, fishing, backcountry trips, horseback riding, snowmobiling and similar recreational opportunities;

(iv) "This act" means W.S. 1-1-121 through 1-1-123.

§ 1-1-123. Assumption of risk.

(a) Any person who takes part in any sport or recreational opportunity assumes the inherent risk of injury and all legal responsibility for damage, injury or death to himself or other persons or property that results from the inherent risks in that sport or recreational opportunity.

(b) A provider of any sport or recreational opportunity is not required to eliminate, alter or control the inherent risks within the particular sport or recreational opportunity.

(c) Actions based upon negligence of the provider not caused by an inherent risk of the sport or recreational opportunity shall be preserved pursuant to W.S. 1-1-109.

WYOMING STATUTES 1977

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TITLE 6. Crimes and Offenses
CHAPTER 9. Miscellaneous Offenses
ARTICLE 2. Other

§ 6-9-201. Trespass on closed or unsafe areas within ski areas; penalty; exceptions.

(a) A person is guilty of a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00) if he:

(i) Skis on a slope or trail that has been posted as "closed";

(ii) Knowingly enters upon public or private lands from an adjoining ski area when the lands have been closed by the owner and posted as closed by the owner or by the ski area operator; or

(iii) Intentionally enters state or federal land leased and in use as a ski area, knowing:

(A) The lessee of the premises has designated the land as an unsafe area; or

(B) The land has been posted with warning signs, prohibiting entry, which are reasonably likely to come to the attention of the public.

(b) This section does not apply to peace officers, national park or forest service officers, or persons authorized by the lessee of the premises.

HB

492

FISCAL NOTE

BILL NO. HB 492

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Commerce & Econ. Dev.

Title: ANCSA Village Corp. Loan Eligibility

BRU: Banking, Securities & Corporations

Component: _____

Sponsor: Rep. Maclean

Requestor: House Labor & Commerce

COMPONENT SERIAL NO.

1	2	3	3
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND RESOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS (Attach a separate page if necessary.)

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521

Division: Banking, Securities & Corporations Date: _____

Approved by Commissioner: Glenn A. Olds *Glenn A. Olds*

Agency: Department of Commerce & Economic Development Date: 3.24.92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

ALASKA STATE LEGISLATURE

Representative Eileen Panigee MacLean
Co-Chair House Finance Committee
P.O. Box 830
Barrow, Alaska 99723



WHILE IN JUNEAU
Box V
Juneau, Alaska 99811
465-4525
465-4833

HOUSE OF REPRESENTATIVES

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Anaktuvuk Pass
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Kiana
Kivalina
Kobuk
Kolzebue
Noatak
Noorvik
Selawik
Shungnak

MEMORANDUM

TO: Representative David Finkelstein, Chairman
House Labor and Commerce Committee

FROM: Representative Eileen P. MacLean *EPM*

DATE: March 10, 1992

SUBJ: Scheduling HB 492

This is to request a hearing in the House Labor and Commerce Committee for HB 492, relating to collateral offered by village corporations organized under the Alaska Native Claims Settlement Act for purposes of eligibility for certain state loan and loan guarantee programs.

HB 492 would recognize the use of anticipated 7(i) revenue by village corporations in order to encourage village corporations to engage in economic development programs in state loan and loan guarantee programs.

Many village corporations are struggling to obtain state funds for economic development projects and HB 492 will help pave the way for obtaining available state loans.

If you have any questions, or would like any additional information, please contact Rena Bukovich of my staff at 465-4525.

THE VILLAGE CORPORATION:

A VEHICLE FOR RURAL ECONOMIC DEVELOPMENT

By

Rosita Worl

The primary stimulus for economic development in rural Alaska has generally been the result of resource extraction activities initiated by non-local companies or through the expenditures of state and local governments particularly during the oil-rich days. The activities stimulated economic growth in rural communities that were of limited duration and opportunities for rural residents.

The 200 locally-based village corporations created under the Alaska Native Claims Settlement Act offer the potential for long term economic development in Rural Alaska. They are dispersed throughout Alaska, and collectively they own approximately 22 million acres of surface lands much of which is generally adjacent to their villages. Most of the village corporations have had some business experience with varying results during the past decade. Generally the businesses are small with limited employment.

