

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8362 SENATE LABOR & COMMERCE

827

LAW OFFICES OF MITCHELL D. GRAVO, INC.
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FAX MEMORANDUM

TO: Josh Fink
FROM: Mitchell D. Gravo
RE: Proposed Ski Liability Testimony
DATE: January 18, 1993

SB 44 strikes a balance between protecting skiers and ski resort operators. It is modeled after Colorado's statutes that deal with this same issue. It makes Alaska's statutes similar to those in Colorado, Utah, Wyoming, Idaho and other western states. It will also make Alaska's statutes similar to those in Canada dealing with the inherent risks of skiing.

This legislation does not exonerate ski resort operators from negligence. If a skier is injured by the inappropriate operation of a grooming tractor or ski lift, for example, the ski resort operator will be liable for its actions. But the ski resort operator will not be liable for injuries caused by the inherent risks of skiing as defined by the legislation.

The only individuals who will be harmed by this legislation will be the handful of trial lawyers who make their living suing insurance companies on behalf of injured skiers.

This legislation is supported by the governor through the Department of Commerce and Economic Development. It is supported by the Anchorage Convention and Visitors Bureau, the Anchorage Economic Development Corporation, and the major hotels in Anchorage. Several labor unions also support this legislation because of its positive economic impact.

This legislation will have minor and major economic impacts in the state. It will decrease the insurance costs of ski resort operators throughout the state. These insurance cost savings will be passed on to those involved in skiing through lower lift ticket prices. Lower lift ticket prices allow more people to take advantage of skiing in the state.

This legislation will have a major impact in the state because by recognizing the inherent risks of skiing and balancing the rights of skiers and ski resort operators, this legislation will encourage the development of ski resorts in Alaska. Seibu Alaska, Inc. is investing more than \$75 million dollars in its current expansion. This expansion will bring thousands of new tourists into our state. Those tourists will spend millions of dollars at a time of year, winter, when we desperately need tourists to use the infrastructure that has been developed to support our summer tourism industry.

With the passage of this legislation and other actions by the state, Seibu Alaska, Inc. will attempt to further develop Alyeska by expanding into the Winter Creek area. This expansion will involve the investment of millions of more dollars. Seibu's goal is to transform Alyeska into a world class ski resort which will attract winter travelers to our state from all over the world.

This legislation will also encourage other ski resort operators who are not now in Alaska to consider Alaska equally with the western United States and Canada when determining where next to expand. If our current statutes are not changed, we will not be able to compete against these areas for this investment.

In conclusion, this legislation reasonably defines the inherent risks of skiing, holds ski area operators responsible for inappropriate actions, is supported by a broad cross section of interests in the state, harms only a handful of trial lawyers, has immediate minor and major economic impact, and will allow Alaska to compete on an equal footing with the western United States and Canada for future international ski area development.

Senator Jim Kelly

FISCAL NOTE

Bill No. SB 44

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to civil liability for BRU: Trial Courts
skiing accidents... Components: _____
 Sponsor: Kelly
 Requestor: Labor & Commerce COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 01/15/93

Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System Date: 01/15/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

AMENDMENT ↗

OFFERED IN THE SENATE

TO: CSSB 44(L&C)

Page 5, line 5, after "hazard marking,":

Insert "missing persons procedures,"

Page 5, line 11, after "Inc.":

Insert "This subsection does not apply to a ski area if the operator transports skiers using only a single tramway consisting of a rope tow, the rope tow does not transport skiers more than 500 vertical feet, and the ski area is operated by a nonprofit corporation or a municipality. In this subsection, "nonprofit corporation" means a corporation that qualifies for exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code)."

Page 9, line 29:

Delete "snowmobile"

Insert "motor vehicle"

PAGE 9, LINE 10

DELETE "(5)"

INSERT "(7)"

Page 10, after line 4:

Insert a new subsection to read:

"(d) A ski area operator shall make available at reasonable fees, instruction and education regarding the inherent danger and risk of skiing and the duties imposed on skiers under this chapter. Notice of the times and places of the instruction and education required under this subsection shall be conspicuously posted at locations likely to be seen by skiers and printed on equipment rental agreements."

Page 10, line 9:

After "Sec. 05.45.090.":

Insert "REQUIRED SKIER POLICY;"

After "PRIVILEGES.":

Insert "(a) A ski area operator shall develop and maintain a written policy covering situations involving reckless skiers, including a definition of reckless skiing, procedures for approaching and warning skiers regarding reckless conduct, and procedures for taking action against reckless skiers, including revocation of ski privileges. A ski area operator shall designate ski patrol personnel responsible for implementing the ski area operator's policy regarding reckless skiers.

(b)"

Page 10, line 11, after "privileges.":

Insert "(c)"

Department of Public Safety

Proposed Amendment to CSSB 44(L&C)

March 5, 1993

Page 5, line 10 (add the following new subsection and renumber existing (b) as (c)):

(b) The review and approval required by this section is an exercise of the police power of the state and does not impose liability upon the state for injury or damage.

Sec. 05.20.090. State not liable for injury or damage. Inspections, regulations, and orders of the department do not impose liability upon the state for injury or damage resulting from the operation of the facilities regulated by this chapter. An action of the department and its personnel is an exercise of the police power of the state. (§ 7 ch 109 SLA 1960)

Sec. 05.20.100. Authority of political subdivisions to regulate devices. This chapter does not impair the authority or responsibility of a political subdivision with regard to the local enforcement of licensing, safety, or police regulations authorized by local ordinance or state law if the department determines that the standards employed by the political subdivision are at least equal to those adopted by the department. The authority of a political subdivision for the licensing, safety, or police regulation of devices extends to a point five miles outside the territorial limits of the political subdivision if no other political subdivision of the state is exercising similar authority over the same devices. (§ 6 ch 109 SLA 1960)

Sec. 05.20.110. Exclusion of transportation devices under jurisdiction of other agencies from chapter. This chapter does not extend to the department or to political subdivisions authority to adopt regulations pertaining to transportation facilities or devices subject to the regulatory jurisdiction of other state or local agencies. (§ 9 ch 109 SLA 1960)

Sec. 05.20.120. Definitions. In this chapter, unless the context otherwise requires,

- (1) "department" means the Department of Labor;
- (2) "device" means a device that is designed and operated for the conveyance or movement of persons and that is used as a source of or aids in the promoting of entertainment, pleasure, play, relaxation or instruction, including but not limited to ski tows, roller coasters, merry-go-rounds, and Ferris wheels. (§§ 1, 2 ch 109 SLA 1960; am E.O. No. 49, § 3 (1981))

Chapter 25. Watercraft.

Article

- 1. Safety Requirements (§§ 05.25.010 — 05.25.020)
- 2. Accidents and Liability (§§ 05.25.030 — 05.25.040)
- 3. General Provisions (§§ 05.25.050 — 05.25.100)

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 44(L&C)

Page 11, after line 29:

Insert a new section to read:

"Sec. 05.45.110. RELEASE FROM LIABILITY PROHIBITED. A ski area operator may not require a skier to sign an agreement releasing the ski area operator from liability in exchange for the right to ski in the ski area. ~~An agreement that violates this section may not be enforced in a court.~~ A ski area operator who violates this section is subject to a civil penalty of \$10,000 in an action brought by the state."

PROPOSED AMENDMENTS TO CR44

Amendment 13

Section 1(b)

The purpose of this act is to repeal and revise state law relating to skiing enacted by CH.80, SLA 1980. (Delete remainder of Section b as unnecessary and confusing as implies disapproval of Supreme Court reasoning and holdings in Hiibschman Inappropriate intrusion on the Supreme Court opinion in which has numerous legal rulings in it.

Delete Section 1(b)(4) (this section is completely unnecessary as the law already provides that if an injury is solely the result of the inherent risk of skiing then no comparative negligence or any other negligence would apply)

Amendment 14

Section 05.45.010(2) delete in its entirety. This section could create a completely different form of comparative negligence for ski areas. It is confusing and misleading. Further, it completely misstates the law of negligence as it has always been treated by the courts. Negligence is attributable only to a person or an organization. It is never attributable to a thing such as an inherent danger and risk. However, it is quite often the thing -- such as an unmarked cliff, an unmarked road cut or snow grooming equipment which kills you. The ski area's failure to warn or failure to make safe, may lead to one being killed or injured by the thing. If the inherent danger and risk is put into the formula for determining fault, this is mixing apples and oranges. Cliffs and drop-offs, the laws of gravity and physics cannot "contribute" merely by existing. This section could allow some measure of fault to be attributed to a cliff or piece of equipment. Attributing "contribution" to mother nature is not accepted in any case, in any court, or in any other law I have ever heard of. If a manufacturer manufactures a defective car, does the jury or judge parcel out a "contribution" to the car as opposed to the manufacturer who made it? If a person speeds on an icy road and causes an accident, does the judge or jury parcel out a "contribution" to the icy road? This is nonsense of course. This radical departure from the law of negligence should be stricken from the statute.

Amendment **15**

5.45.040 Section (a)

Regulations shall be established by the Department of Public Safety setting forth the required elements of operating plans and in no case shall a ski area have a plan that is less stringent than one that is already in place as of the date of the statute.

Amendment 16

Section 05.45.060(e) (4)

Mark hydrants, water pipes, roads, catwalks, terrain modifications, and all other man made structures or hazards on slopes and trails that are not really visible to skiers under conditions of ordinary visibility from a distance of at least 100 feet and adequately and appropriately cover man made structures that create obstructions with a shock absorbent material that will lessen injuries; any type of marker is sufficient, including wooden poles, flags or signs, if the marker is visible from a distance of at least 100 feet and if the marker itself does not constitute a serious hazard to skiers; in this paragraph, "man made structures and hazards" does not include natural variations in steepness or terrain but does include such hazards that are a result of man made slope design, snow making, grooming operations, roads and catwalks, and other man made terrain modifications and/or activity;

Amendment #7

5.45.060(e)(5)

Mark exposed forest growth, rocks, stumps, stream beds, trees or other natural hazards that are located on open slopes or trails and that are not readily visible to skiers under conditions of ordinary visibility. ("Groomed" should be changed to "open") Limiting this to groomed slopes would result in a very significant downgrading of marking responsibilities for marking from the present responsibility in the plan of Seibu and Eagle Crest, which presently is not so limited. Grooming changes from day to day and many runs that are heavily used are never groomed at all. The most hazardous areas are on the ungroomed runs at Alyeska. There is no rationale for not marking ungroomed runs. On some days even beginner areas are not groomed if new snow has fallen.

5.45.060(e)(6)

Delete this as unnecessary.

Amendment 18

Section 05.45.060(g)

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

Notice: Warning! Under Alaska Law, the risk of an injury to person or property resulting solely from any of the inherent dangers and risks of skiing rests with the skier. A skier may not recover from a ski area operator for an injury resulting solely 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 structures, or other skiers, variations in terrain and the failure of skiers to ski within their own ability. A ski area is responsible if its own negligence is a cause of an injury or death.

Amendment **19**

Section 05.45.100(a)

Delete the last line of this section. Risk of collision must either be an inherent risk for both a skier and a ski area or not an inherent risk for either.

Amendment 20

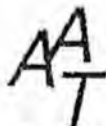
Section 05.45.100(e)

A skier has a duty to heed all posted information and other warnings and to refrain from acting in a manner that may cause or contribute to the injury of the skier or others. Evidence that the signs required by AS 05.45.050 and 05.45.060 were present, visible and readable at the beginning of a given day creates a rebuttable presumption that all skiers using the ski area on that day have seen and understood the signs. (Victims and especially children should be allowed to rebut a presumption as a sign may not be either readable or understandable to some people including children. Further, the language or location of the sign may inadequately warn or describe a hazard or condition.)

Amendment 21

Section 545.200

Definition 3. Inherent danger and risk of skiing means a necessary condition that is an integral part of the sport of skiing and which condition may not be eliminated or mitigated. The term "inherent danger and risk of skiing" does not include the negligence of a ski area operator under A.S. 05.45.020(b), or acts or omissions of a ski area operator involving the use or operation of ski lifts. (The present definition is completely unworkable and confusing. It is inconsistent with other sections above. It lists numerous items as supposedly being an inherent danger of risk and skiing which are not necessary or integral parts of the sport of skiing. Certainly man made hazards created by slope design, snow making or grooming operations, roads and catwalks (and especially hidden or not readily visible areas) are not necessarily inherent dangers and risks of skiing. Further, the present section indicates the negligence of a ski area operator is not an inherent danger and risk of skiing under 05.45.020(b) which requires a ski area operator to comply with the rest of this chapter. This includes marking man made hazards such as catwalks that cannot be seen from at least 100 feet. Inevitable confusion occurs as under the present section a catwalk or road cut created by grooming operations even if not visible from 100 feet would be a "inherent danger and risk of skiing" but the failure to mark it would not be an inherent danger and risk of skiing. This is nonsense and needlessly confusing. The far more simple definition is more workable.



Alaska Action Trust

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FAX TRANSMITTAL

TO: Senator Kelly, Chair of Senate Labor & Commerce
 Senator Rieger, Vice-Chair of Senate Labor & Commerce
 Senator Pearce
 Senator Lincoln
 Senator Salo

FROM: Dennis Kestas

DATE: January 18, 1993

RE: SB 44

On behalf of the Academy of Trial Lawyers, I have been asked to express our strong opposition to SB 44. SB 44 would grant immunity for negligent maintenance, construction and design activities that would virtually insulate the ski area from any liability for the operation of the ski area operations.

The state law Seibu wishes to repeal and revise vis a via SB 44 was largely the result of one lawsuit which was filed against Seibu. In that case, a 16 year old boy was skiing on the newly opened night skiing area at Alyeska when he skied over an unmarked, unsigned, unlighted 15 foot drop-off that was in a shadowed area in the middle of the night skiing course. The shadows that obscured the drop-off were a result of Seibu placing the largest group of lights on the course immediately behind a grove of trees. As the case developed, it appeared that Seibu failed to advise the lighting engineers of the trees' existence (according to the lighting e.gineer) and Seibu somehow failed to notice the trees when it was placing the lights behind them. This is somewhat difficult to do when each light must be separately aimed with a sighting mechanism on it. Further, neither Seibu nor the lighting engineer noticed the trees and the shadow after the system was built and the area was open. This young boy was paralyzed for life from the waist down when he went off the drop-off and landed on a flat "cat track" - a road.

The drop-off was created by a road cut made by a dozer as it cut through the ridge comprising the ski area between lifts 1 and 4. Seibu left a near 90 degree cut-bank in the middle of the ski area instead of shaving off its upper edge to make a "roll." An expert, who was a former National Ski Areas Association president

TRIAL LAWYERS' POSITION

and extremely revered figure in the national ski industry, testified that the situation was "murderous and totally unacceptable." He further indicated it was far beyond the role (pale) of normal industry standards and was an easily, cheaply remedied situation.

I take the time to briefly set forth some of these facts as you should note that a provision of the proposed bill includes among the "inherent risks of skiing" variation or steepness in terrain "man-made structures, and their component ... including roads and catwalks or other terrain modifications". Thus, Seibu and other ski areas seek to be immunized for design and construction activities which are clearly avoidable, controllable and their responsibility and which are clearly not "unavoidable, natural consequences of the sport of skiing." According to the ski experts in the above case against Alyeska (Schlaak v. Seibu) such design and construction activities involving roads, lights, signs and trail marking are an integral part of the safety considerations that have to be kept in mind in making slopes safe for skiers during the design, construction and maintenance process.

It should be kept in mind that skiing is not much different than driving a car. The same human reactions and human frailties relating to vision, reaction time and attention are present. Thousands and thousands of people are travelling these "ski roads including many, many children." They deserve the same sort of consideration regarding a safe traffic design including elimination of hazards when reasonably possible as well as appropriate signs and warnings of hazards. Virtual cliffs constructed in the middle of a ski run because of improper road cutting certainly do not qualify for the rubric of "inherent hazards of skiing." Nor do other hidden hazards known to the ski area which the skier does not and cannot know of, such as snow making equipment.

Further, in this regard, I believe it is appropriate to refer to the recent Supreme Court decision which Seibu and others are apparently so desperate to make an end run around. The case is Hiibschman v. City of Valdez, et al. One of the thrusts of that opinion was that the present statute codified the common law that ski areas were not liable for injuries caused by the inherent risks of skiing. As the Supreme Court noted, it is only in this situation where the injuries or deaths are caused solely by such inherent risks that the lack of liability is apparent. Such risks are the natural and unavoidable risks -- the risks that cannot be controlled.

Perhaps even more importantly, the Supreme Court noted that the legislature in passing "tort reform" indicated a very strong statutory policy was present (as you will no doubt recall) to the effect that each party should only bear its own risk, i.e. the "tort reform" statutes.