These village receive a portion of their revenues from distributions made by the Native regional corporations under Section 7(i) of the Alaska Native Claims Settlement Act. Section 7(i) requires regional corporations to pay out 70 percent of their profits from timber and sub-surface development to other regional and village corporations. The amount a village corporation receives is dependent on its shareholder population base. More often the 7(i) revenues are used to sustain corporate general and administrative costs. While the amounts vary and are generally small, they represent a steady stream of income. Sealaska has paid nearly \$60 million into the 7(i) stream, CIRI slightly more than that amount with NANA and Doyon also important contributors. As more regional corporations expand into timber and sub-surface development activities, village corporations will continue to receive 7(i) revenues.

The significance of the village 7(i) distributions became apparent to me when CIRI moved to escrow certain 7(i) payments in 1988/1989. The State had initiated a suit against the federal government contesting CIRI's rights to certain oil revenues, and CIRI moved to escrow the 7(i) monies until the issue was resolved. I was serving as Governor Cowper's Special Staff Assistant for Rural/Native Affairs. In that capacity, several village corporations contacted me outlining the dilemma they faced without the 7(i) revenues. I conducted an analysis of the amounts the villages would have received from CIRI's 7(i) payment, and the village corporations informed me of their use of the 7(i) monies.

For the purpose of this discussion, the point is that the village corporations appeared to use the 7(i) revenues to sustain their

headquarters. I thought it was unfortunate that they didn't leverage the 7(i) revenues to support their entry into active business investments. The single 7(i) payment is probably not adequate to allow entry into a business. However, a village corporation might be able to initiate a venture were they able to borrow against future 7(i) revenues.

As a board member of a regional corporation, I was recently involved in a process that allowed another regional corporation to use its 7 (i) revenues to secure a significant loan (in the \$10 million range). Several regional corporations signed a collateral note. The loan has been or is near repaid. While this 7(i) transaction was conducted through an agreement among the regional corporations, it represents a model that could be applied to village corporations to support their entry into business ventures.

It is more than likely that most village corporations lack investment and growth funds to enter larger businesses. Data are not available to project the amount of 7(i) revenues that village corporations will receive. However, given the nature of the sporadic payments of 7(i) monies to village corporations, financial institutions would probably not lend it funds for an investment activity without further assurances or a collateral. It is in this area that the State might explore how it would be able to provide direct assistance and business capital for village corporations.

If we accept the assumption that economic development in Rural Alaska that provides long term opportunities for residents will occur with a locally based corporation, the State would do well to work with village corporations. They have a corporate structure in place, a mixed history of business experience, and own resources that at this time have an unknown value.



February 25, 1992

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
Box V
Juneau, Alaska 99811

Dear Representative ^{Eileen} MacLean:

Thank you for sending copies of your bills concerning the ANCSA. We have reviewed the proposed bills and have no comments to further improve them.

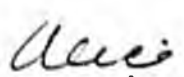
We have such a small staff that it is difficult to keep up with what is happening in the State Legislature, so I was quite pleased to receive your letter and request for comments.

The Draft Bill which would "recognize the use of anticipated 7(i) revenue by village corporations in order to encourage village corporations to engage in economic development programs in state loan and loan guarantee programs" is an excellent idea. Many of the villages in the Aleut region are struggling to obtain State funds for economic development projects, and this Draft Bill would certainly pave the way for obtaining the available loans.

The Aleut Corporation supports HB 315 to continue the restrictions on the alienability of ANCSA stock indefinitely. As a small corporation, the lifting of those restrictions could pose a serious threat to the future of our Corporation.

I wish you success in your efforts to assist the ANCSA corporations and thank you for the time you have taken to keep us informed. I know how very busy you are.

Sincerely,


Alice Petrivelli
President

are continuing major business expansions and active participation in the oil and gas industry. They may not consider securities a major source of long term earnings.

Our review of the combined asset base of the regional corporations leaves one big question unanswered: Assuming that the IRS ultimately approves most of the corporations' NOL sales, what will CIRI, Doyon, and Sealaska do with the combined \$225 million they are holding in escrow?⁹ What they choose to do with that huge amount of cash will have a major effect on the future finances of each.

Financial Results

We've seen a glimpse of the business strategies the corporations used through 1990. Now we look at how those strategies translated into income. We consider four major sources of income from 1974 through 1990: (1) business operations, (2) securities, (3) resource revenues, and (4) proceeds from sales of net operating losses (NOLs). First we talk in some detail about the corporations special sources of income—resource revenues and proceeds from NOL sales. Then we show how all four sources added up to total net income produced through 1990.

Special Sources of Income

RESOURCE REVENUES

All the corporations have looked for natural resources on their lands, and a few have been very successful in developing them. Resource development is risky, partly because extracting resources in Alaska is expensive and resource prices can change quickly. In many cases, the corporations chose to limit their risk by leasing their lands.

The corporations' success in developing natural resources is reflected in the revenues shared under sections 7(i) and 7(j) of ANCSA. Congress recognized that some regions would have more natural resources than others. So it required the regional corporations to share 70 percent of net revenues from developed timber and subsurface resources among themselves and with the village corporations and urban and at-large shareholders. The example box explains the process.

Figure 6 shows how net resource revenues were generated and shared among the regional and village corporations from 1976 through 1991.⁹

• The regional corporations generated \$398 million in net resource revenues from 1976 through 1991.

Revenue Sharing Process

To make the numbers simple, we assume a hypothetical corporation with 20 percent of total shareholders. The shares of the actual regional corporations depend on their percentages of total shareholders.

The hypothetical corporation first subtracts its expenses to determine net revenues, and then keeps 30 cents of each dollar.¹⁰ The remaining 70 cents is put into a pool which is divided among all twelve regions. With twenty percent of the shareholders, the hypothetical corporation gets 20 percent of this pool (14 cents). The other eleven corporations get the rest (56 cents). Next, all twelve corporations pay half of their shares of the pool money to their village corporations and to their urban and at-large shareholders. The other 11 regional corporations pay their village corporations 28 cents and keep 28 cents. Likewise, the hypothetical corporation splits its 14 cents in half, paying 7 cents to its village corporations and keeping 7 cents.

At the end, the hypothetical corporation keeps 37 cents—its original 30 cents, plus its share of the other 70 cents. The village corporations in the hypothetical region receive 7 cents. The other eleven regional corporations get 28 cents, and their village corporations get 28 cents.