Thus, we now have several and not joint liability. While at one point "tort reformers" wanted every party to be responsible for its own fault, now Seibu and others seek to avoid any responsibility which runs directly against the clear intent of legislature in passing "tort reform" and mandating complete several liability. Thus, the Supreme Court noted that it would not be consistent to allow ski areas to escape liability while promoting the concept of true several liability. Here, the ski areas, of course, do not object to several liability, they just do not want to be among the "several."

Finally, we believe SB 44 is brought before the legislature because of not only the recent Hiibschman decision but also because of a recent death that occurred at Seibu's resort at Alyeska. On December 8, 1991, Bart Rizer, a 12 year old boy, died of hypothermia on an open slope in the bowl at Alyeska. Approximately four feet of snow had fallen in the 48 hours before his death and the bowl had not previously been open for skiing and had not been groomed. December 8, 1991, was a Sunday. On Saturday, skiing had been allowed on the ridge from the roundhouse down where a packed base was present. On Sunday, in the late afternoon, Seibu opened the bowl for skiing even though the bowl had not been adequately signed or roped off so as to warn skiers of extremely dangerous and indeed life threatening snow conditions that were present in some areas. Further, there was not even sufficient grooming done to allow the ski patrol to visually inspect and gain access to all parts of the bowl to check for downed skiers when the final sweep of the hill was made after the bowl was closed at 3:30 p.m. Many skiers had to be literally dug out of the snow as it was "bottomless powder" up to skiers' chests when off their skis.

While making a run through the bowl shortly before it closed, Mr. Rizer fell while proceeding down a short steep slope known as "Horror Hill" which is virtually in the middle of the bowl and is not obscured by trees. Unknown to Bart was the fact that extremely deep, treacherous snow was on Horror Hill. The snow was so deep that when he fell head first into it he was buried upside down up to his knees and was unable to extricate himself. When the final sweep was made a very short time later, Mr. Rizer was not found and he died of hypothermia after being abandoned on the mountain.

Apparently, he was in a very small hollow where he could not be seen from the only packed area down through the bowl. Seibu had packed one narrow track up through the bowl and therefore, this portion of Horror Hill could not be visualized from immediately below it as it could be when the whole area is packed because the snow was five or six feet deep and the ski patrol would have found it extremely difficult to walk through this deep snow across the bottom of the hill scrutinizing it for downed skiers. Similarly, because of the deep snow, a walk across the top of the hill could not be made without extreme difficulty. Apparently, one ski patrolman may have skied down a small portion of Horror Hill, but

did not see Bart due to the snow condition and his location. There is no way that a proper sweep could have been made of this area given the extreme snow and the limited number of ski patrollers. Thus, for no good reason, a very bright and promising young man is dead.

You will note that a portion of the proposed bill is focused on grooming operations. Further, a portion of it is also focused at every possible snow condition. If this bill is passed as written, it would even insulate Alyeska from foreseeable avalanches that could kill hundreds of people because "snow on the ground is constantly changing". This is truly outrageous.

Seibu is required by the U.S. Forest Service to have a snow safety plan. This plan is prepared by the U.S. Forest Service in concurrence with Seibu. One of the stated objectives of their plan is as follows:

One of the prime objectives in winter sports administration is to prevent accidents related to ski lifts, tows, avalanche and terrain hazards.

One of Seibu's stated and agreed to duties is as follows:

Taking reasonable care to identifv and mitigate hazards on primary ski slopes.

Thus, the Forest Service is directly involved in monitoring and requiring safe operation of Seibu's ski area at Alyeska. Most of the ski area is on Forest Service land and is governed by Forest Service Management regulations. All aspects of ski safety are addressed in this plan. These include signs far beyond those included in the present statute including cautionary signs, daily trail and snow condition signs, area map with trail locations, avalanche signs, and trail markers. There are many other provisions of the ski plan that are focused at safety.

The question is this, if Seibu and other ski areas on public Forest Service land are already required to try to achieve maximum public safety, why are they now trying to escape responsibility for what they are required to do? Why should Seibu be insulated for negligent use of our land? The clear import of Forest Service regulation and the Forest Service mandated safety plan is to maximize public safety, not eliminate it. SB 44 will cause further erosion of safety procedures at Alyeska and other ski areas rather than enhancing the stated Forest Service goal of maximum safety for recreational users of federal land.

8-LS0340J
Ford
3/25/93

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

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATOR KELLY**

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

1 amenities created and maintained by the ski area operator;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Sec. 05.45.010. LIMITATION ON ACTIONS ARISING FROM SKIING;
27 APPORTIONMENT OF FAULT. Notwithstanding any other provision of law

28 (1) a person may not bring an action against a ski area operator for an
29 injury resulting from an inherent danger and risk of skiing;

30 (2) if a person is injured as a result of an inherent danger and risk of
31 skiing and negligence by the ski area operator, in determining percentages of fault the

(cont.)

deleted
by Amend.
#13
(#1)

Amendment
#174
(2)

1 trier of fact may not treat the inherent danger and risk of skiing, to the extent it
2 contributed to the injury, as part of the fault attributed to the ski area operator.

3 Sec. 05.45.020. VIOLATIONS THAT CONSTITUTE NEGLIGENCE. (a)

4 A person who violates a requirement of this chapter is negligent and civilly liable to
5 the extent the violation causes injury to a person or damage to property.

6 (b) A ski area operator who violates a requirement of this chapter or a
7 regulation adopted by the Department of Labor under AS 05.20.070 is negligent and
8 civilly liable to the extent the violation causes injury to a person or damage to
9 property.

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

12 (1) sufficient physical dexterity or ability; and

13 (2) knowledge to negotiate or use the facility safely.

14 (b) A passenger may not

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

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

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

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

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

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

28 (7) disobey instructions posted in accordance with this chapter or oral
29 instructions by the ski area operator regarding the proper or safe use of a tramway
30 unless the oral instructions are contrary to this chapter or contrary to posted
31 instructions.

Amend.
15

Changed by
Amend. # 15

1 Sec. 05.45.040. REQUIRED PLAN AND PATROL BY SKI AREA
2 OPERATORS. (a) A ski area operator shall prepare a plan of operation for each ski
3 season and shall implement the plan throughout the ski season. A plan of operation
4 must include provisions for ski patrol, avalanche control, avalanche rescue, grooming
5 procedures, tramway evacuation, hazard marking, missing person procedures, and first
6 aid. Before the operation of the ski area for that season, the plan shall be reviewed
7 and approved by the

8 (1) commissioner of natural resources; or

9 (2) agency of the United States that manages land on which the ski area
10 operates.

11 (b) A ski area operator shall provide a ski patrol with qualifications meeting
12 or exceeding the standards of the National Ski Patrol System, Inc. This subsection
13 does not apply to a ski area if the operator transports skiers using only a single
14 tramway consisting of a rope tow, the rope tow does not transport skiers more than
15 500 vertical feet, and the ski area is operated by a nonprofit corporation or a
16 municipality. In this subsection, "nonprofit corporation" means a corporation that
17 qualifies for exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal
18 Revenue Code).

19 (c) Notwithstanding any other provision of law, the state is not liable for civil
20 damages resulting from review and approval of a plan of operation under (a) of this
21 section.

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

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

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

- 1 (A) the maximum capacity in pounds of the car and the
2 maximum number of passengers allowed;
- 3 (B) instructions for procedures in emergencies;
- 4 (3) in a conspicuous place at each loading area of two-car and multicar
5 tramways stating the maximum capacity in pounds of the car and the maximum
6 number of passengers allowed;
- 7 (4) at all chair lifts stating the following:
- 8 (A) "Prepare to Unload," which shall be located not less than
9 50 feet ahead of the unloading area;
- 10 (B) "Keep Ski Tips Up," which shall be located ahead of any
11 point where the skis may come in contact with a platform or the snow surface;
- 12 (C) "Unload Here," which shall be located at the point
13 designated for unloading;
- 14 (D) "Safety Gate," which shall be located where applicable;
- 15 (E) "Remove Pole Straps from Wrists," which shall be located
16 prominently at each loading area;
- 17 (F) "Check for Loose Clothing and Equipment," which shall be
18 located before the "Prepare to Unload" sign;
- 19 (5) at all J-bars, T-bars, platter pulls, rope tows, and any other surface
20 lift, stating the following:
- 21 (A) "Remove Pole Straps from Wrists," which shall be placed
22 at or near the loading area;
- 23 (B) "Stay in Tracks," "Unload Here," and "Safety Gate," which
24 shall be located where applicable;
- 25 (C) "Prepare to Unload," which shall be located not less than
26 50 feet ahead of each unloading area;
- 27 (6) near the boarding area of all J-bars, T-bars, platter pulls, rope tows,
28 and any other surface lift, advising passengers to check to be certain that clothing,
29 scarves, and hair will not become entangled with the lift;
- 30 (7) at or near the boarding area of all lifts, stating the skier's duty set
31 out in AS 05.45.100(c)(2).