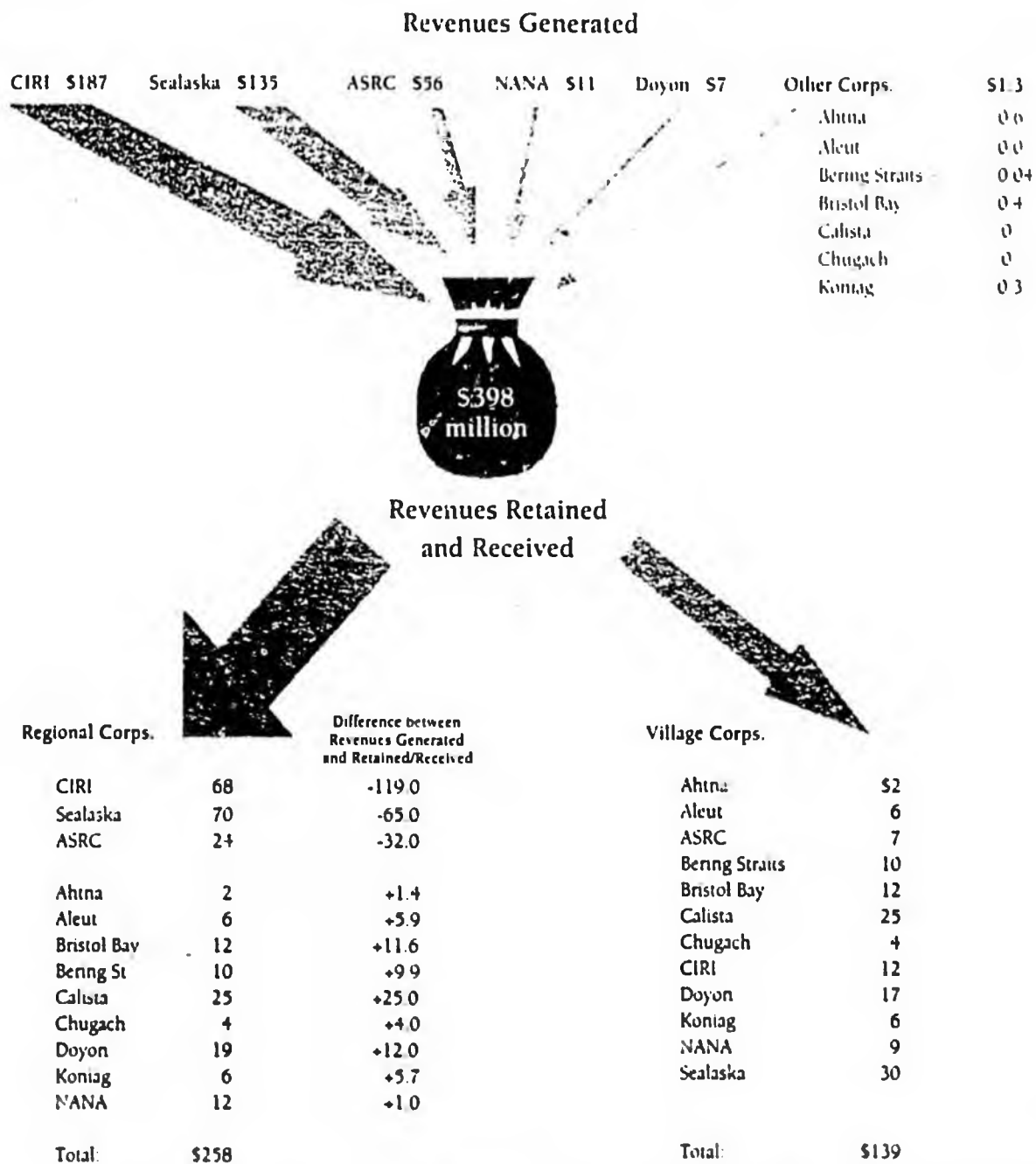
• CIRI, Sealaska, and Arctic Slope (ASRC) generated 95 percent of the total net resource revenues through 1991. CIRI contributed \$187 million, Sealaska \$135 million, and ASRC \$56 million. To get the money, CIRI and ASRC sold oil and gas leases; Sealaska sold timber.

• After sharing, the regional corporations kept \$258 million (or 65 percent) of net resource revenues, and the village corporations received \$139 million (35 percent).

• Shared resource revenues have been an important source of income for the corporations without resource revenues of their own. Aleut, Bristol Bay, Bering Straits, Calista, Chugach, and Koniag generated very little or no resource revenues but collected more than \$60 million.

• ASRC has collected over \$30 million in revenues from an oil lease in the Arctic National Wildlife Refuge—but it doesn't have to share them. ASRC acquired subsurface rights in ANWR under a 1984 land trade with the federal government. In making the trade, ASRC did not give up any resources subject to 7(i) sharing—and the 7(i) settlement agreement (signed by all the corporations in 1982) says that if no 7(i) resources are given up in a trade, no 7(i) obligations apply to the lands received. So if other corporations hope to benefit from any future development in ANWR, they will have to negotiate their own trades (and several are currently attempting to do so).

Figure 5. Estimated Net Resource Revenues Generated and Received by Corporations, 1976-1991
(In millions of dollars)



Source: Estimated by author based on receipts data provided by CIRI, and cross-checked with available annual report data. Actual amounts may differ due to the timing of cash payments and changes over time in regional enrollment percentages.

Revenues Generated are net resource revenues (revenues after expenses are subtracted) generated within each region from 1976 through fiscal year 1991 and subject to the sharing provisions of ANCSA sections 7(i) and 7(j)

Revenues Retained and Received are the final disposition of the generated revenues. Only regional corporations generate revenues subject to 7(i) distribution. Village corporations and urban and at-large shareholders receive a portion of those revenues. Regional corporations retain a portion of 7(i) revenues they generate and receive shares from other corporations.

HB

503

1992 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Commerce & Economic Development

Title: An Act authorizing a Valdez Snow Classic BRU: Occupational Licensing

Component: Administration

Sponsor: Rep. Kubina

Requestor: House Labor & Commerce COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

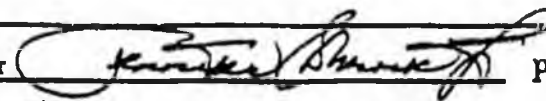
GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

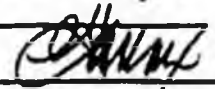
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)
 HB 503 recognizes snow classics as another authorized charitable gaming activity under the Games of Chance and Skill program. New funds are not required to implement this bill.

Prepared By: Jennifer Strickler  Phone: 465-2144

Division: Occupational Licensing Date: 03/02/92

Approved by Commissioner: Glenn A. Olds  Act Comm

Agency: Commerce & Economic Development Date: 3.3.92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 503

1992 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Department of Law

Title: "An Act authorizing a Valdez Snow

BRU: Legal Services

Classic."

Component: Operations

Sponsor: Representative Kubina

Requestor: Representative Kubina

COMPONENT SERIAL

		9	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER FUND SOURCE:	-					
TOTAL						

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

This bill amends AS 05.15 to include among the gaming activities allowed to be conducted by municipalities and qualified organizations a new activity to be known as Snow Classics. The bill will not have a fiscal impact on the Department of Law.

Prepared by: Richard T. Pequeo, Director
 Division: Administrative Services

Phone: 465-3672
 Date: February 24, 1992

Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law

Date: February 24, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

Alaska State Legislature



Chairman
State Affairs
Committee

Legislative Council

Transportation
Committee

Representative Eugene Kubina

During Session:
State Capitol
P.O. Box V
Juneau, Alaska 99811
(907) 465-4859

During Interim:
P.O. Box 2463
Valdez, Alaska 99686
(907) 835-2111

Memo

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

From: Representative Gene Kubina

A handwritten signature in cursive script, appearing to read "Gene", written over the printed name "Representative Gene Kubina".

Date: 10 March 1992

Re.: House Bill 503; Valdez Snow Classic

After checking with Legal services and the Division of Licensing, I realize that House Bill 503 does not warrant being moved forward.

My goal in sponsoring this bill was quite simple, and I was initially informed that it was necessary. That turns out to not be the actual case, and I wish to thank the Chairman and the members of the Labor and Commerce Committee for their time.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •



Alaska State Legislature



Representative Eugene Kubina

During Session:
State Capitol
P.O. Box V
Juneau, Alaska 99811
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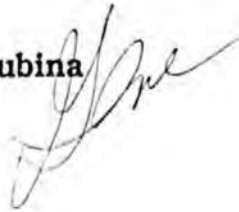
Chairman
State Affairs
Committee

Legislative Council

Transportation
Committee

Memo

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

From: Representative Gene Kubina 

Date: 21 February 1992

Re.: HB 503; An act authorizing a Valdez Snow Classic

I would appreciate your assistance in seeing my bill given a hearing in your Committee at the earliest possible date. I expect no controversies regarding this bill, and aside from written material, do not anticipate the need to have witnesses or teleconferencing.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Talitlek • Valdez • Whittier •



Alaska State Legislature



Chairman
State Affairs
Committee

Legislative Council

Transportation
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Representative Eugene Kubina

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SPONSOR STATEMENT

Sponsor: Representative Gene Kubina
Subject: HB 503; Authorizing a Valdez Snow Classic
Date: 20 February 1992

Valdez is an Alaskan community known internationally for its record snow levels. Creating the Valdez Snow Classic would be another opportunity to focus world attention on Alaska's recreational activities during the winter months.

As a promotion for winter tourism, this event would be a perfect addition to another event undergoing initial development in the Valdez vicinity. The International Extreme Skiing Competition, which will be holding its second yearly event this April, takes place high in the Chugach mountains just outside the Valdez city limits.