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

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

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

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

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

18 (1) the least difficult trails and slopes, designated by a green circle and
19 the word "easiest";

20 (2) the most difficult trails and slopes, designated by a black diamond
21 and the words "most difficult";

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

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

28 (5) closed trails or slopes designated by a sign with a red circle or
29 octagon around a white interior containing a black figure in the shape of a skier with
30 a black band running diagonally across the sign from the upper right-hand side to the
31 lower left-hand side and with the word "Closed" printed beneath the emblem.

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

3 WARNING: This lift services (most difficult)
4 or (most difficult and more difficult) or
5 (more difficult) slopes only.

6 (d) If a particular trail or slope or portion of a trail or slope is closed to the
7 public by a ski area operator, the operator shall place a sign notifying the public of
8 that fact at each identified entrance of each portion of the trail or slope involved. This
9 subsection does not apply if the trail or slope is closed with ropes or fences.

10 (e) A ski area operator shall

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

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

19 (3) mark that particular boundary with signs as required by (b)(5)
20 of this section if the owner of land comprising a ski area closes all or part of the land
21 and advises the ski area operator of the closure;

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

*Amend.
16
affects
this
section*

1 #17(a) (5) mark exposed forest growth, rocks, stumps, streambeds, trees, or
2 other natural objects that are located on groomed slopes or trails and that are not
3 readily visible to skiers under conditions of ordinary visibility from a distance of at
4 least 100 feet;

5 (6) mark roads, catwalks, or other terrain modifications that are not
6 #17(b) readily visible to skiers under conditions of ordinary visibility from a distance of at
7 least 100 feet;

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

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

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

22 WARNING

23 #18 Under Alaska law, the risk of an injury to person or property
24 resulting from any of the inherent dangers and risks of skiing
25 rests with the skier. A skier may not recover from a ski area
26 operator for an injury resulting from any of the inherent dangers
27 and risks of skiing, including changing weather conditions,
28 existing and changing snow conditions, bare spots, rocks,
29 stumps, trees, collisions with natural objects, man made objects,
30 or other skiers, variations in terrain, and the failure of skiers to
31 ski within their own abilities.

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

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

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

10 (1) one lighted head lamp;

11 (2) one lighted red tail lamp;

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

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

15 (d) A ski area operator shall make available at reasonable fees, instruction and
16 education regarding the inherent danger and risk of skiing and the duties imposed on
17 skiers under this chapter. Notice of the times and places of the instruction and
18 education required under this subsection shall be conspicuously posted at locations
19 likely to be seen by skiers and printed on equipment rental agreements.

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

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

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

1 manner, may revoke that person's skiing privileges.

2 (c) This section may not be construed to create an affirmative duty on the part
3 of the ski area operator to protect skiers from their own or from another skier's
4 carelessness or recklessness.

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

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

18 (c) A skier may not

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

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

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

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

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

31 (d) A skier shall stay clear of snow grooming equipment, vehicles, lift towers.

1 signs, and other equipment on the ski slopes and trails.

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

20
rebuttable

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

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

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

21 Sec. 05.45.110. RELEASE FROM LIABILITY PROHIBITED. A ski area
22 operator may not require a skier to sign an agreement releasing the ski area operator
23 from liability in exchange for the right to ski in the ski area. A ski area operator who
24 violates this section is subject to a civil penalty of \$10,000 in an action brought by the
25 state.

26 Sec. 05.45.200. DEFINITIONS. In this chapter,

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

29 (2) "conditions of ordinary visibility" means daylight or nighttime in
30 nonprecipitating weather;

31 (3) "inherent danger and risk of skiing" means a danger or condition

Amend.
#21

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

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

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

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

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

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

23 (A) skiing;

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

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

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

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

- 1 Sec. 05.45.210. SHORT TITLE. This chapter may be cited as the Alaska Ski
- 2 Safety Act of 1993.
- 3 * Sec. 3. AS 09.65.135 and AS 18.60.822 are repealed.
- 4 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

1

THE GOAL OF THE BILL IS PROVIDE A SAFE SKIING ENVIRONMENT FOR ALASKANS, CLARIFY OUR INHERENT RISK OF SKIING STATUTE, AND PROMOTE ECONOMIC DEVELOPMENT IN THE STATE.

2

HB 41 CAN BE DIVIDED INTO THREE DISTINCT SECTIONS. MOST OF THE BILL DETAILS THE DUTIES OF SKI AREA OPERATORS AND SKIERS THAT WILL MAKE SKIING IN ALASKA SAFER. FOR EXAMPLE, SKI AREA OPERATORS MUST HAVE AN APPROVED PLAN OF OPERATION, AN APPROVED SKI PATROL PLAN, DETAILED SIGNAGE REQUIREMENTS FOR LIFTS, TRAMS, AND SLOPES, A WRITTEN POLICY REGARDING RECKLESS SKIERS. THESE DUTIES AND RESPONSIBILITIES ARE LISTED ON PAGES 4 THROUGH 12 OF THE BILL.

THE SECOND DISTINCT SECTION OF THE BILL EXPLICITLY STATES THAT IF A SKI AREA OPERATOR OR PERSON VIOLATES A DUTY OUTLINED ON PAGES 4 THROUGH 12 AND A INJURY OCCURS, THEN SKI AREA OPERATOR OR PERSON WILL BE LIABLE FOR THAT INJURY. PAGE 4, LINES 4 THROUGH 9 READ AS FOLLOWS: "(A) A PERSON WHO VIOLATES A REQUIREMENT OF THIS CHAPTER IS NEGLIGENT AND CIVILLY LIABLE TO THE EXTENT THE VIOLATION CAUSES INJURY TO A PERSON OR DAMAGE TO PROPERTY. (B) A SKI AREA OPERATOR WHO VIOLATES A REQUIREMENT OF THIS CHAPTER OR A REGULATION ADOPTED BY THE DEPARTMENT OF LABOR UNDER AS 05.20.070 IS NEGLIGENT AND CIVILLY LIABLE TO THE EXTENT THE VIOLATION CAUSES INJURY TO A PERSON OR DAMAGE TO PROPERTY." THIS BILL DOES NOT PROVIDE IMMUNITY FOR NEGLIGENCE OF SKI AREA OPERATORS. IT PROVIDES LIABILITY FOR NEGLIGENCE OF SKI AREA OPERATORS!

THE THIRD DISTINCT SECTION OF THE BILL RECOGNIZES THAT THERE ARE INHERENT RISKS OF SKIING WHICH ARE THE RESPONSIBILITY OF SKIERS. THE BILL DEFINES THOSE RISKS ON PAGE 12 LINES 13 THROUGH 25. IF A SKIER IS HURT BY THESE RISKS THAT INJURY IS THE SKIERS RESPONSIBILITY.

3

THIS BILL IS SUPPORTED BY A BROAD RANGE OF ALASKANS. YOU WILL HEAR FAVORABLE TESTIMONY FROM SEVERAL SKI AREAS IN ALASKA AND FROM INDIVIDUALS INVOLVED IN SKIING IN ALASKA. YOUR PACKET CONTAINS A LETTER OF SUPPORT FROM THE ALASKA SKI AREAS ASSOCIATION. YOUR PACKET ALSO CONTAINS LETTERS OF SUPPORT FROM THE ALASKA HOTEL, MOTEL AND LODGING ASSOCIATION, THE ANCHORAGE CONVENTION AND VISITORS BUREAU, THE ANCHORAGE ECONOMIC DEVELOPMENT CORPORATION, THE ALASKA LABORERS UNION, THE MUNICIPALITY OF ANCHORAGE, AND SEVERAL HOTELS IN ANCHORAGE. THE PASSAGE OF THIS BILL WILL BENEFIT INDIVIDUAL ALASKANS AND THE TOURISM AND BUSINESS COMMUNITY IN OUR STATE.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND
SOUTHCENTRAL REGION

3601 C STREET
P.O. BOX 107005
ANCHORAGE, ALASKA 99510-7005

December 21, 1993

Senator Tim Kelly
716 W. 4th, Suite 400
Anchorage AK 99501-2133

Re: Emergency Regulation


The purpose of this letter is to provide notice that the Department of Natural Resources (DNR) is adopting an emergency regulation necessary to provide enforcement authority over skiing in closed areas or skiing recklessly at Alyeska Ski Resort.

The downhill ski areas at Alyeska Ski Resort have recently been conveyed to the state. With ownership comes the responsibility to protect the public safety, particularly in areas of avalanche risk or other dangerous snow conditions. With the ski season already underway, it is necessary for DNR to enforce rules prohibiting persons from skiing in marked and posted closed areas or skiing in a manner that endangers others. The regulation makes such an offense a bailable misdemeanor under 11 AAC 12.335(e), and allows the commissioner to designate certain persons to enforce these rules.

Copies of the Regulation, Adoption Notice, and Form for Additional Notice Information are enclosed. Additional copies of the regulation may be obtained by writing to the Division of Land, Southcentral Region Office, P.O. Box 107005, Anchorage, Alaska, 99510-7005, or picked up at the Department of Natural Resources, Public Information Center, Frontier Building, 3601 C Street, Anchorage, Alaska.

DNR intends to make this regulation permanent under AS 44.62.260. Written comments may be presented on this action through January 31, 1994, and can be sent to the above address. In addition a public hearing will be held in Room 336, Frontier Building, 3601 "C" Street, Anchorage, Alaska, on January 11, 1994. The hearing will be held from 7:00 to 9:00 p.m. If you have any questions regarding this action, please contact Jim Renkert at (907) 762-2270. Fax (907) 561-0221.

Sincerely,


Mike Sullivan
Natural Resource Manager

MS:jfr\eregnot.let

Enclosure: Regulation 11 AAC 20.956
 Public Notice
 Form for Additional Notice Information

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTION OF EMERGENCY REGULATIONS
AND SPECIAL USE LAND DESIGNATION

As required by AS 44.62.250, notice is given that, under the authority of AS 38.05.020, 41.21.020, and 41.21.955, the Department of Natural Resources adopted on December 14, 1993 as an emergency regulation, 11 AAC 20.956 relating to skiing within the Alyeska Ski Resort Recreational Facility, to implement AS 41.21.955.

The new regulation prohibits anyone from skiing in an area that has been posted as closed; using a ski or sliding device that is not equipped with a strap or other device capable of stopping a ski should the ski become detached from the skier; crossing a J-bar, T-bar, platter pull, rope tow, or surface lift; or skiing recklessly or out of control in such a way as to endanger the safety of others. Violation of the regulation constitutes a violation of AS 41.21.950 and is a misdemeanor offense.

This regulation takes effect on December 24, 1993. The emergency regulation will expire April 22, 1994, unless it is made permanent by the Department of Natural Resources.

This action is not expected to require an increased appropriation.

Notice is further given that the Department of Natural Resources intends to make this regulation permanent under AS 44.62.260. Any interested person may present oral or written statements or arguments relevant to the proposed action at a hearing to be held in Room 336, Frontier Building, 3601 "C" Street, Anchorage, Alaska, on January 11, 1994. The hearing will be held from 7:00 to 9:00 p.m. and might be extended to accommodate those present before 7:00 p.m. who do not have an opportunity to testify.

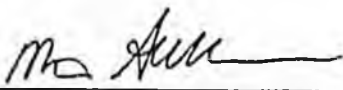
Notice is also given that the Alyeska Ski Resort Recreational Facility is designated "Special Use Lands," pursuant to 11 AAC 96.010(b).

Any comments, objections or expressions of interest concerning these proposed actions may be sent to Mike Sullivan at the Division of Land, Southcentral Region, P.O. Box 107005, Anchorage, Alaska 99510-7005. All comments, objections or expressions of interest must be received in writing by the Division of Land at the above address no later than January 31, 1994.

Copies of the emergency regulation may be obtained by writing to the above address or may be picked up in person at the Department of Natural Resources Public Information Center, Suite 200, Frontier Building, 3601 C Street, Anchorage, Alaska.

If you are a person with a disability who may need a special modification in order to comment on the proposed regulations, please contact Mike Sullivan at (907) 762-2270 no later than January 4, 1994 to make necessary arrangements.

DATE: 12/17/93
CITY: Anchorage



Mike Sullivan, Natural Resource Manager

FORM FOR ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Natural Resources
2. General subject of regulation: Provides enforcement authority over skiing in closed areas or skiing recklessly at Alyeska Ski Resort Recreational Facility.
3. Citation of Regulation: 11 AAC 20.956
4. Reason for proposed action:

- compliance with federal law
- compliance with new or changed state statute
- compliance with court order
- development of program standards
- other: The state received Tentative Approval for the land encompassing the ski area on April 1, 1993. Action is being taken so the ski area can continue to be operated in an orderly, safe manner.

5. Program category and BRU affected: Recreation/Public Use Development, Resource Development

6. Cost of implementation to the state agency and available funding (in thousands of dollars)

	Initial Year FY 94	Subsequent Years
Total Cost	\$ 0	\$ 0
General funds	\$ 0	\$ 0
Federal funds	\$ 0	\$ 0
Other funds (specify)	\$ 0	\$ 0

Lease administration costs will be paid from lease compensation payments. There will be some initial costs to adopt regulations but these will be offset by future lease payments.

7. The name of the contact person for the regulations:

Mike Sullivan
Natural Resource Manager
P.O. Box 10-7005
Anchorage, Alaska 99510-7005
(907) 762-2270

8. Origin of the proposed action:

- staff of state agency
- federal government
- general public
- petition for regulation change
- Other: Alyeska Ski Resort

9. Date: December 21, 1993

Prepared by: Mike Sullivan
Title: Mike Sullivan
Title: Natural Resource Manager,
Director, Division of Land
Phone: (907) 762-2692

11 AAC 20.956. USE OF ALYESKA SKI RESORT RECREATIONAL FACILITY. (a) The Alyeska Ski Resort Recreational Facility is that area covered by Alaska Division of Land Lease 226089 and is a recreational facility for the purposes of AS 41.21.950--41.21.960.

(b) Within the Alyeska Ski Resort Recreational Facility, a skier, as defined by AS 09.65.135(c)(3), may not

(1) ski on a slope or trail that the ski area operator has closed to the public at each identified entrance to the trail or slope

(A) by posting with any form of closure signage, including a sign of any shape or color that incorporates the international closed symbol or the word "closed";

(B) by other reasonably posted signage; or

(C) by means of ropes or fences;

(2) use a ski or other sliding device unless it is equipped with a strap or other device capable of stopping it if it becomes detached from the skier;

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

(4) ski recklessly or out of control in a way that endangers the safety of others.

(c) A violation of a closure or restriction under this section is a violation of 11 AAC 12.335(e). A citation for violating this section is amenable to disposition without court appearance upon payment and forfeiture of the bail amount under 11 AAC 12.335(e). (Eff. / /93, Register)

Authority: AS 38.05.020
AS 41.21.020
AS 41.21.955

SB

44

(File 2)

Back-up

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 44

Revision Date: _____
 Title: An Act relating to civil liability for skiing accidents . . .

Department Affected: Commerce and Economic Development
 BRU: Insurance
 Component: Operations

Sponsor: Senator Kelly
 Requestor: Senate Labor and Commerce

COMPONENT SERIAL NO. 354

Expenditures/Revenues:

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

CAPITAL EXPENDITURES	0	0	0	0	0	0
-----------------------------	----------	----------	----------	----------	----------	----------

CHANGE IN REVENUES ()	0	0	0	0	0	0
-------------------------------	----------	----------	----------	----------	----------	----------

FUND SOURCE

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

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

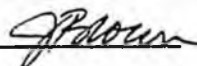
POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

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



Phone: 465-2515

Date: 12-9-93

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

Date: 12/13/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSB 44 (L&C)

Revision Date: _____

Department Affected: Administration

Title: "An Act relating to civil liability for skiing accidents."

BRU: Risk Management

Component: _____

Sponsor: Senator Kelly

Requestor: _____

COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

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

POSITIONS:

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

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

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

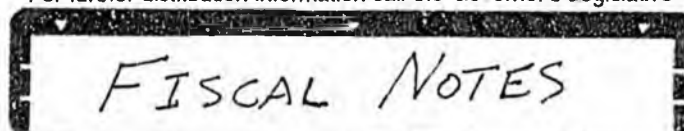
Prepared by: Don Hitchcock, Director
Division: Risk Management

Phone: (907) 465-2180
Date: 1-29-93

Approved by Commissioner: Nancy Bear Usara
Agency: Administration

Date: 2/1/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. SB 44

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to civil liability for BRU: Trial Courts
skiing accidents... Components: _____
 Sponsor: Kelly
 Requestor: Labor & Commerce COMPONENT SERIAL NO.