The revenues raised by the Valdez Snow Classic will be used to help tourism development in Valdez and the Prince William Sound region. As the third largest industry in Alaska, tourism--particularly winter tourism--needs to be encouraged. The Valdez Snow Classic will help this community, and this region, work to this end.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •



CITY OF VALDEZ, ALASKA

RESOLUTION NO. 92-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ,
ALASKA, SUPPORTING THE VALDEZ SNOW CLASSIC

WHEREAS, the people of Alaska and Valdez are blessed with many resources; and

WHEREAS, among these resources is an annual abundance of snow in many locations around the State; and

WHEREAS, resources of all kinds, including snow, need to be celebrated, honored, and enjoyed; and

WHEREAS, the State and the residents of cities like Valdez need to look at resources (and their stewardship, which may at times be a burden) in new and innovative lights to maximize their benefit to our residents and visitors; and

WHEREAS, among the many blessings we in Valdez enjoy is the world class accumulation of snow; and

WHEREAS, we need to diversify the use of all resources the Creator has provided for us.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that

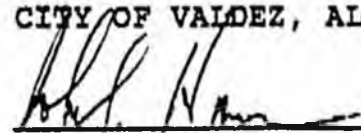
the City Council supports the creation of a Valdez Snow Classic to share with the State, nation, and world our fantastic good fortune to receive in great abundance these perfect lacy designs in water crystal known as snow.

AND BE IT FURTHER RESOLVED that

the Valdez City Council supports the Valdez Convention and Visitors Bureau as the operator, administrator, and benefactor of a snow classic designed to show the world that in Valdez there is no business like snow business.


PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this 2nd day of March, 1992.

CITY OF VALDEZ, ALASKA



John L. Harris, Mayor

ATTEST:



Jeanne D. Donald, CMC, City Clerk

VALDEZ CONVENTION & VISITORS BUREAU
IMPLEMENTATION PLAN FOR THE VALDEZ SNOW CLASSIC

The operation of the Valdez Snow Classic will be divided into five phases:

- 1) Preparation
- 2) Ticket Sales - June 1 through December 31
- 3) Snow Pool Work
- 4) Snow Accumulation Measurement (by National Weather Service located in Valdez) and Pay-off
- 5) Closing of Books and Audit

1) Preparation

- a) Preliminary work begins including: application to State of Alaska for gaming permit, review of parties selling snow classic tickets, printing orders sent out, decisions regarding advertising and publicity made.
- b) The second half of the preparation phase includes: distribution of tickets, early publicity, financial records set up.

2) Ticket Sales

- a) During the period of ticket sales from June 1 to December 31, which lasts about seven months, frequent contact with parties selling snow classic tickets should be maintained to obtain regular reading on progress of sales, to keep informed about problem areas, to fill requests for additional tickets and supplies, and to improve public relations.

Regular publicity should start at this time and continue with gradual acceleration throughout the period of ticket sales, peaking during the month before closing date (December 31).

A letter of instruction should go out to all snow classic ticket sellers toward the end of sales period, urging immediate return of unsold tickets and remittances, and suggesting ways and means of expediting.

Page 2
Valdez Snow Classic
Implementation Plan

3) Snow Pool Work

- a) The most intensive period of work is the third phase, which starts immediately following the closing date of ticket sales (December 31), and extends through the month of May. During this time the following things must happen:
- 1) All tickets and revenue must be received as quickly as possible.
 - 2) A specified area for snow pool work will be determined.
 - 3) All personnel are signed up.
 - 4) A date is set for start of work, depending on the number of tickets that have been received. All eligible tickets will be in by this time.
 - 5) Exact count is made of tickets to determine minimum gross sales. This total governs the amount awarded for payoff. VCVB Board of Directors meets as soon as total sales figure is known and determines the pay-off amount.
 - 6) Cash returns are deposited and recorded in gaming account.
 - 7) All tickets are counted, sorted, and catalogued. A printed list which records every guess is compiled, and VCVB Board of Directors will examine any questionable tickets to determine validity: every effort is made to include every ticket unless it is completely unacceptable because of inaccuracy or illegibility. All returned tickets are counted and the numbers verified.
 - 8) The completed list of each guess is sent out to each snow classic ticket seller and major media.
 - 9) Supplies and equipment are inventoried and stored for the following year.

Page 3
Valdez Snow Classic
Implementation Plan

4) Snow Measurement Taken, Pay-off

- a) April 30 will be the last day for snow measurement. The winning measurement is officially announced, the VCVB Board of Directors and examines each ticket which carries the winning measurement. Winners are determined from the actual tickets, not from the listing which may contain errors.
- b) Between May 1 and May 30 the amount of winner's prize is determined and check is prepared. Winner is contacted for Social Security number. There will be no pay-off to winner until their Social Security number is received. Winner's check is mailed by certified mail from Valdez on June 1.