000 000	000 768
-----------	-----------

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.
 Changes in CS5544 (LFC) have no fiscal impact. This fiscal note is appropriate.
1/26/93 date [Signature] Comte Aide (initial)

Prepared by: C. S. Christensen III, Staff Counsel [Signature] Phone: 264-8228
 Division: Alaska Court System Date: 01/15/93

Approved by: Arthur H. Snowden, II, Administrative Director 57 [Signature]
 Agency: Alaska Court System Date: 01/15/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 44

Revision Date: _____

Department Affected: Commerce and Economic Development

Title: An Act relating to civil liability for skiing accidents

BRU: Insurance

Component: Insurance Operations

Sponsor: Senator Kelly

Requestor: Senate Labor and Commerce

COMPONENT SERIAL NO. 354

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

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

POSITIONS:

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

Estimate of current year (FY93) impact: 0.0

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

Changes in CS SB 44 (LAC)
have no fiscal impact. This
fiscal note is appropriate.

1/26/93 JPF
date Comptroller Aide (initial)

Prepared by: Dave Walsh

Phone: 465-2515

Division: Insurance

Date: January 15, 1993

Approved by Commissioner: Paul Fuhs

Agency: Commerce and Economic Development

Date: _____

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSB 44

Revision Date: 1/25/93
 Title: Skf Liability, Safety, and Responsibility

Dept. Affected: Natural Resources
 BRU: Resource Development
 Component: Land Development

Sponsor: Senator Kelly
 Requestor: Senate Labor and Commerce
 Committee

COMPONENT SERIAL NO. 431

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	NA	NA	NA	NA	NA	NA
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROG RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	none	none	none	none	none	none
PART-TIME	none	none	none	none	none	none
TEMPORARY	none	none	none	none	none	none

Estimate of current year (FY 93) impact \$ no fiscal impact anticipated

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

Prepared By: Ron Swanson
 Division: Land Development

Phone: 762-2692
 Date: 1/25/93

Approved by Commissioner: Glenn A. Olds
 Agency: Department of Natural Resources

Date: 1/25/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO : CS SB 44 (L&C)

Revision Date: _____
 Title: "An Act relating to civil liability for
 skiing accidents ..."
 Sponsor: Senator Kelly
 Requestor: Senate Judiciary

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: Mechanical Inspection
 COMPONENT SERIAL NO. 346

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Donald Study, CSP, Director *Donald Study* Phone: 465-6003
 Division: Labor Standards & Safety Date: 2/1/93
 Approved by Commissioner: Charles W. Mahlen *Charles W. Mahlen*
 Agency: Department of Labor Date: 2/1/93

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Alaska State Legislature

Sen. Robin Taylor, *Chair*
Sen. Rick Halford, *Vice Chair*
Sen. George Jacko, *Member*
Sen. Dave Donley, *Member*
Sen. Suzanne Little, *Member*



State Capitol
Juneau, AK 99801-1162
.....
907 465-3717
Fax: 907 465-3922

Senate Judiciary Committee

** fax transmittal **

TO: Gretchen Pence
Special Assistant to the Commissioner
Department of Public Safety

FROM: Kenny Leaf *KRL*
Senate Judiciary Committee Staff

RE: CSSB 44 (L&C) Civil Liability of Ski Area Operators
Commissioner Approval of Ski Area Operation Plans

DATE: 16 March 1993

Committee Substitute for Senate Bill 44 entitled "An Act relating to civil liability for skiing accidents, operation of ski areas, and duties of ski area operators and skiers; and providing for an effective date" is currently under the scrutiny of the Senate Judiciary Committee.

Section 05.45.040 (pg. 5, line 1) of the bill states the following:

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

(1) commissioner of public safety; or

(2) agency of the United States or the state that manages land on which the ski area operates.

The Judiciary Committee respectfully requests that the department provide the following information:

1) Does the Commissioner of Public Safety annually review plans of operation for ski areas in Alaska? If so, what standards or criteria are used in this review process?

2) Does the department monitor ski area operators for safety plan compliance? If so, please describe what methods are used to monitor and enforce compliance to these plans.

A work session CSSB 44 is scheduled in committee for Wednesday, March 17, at 1:30 in the Beltz room (Capitol 211). A response to this inquiry is requested as soon as possible.

If you have any questions, please do not hesitate to contact me at 3717. The committee thanks you in advance for your cooperation in this matter.

44
APR 9 RECD

April 6, 1993

Senator Robin Taylor
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

RE: Senate Bill 44

Dear Senator Taylor:

I understand that Senate Bill 44 - an act relating to civil liability for skiing accidents - is having a tough time being passed through the Senate Judiciary Committee. I was unable to attend the committee hearing on Wednesday, March 31, 1993, when the amendments were discussed. However, I would like to discuss why Senate Bill 44 is important to the ski industry in Alaska.

There are 40 states in the Union that have ski resorts operating as viable businesses. Alaska has 10 ski areas with only Alyeska Resort in Girdwood operating as a year round destination resort. Even though some resorts have been operating in Alaska since the late 1950's, we are young in the eyes of the ski industry. But as Alaska grows, so too, will the ski industry, as seen by the Seibu development, interest in Hatcher Pass and the State interest in the Winner Creek Area in Girdwood. These developments are vital for economic growth and development in Alaska as tourism increases and oil revenues decrease.

As an example of what can happen economically in Alaska, I will use Colorado as a basis since statistics were readily available. In 1950 there were only a few hundred people earning a living from downhill skiing. In the past 43 years Colorado's ski industry has grown to encompass some 61,500 jobs and nearly \$2.3 billion in annual retail sales. The industry in Colorado supports 28 ski areas, nearly 10 million skier visits, and on an average draws 10,000 out-of-state visitors a day. Skiers in Colorado spend approximately \$1.1 billion directly in association with skiing activities. Ski area operators collected only 22% of direct skier expenditures through lift ticket and ski school sales. The lodging industry, general retail stores and the food and beverage industries are the largest recipients of visitor dollars. Direct expenditures by skiers and summer tourist support a variety of businesses and service operations in the resort communities. These businesses and their employees in turn

Senator Robin Taylor
April 6, 1993
Page 2

purchase additional goods and services. Recirculation of visitor dollars stimulates economic activity in a broad geographic area and brings in a new category of businesses, including professional services, construction trades, government and wholesale distribution centers. This statewide recirculation of dollars imported into the economy by skiing represents an additional \$930 million in Colorado business activity, beyond the direct impact of visitor spending. The Colorado ski industry is a large contributor to the State's tax coffers in the approximate amount of \$101 million.

Why do I bring these Colorado statistics to your attention? Because for Colorado to have succeeded in the ski industry and economically, they had to have a strong inherent risk law. If Alaska is to succeed in developing along these same lines, it too must have a good inherent risk law. For the past 15 years, there has been a strong movement by trial lawyers to go after ski resort operators because of inadequate inherent risk legislation and the inability of ski resort operators to defend themselves appropriately. In states with a good inherent risk law, small scale ski areas have been able to survive without going bankrupt over unnecessary litigation costs.

In May 1993, the State of Alaska, Department of Natural Resources will be taking over from the U.S. Forest Service lands that have existing ski developments as well as lands that are slated for ski area development. When this happens the State of Alaska can then be named in any lawsuits brought against ski resort operators. If a strong inherent risk law is not passed, then existing ski areas will be forced to raise ticket prices to absurd levels thereby alienating families and only allowing the wealthy to ski. This would cause a drastic decrease in skier activity which through the domino effect, causes loss of jobs, decline in economic growth, and the possibility of ski areas closing down. The possible development of new areas will also be hindered in that no one will spend money to develop a ski area if their interests are not somewhat protected.

Ski resort operators are inspected by the U.S. Forest Service, State Tramway authorities, insurance carriers, and outside engineering firms on a periodic basis to make sure the area is conforming to the standards of the industry, State and Federal regulations, insurance regulation, and ANSI B.77 requirements. The industry as a whole has made giant strides in improving the safety and reliability of lift transportation systems,

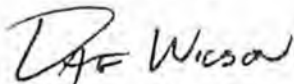
Senator Robin Taylor
April 6, 1993
Page 3

better grooming vehicles, signs that are universally understood, and better avalanche mitigation techniques. Because of such activity, the number of accidents per capita has actually been reduced.

The ski industry is a big business recreationally and economically, one that the State of Alaska cannot afford to lose. I find it unethical and against protocol for a trial attorney to attack this Bill in such a format when the case in question is under litigation and a verdict has not been rendered.

The purpose of Senate Bill 44 is to weed out unnecessary litigation and costs associated with it and is similar in retrospect to Senate Bill 172 which you are sponsoring. With all things considered, let's get this Bill passed out of the judiciary committee so ski development in Alaska can move forward in a positive direction.

Sincerely,



Dave Wilson
Girdwood, Alaska

Copy: Governor Walter Hickel
Senator Tim Kelly



SOURDOUGH SKI PATROL

JAN 20 1994



PO Box 92207
Anchorage, Alaska 99509

January 19, 1994

Senator Tim Kelly
Room 101

Representative Ramona Barnes
Room 208

Dear Senator Kelly and Representative Barnes,

I am writing this letter on behalf of the Sourdough Ski Patrol and as your constituent in support of SB 44 and HB 41.

Our group consists of one hundred twenty (120) paid and volunteer ski patrollers that provides skier safety services, winter rescue, member educational services and public relations. We are very concerned about this pending legislation that could have a drastic effect on the future of skiing in Alaska.

All of us firmly believe that ski area operators have certain responsibilities to the skiing public. At the same time we feel the skiing public has an obligation to assume personal responsibility for their own actions. In this litigious society it seems that the courts and laws are eroding any sense of personal responsibility and seeking out the "deep pockets."

This type of attitude is a real threat to many businesses. It can cause spiralling insurance costs, hamper operations and even cause some businesses to fold.

SB 44 and HB 41 will clearly outline responsibilities of ski area operators and skiers. We feel this is critical to the sport of skiing and the future development of the ski area industry.

We urge your support of these bills and stand ready as an organization to assist you in any way possible to pass this legislation. You may write to us at the above address, or contact me at (907) 265-4113.

Sincerely yours,

Chris Ross
Patrol Director

cc: All House Representatives
All Senate Members
John Heiser

January 19, 1994

JAN 23 1994

Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor,

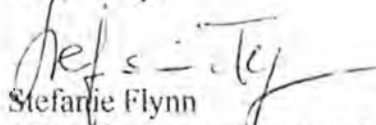
I work in the ski industry. I am also an active skier. I'm familiar with HB 41 and SB 44.

As a ski industry employee, I strongly support any legislation that will strengthen that industry. This legislation will help the skiing industry in our state by balancing the responsibilities of the ski area operators with those of individual skiers. It protects both the ski area operators and the skiers. It will encourage ski area development in our state, thus creating more ski industry jobs.

As an active skier, I support the legislation because it will increase ski safety by establishing new safety requirements for ski areas. Mountain safety will be enhanced by this legislation.

As a ski area employee and an active skier, I encourage you to support this legislation.

Yours truly,


Stefanie Flynn
6020 Blackberry Street, C-3
Anchorage, AK 99502

JAN 24 1994

January 19, 1994

Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor:

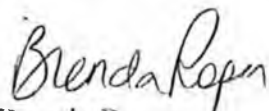
Western Canada and the western United States are experiencing a boom in winter tourism fueled by the expansion and development of their ski industries. Alaska is also poised to experience an expansion of its winter tourism with the expansion of the Alyeska ski resort and the development of skiing in the Matanuska Valley.

HB 41 and SB 44 will assist the growth of our winter tourism and ski industry by balancing the responsibilities of skiers and ski area operators. This legislation will bring our ski safety and ski liability laws in compliance with those of Canada and the western United States. It will make our mountains safer for skiers while allowing us to compete with other parts of the world for ski area development.

Summer tourism has been a boon to our state; increased winter tourism will only increase this source of positive economic growth for our state.

This is fair legislation, which I encourage you to support. Thank you.

Sincerely,



Brenda Roper
PO Box 220204
Anchorage, AK 99522-0204

January 19, 1994

3155 2 3 0001

Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor,

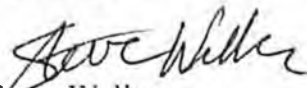
HB 41 and SB 44 effect skiers and ski areas throughout Alaska. This legislation will increase mountain safety for Alaskan skiers, while protecting ski areas from frivolous claims for injuries for which they are not responsible.

Skiing is an inherently dangerous activity. This legislation attempts to make skiing safer while making skiers responsible for the risks of skiing over which are not controllable by ski area operators.

I support this legislation and strongly encourage you to also support this legislation.

Thank you for your support.

Sincerely,


Steve Weller
PO Box 220204
Anchorage, AK 99522-0204

January 19, 1994

JAN 21 1994

Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

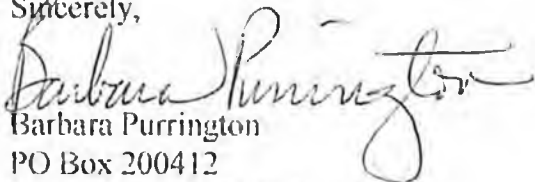
Dear Senator Taylor,

I am asking for your support for HB 41 and SB 44, two bills designed to protect ski areas in Alaska from potential nuisance suits, which ultimately affect the skier by way of higher lift ticket prices or even ski area closures.

Winters are long in Alaska, and it is important to encourage development of recreational areas that take advantage of our long winters. Downhill skiing is a healthy form of winter exercise that is perfect for singles, groups and families to enjoy. Like all sports that entail an amount of risk, it is important that skiers understand their responsibilities while on the slopes. Likewise, it is important that ski area operators adhere to their responsibilities, making the sport as safe as possible for participants.

HB 41 and SB 44 outlines responsibilities for both skiers and ski area operators. I urge you to support these bills.

Sincerely,



Barbara Purrington
PO Box 200412
Anchorage, Ak 99520-0412

January 20, 1994

Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor,

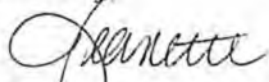
I am writing to urge you to support HB 41 and SB 44, legislation designed to protect ski operators from frivolous lawsuits. We need to promote the winter tourism industry in Alaska and help developers expand without fear of constant litigation.

Although I am not a downhill skier myself, like most Alaskans, I engage in numerous outdoor activities that carry risks. I believe that I carry responsibility for the dangers involved in hiking, biking, fishing, etc., in the Alaskan wilderness. Similarly, I believe skiers are also responsible for knowing the risks of their sport and should not be allowed to seek recourse against ski operators when the operators have not been negligent.

I know you join me in supporting the winter ski and tourism industry in Alaska. Let's show our support by passing HB 41 and SB 44.

Thank you.

Sincerely,



Jeandite Anderson
2921 Concord Lane
Anchorage, AK 99502

January 20, 1994

Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

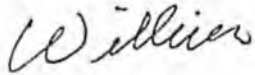
Dear Senator Taylor,

I would like to ask you to support HB 41 and SB 44 as I believe this legislation protects both the interest of the ski area operators and the interest of the skiers.

Being an avid skier, I know that skiing is a dangerous sport, and that I may get hurt and need to accept the risk associated with this activity. Also, a ski area operator should be required to provide mountain safety according to new safety standards.

The legislation works for both the skiers and ski area operators. Please support these bills.

Sincerely,



William Moores
2921 Concord Lane
Anchorage, AK 99502

January 19, 1994

JAN 2 5 00

Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor,

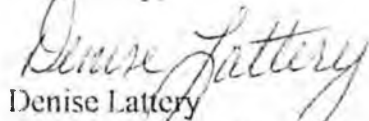
I work in the visitor industry. I am also an active skier. I'm familiar with HB 41 and SB 44.

As a visitor industry employee, I strongly support any legislation that will strengthen that industry. This legislation will help the skiing industry in our state by balancing the responsibilities of the ski area operators with those of individual skiers. It protects both the ski area operators and the skiers. It will encourage ski area development in our state, thus creating more jobs.

As an active skier, I support the legislation because it will increase ski safety by establishing new safety requirements for ski areas. Mountain safety will be enhanced by this legislation.

As a visitor industry employee and an active skier, I encourage you to support this legislation.

Yours truly,



Denise Lattery
3501 Denali Street, #106
Anchorage, AK 99503

January 22, 1994

Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

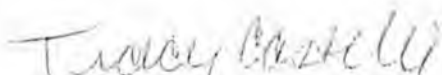
Dear Senator Taylor,

I would like to ask you to support HB 41 and SB 44 as I believe this legislation protects both the interest of the ski area operators and the interest of the skiers.