5) Closing of Books and Preparation for Audit

Outstanding payables and receivables should be noted. Books will be submitted to auditor and audit completed as soon as possible after June 1.

MISCELLANEOUS

The National Weather Service in Valdez, Alaska will be measuring our snowfall. Since the Valdez Convention & Visitors Bureau will be using their measurements to determine the winner of the Valdez Snow Classic, any employees of the National Weather Service and their immediate families will not be eligible to participate.

The Valdez Convention & Visitors Bureau is not responsible for misdirected, lost, late, or delayed entries. Tickets that have been reported stolen to the police will not be eligible to win the Valdez Snow Classic. The Valdez Convention will attempt to contact the winner at Ticket address. If winner fails to respond by a predetermined date, the winnings will be returned to the VCVB.



World Extreme Skiing Championships

PO Box 1072 Valdez, Alaska 99686 (907) 835-2108

February 21, 1992
Valdez, Alaska

Representative Gene Kubina
Alaska State Legislature
State Capitol
P.O. Box V
Juneau, Alaska 99811

Dear Representative Kubina,

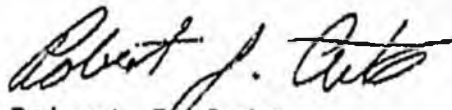
On behalf of the World Extreme Skiing Championships, I would like to express my support of the House Bill you have introduced authorizing the creation of the Valdez Snow Classic. The record snowfalls that the Valdez area has received in 1989/90 and again this winter has drawn national attention to our community. An event such as this would enable our community to take advantage of this publicity not only as a means to raise funds for continuing visitor promotion, but to focus attention on our many winter recreational opportunities.

The Valdez Snow Classic would help to diversify the local economy during the lean winter months, and likewise has been my motivation in promoting the World Extreme Skiing Championships. Like the WESC competition, the Valdez Snow Classic is one step in the effort to build a year-round tourism industry in the Valdez area.

We strongly support this legislation as we feel it is essential to the efforts of our community to diversify the local economy.

Very truly yours,

WORLD EXTREME SKIING CHAMPIONSHIPS



Robert J. Arts
President, Board of Directors



VALDEZ CHARTERBOAT ASSOCIATION
 P.O. BOX 2850
 VALDEZ, ALASKA 99686-2850

February 23, 1992
 Valdez, Alaska

1992 MEMBERS

- ALASKA DREAM CHARTERS
- ALASKA HAPPY BEARS CHARTER
- ALASKA WILDERNESS OUTFITTERS
- COHO CHARTERS
- CPT JIM'S CHARTERS
- SCHALE CHARTERS
- GUSTAFSON CHARTERS
- GLACIER ANGLER CHARTERS
- LIL FOX CHARTERS
- LUCK OF THE IRISH
- NORTHERN KADIC CHARTERS
- YULIAG CHARTERS
- PETRA'S CHARTERS
- PHANTOM MOUNTAIN ADVENTURES
- POPE'S CHARTERS
- PE'LE CHARTERS
- ROSIE ANN CHARTERS
- SEAVIEW CHARTERS
- SOMETHING FISHY CHARTERS
- SUNDANCE SEAVENTURES
- VIXEN CHARTERS

Representative Gene Kubina
 Alaska State Legislature
 P.O. Box V
 Juneau, Alaska 99811

Dear Representative Kubina

On behalf of the Valdez Charterboat Association,
 We strongly support the House Bill you have introduced
 authorizing the Valdez Snow Classic.

The development and growth of winter tourism is very
 important to Valdez, the Valdez Snow Classic is a positive
 step in attaining a stable year-round visitor industry
 for this community.

Unlike any other Alaska city, Valdez is the place for
 this type of classic. We feel that the classic will assist
 in promoting the other winter related activities and
 help in funding the promotion of our visitor industry.

Again, We support your House Bill to authorize the creation
 of the Valdez Snow Classic.

Sincerely

Valdez Charter Boat Association

Darrel Shreve
 President

1992 OFFICERS

- PRESIDENT: DARREL SHREVE
- VICE PRES: VINCE MITCHELL
- SECRETARY: JIM HESTON
- TREASURER: JEFF HEKINDA