Being an avid skier, I know that skiing is a dangerous sport, and that I may get hurt and need to accept the risk associated with this activity. Also, a ski area operator should be required to provide mountain safety according to new safety standards.

The legislation works for both the skiers and ski area operators. Please support these bills.

Sincerely,



Tracy Castelli
Box 208
Girdwood, AK 99587

March 27, 1993

Senator Robin Taylor
State Capitol
Room 30
Juneau, AK 99801-1182

RECEIVED

MAR 31 1993

Ans'd.....

Senator Taylor:

I am writing to ask for your support of Senate Bill #44, the Inherent Risk of Skiing Bill.


The point of this bill, to my understanding, is not to make ski areas less liable but to make them more responsible. It means that ski areas will have to have proper signage and an approved operations plan.

The Department of Natural Resources will soon be the lease holder for Alyeska Resort, and for the proposed Winner Creek/Eagle Glacier and Hatcher Pass development. The State will be developing revenue from these areas, with the current risk law the State is in a vulnerable position should any litigation be brought against these areas. Any prudent potential developer would look long and hard at a state that has a weak inherent risk law. I feel that without the approval of Senate Bill #44, several of Alaska's small independent ski areas are in jeopardy of having to close their doors. With the long winter season that we have, outdoor recreational sports should be encouraged not litigated to the point of extinction.

I am also concerned with the amount of public hearing time the Rizer family has had. I have great sympathy that they lost their child in a skiing accident. However, their grief and anger is being channeled at this bill, specifically Alyeska Resort, instead of taking some responsibility for their son's death on themselves. They should try their case in court not in Juneau.

Please look at the big picture and not allow one family's tragedy to keep this bill from being passed. This bill is good for the people of Alaska and for promoting safe recreational activity in the State.

Thank You


Valerie Hennigan
7600 Soldotna Dr.
Anchorage, AK 99516

January 19, 1994

JAN 23 1994

Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

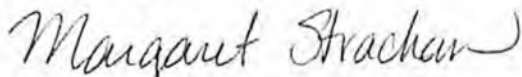
Dear Senator Taylor:

I am familiar with HB 41 and SB 44. I believe this legislation protects both the interests of the skiers and ski area operators.

Skiing is a dangerous activity. A ski area can make skiing safer, but it cannot take the danger completely out of skiing. When someone straps on a set of skis, they should know they may get hurt; and they should be willing to take the risks associated with skiing. At the same time, ski area operators should be required to do everything possible to protect skiers while they are skiing.

I believe this legislation balances both the responsibilities of skiers and ski area operators. I urge you to support this legislation.

Yours truly,



Margaret Strachan
801 Harbor Circle
Anchorage, AK 99515

APR 7 RECD

April 5, 1992

Hon. Robin Taylor
Senate-The Capitol
Juneau AK 99801-1182

Dear Senator Taylor:

Thank you for supporting SB 44 relating to claims arising from skiing.

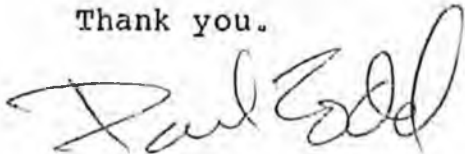
I have read the bill and believe it reasonably attempts to restrict liability of ski area operators to matters under their control such as activities of employees, operation of equipment, and installation and maintenance of buildings and fixtures.

Unfortunately some feel it reasonable to litigate as a result of death or injury arising from natural objects or conditions such as trees, rocks or deep or crusty snow. The litigation brought by the Rizer family appears to fall in this category.

The gray areas will always be difficult in such legislation. By this I refer to the condition of manmade, groomed trails and slopes which are not in their natural condition; the Valdez litigation appears to have arisen under such circumstances. And also reasonable action to prevent injury from avalanche in areas posted as open to skiing. These will always be difficult areas for such legislation because ski areas, though these activities, may be seen by juries to have created a reasonable expectation by the skiing public that they have a duty of extraordinary care to provide safe conditions.

I teach skiing as a hobby and volunteer activity for Challenge Alaska (disabled students) and Alyeska Resort and have taught at Hilltop Ski Area. I am a board member of Challenge Alaska, which could not provide adaptive skiing programs without the logistic and financial support of Alyeska Resort.

Thank you.



Paul Todd
PO Box 105055
Anchorage AK 99510-5055
907/277-7715

Diana Woods
Michael Polzin
P.O. Box 468
Girdwood, AK 99587
783-2461

FEB 7 1994

January 28, 1994

Dear Senators and Representatives,

We're writing to express our concern over HB41 and SB44 and the current status of the Alaskan inherent risk of skiing law.

We believe Americans have to face up to taking responsibility for their own actions, whether it's walking on an icy driveway, or choosing to ski. Diana has hurt herself skiing, as she's hurt herself doing other, less risky things. But did she try to blame somebody other than herself? No! She CHOSE to go skiing, and she accepted the responsibility for her actions, as a mature adult is expected to do. Whether we can afford it or not, we pay for accident insurance just in case something happens. It's part of being a responsible citizen.

We believe American ski resorts are very conscientious about skier safety. Ski resort operators make a living giving people a chance to have fun and exercise. They have a vested interest in being professional, and being as safe as possible. Grooming and snow making have improved dramatically over the years, which have increased skiing pleasure and safety. Ski area employees take a great pride in skier safety. They plaster signs all over the mountain to help people be aware of possible natural hazards. But all this positive energy and professional responsibility is for naught if the skiing public refuses to take responsibility for their own actions. Skiers must be held accountable for making the choice to participate in an inherently risky sport.

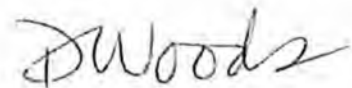
Liability laws are good, but when they become ridiculous, as they seem to be, they will strangle our nation. Yes, we agree businesses should be responsible for the safety of their products and services. As long time skiers both here and abroad, we believe the staff at Alyeska more than meets industry safety standards.

We urge you to please support HB41 and SB44 without tolerating any amendments to gut the effectiveness of these bills. Let's support legislation that asks people to take responsibility for themselves. Thank you.

Sincerely,



Michael Polzin



Diana Woods

AMENDMENT # /

BY SENATOR ADAMS

TO: JUDICIARY CS TO SB 44

PAGE 13, LINE 17

DELETE: "1993"

INSERT: "1994"

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

COPY

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

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

MEMORANDUM

January 1993

SUBJECT: Civil liability for skiing accidents (Work Order No. 8-LS0317A)

TO: Representative Mark Hanley

FROM: Michael F. Ford
Legislative Counsel

This memo is in response to your request for an explanation of the effects of the attached draft. In general, the draft revises the existing law regarding the liability of a ski area operator to an injured skier. By clarifying the duties of ski area operators and skiers, and by expanding the definition of "inherent danger and risk of skiing" the draft is intended to provide greater protection against lawsuits for ski area operators.

In 1975, the Alaska Supreme Court adopted a doctrine called the doctrine of comparative negligence. Kaatz v. State, 540 P.2d 1037, 1049 (Alaska 1975). This doctrine actually evolved over a long period in which courts struggled to determine how to balance the negligence of the party being sued with the negligence of the party bringing the lawsuit. Instead of denying any recovery to a person who was partially at fault, the court adopted a policy under which any recovery would be reduced by the negligence of the person bringing the lawsuit. In short, the negligence of each party is compared, and any recovery is reduced by the percentage of fault that is attributed to the party who was injured.

In 1980, the legislature enacted AS 09.65.135, a statute that barred claims by injured skiers, if the claim arose from "an inherent risk of skiing" unless the ski area operator failed to post required warning signs. This statute appeared to remove these type of cases from the usual comparative negligence system adopted by the Alaska Supreme Court. Instead, in these cases if a skier was injured due to an inherent risk of skiing the skier was barred from any recovery as opposed to simply reducing the recovery by the negligence of the skier.

In 1986 the legislature codified the comparative negligence doctrine, as AS 09.16.070. In doing this the legislature did not preclude application of comparative negligence to the immunity granted under AS 09.65.135.

09.17.060

LEGAL OPINION - HUBSCHMAN

Representative Mark Hanley
January 4, 1993
Page 2

This was the situation when the Alaska Supreme Court decided Hiibschman v. City of Valdez, 821 P.2d 1354 (Alaska 1991). In this case an injured skier brought suit against a ski area operator. The ski area operator asserted the immunity of AS 09.65.135 and argued that the skier's injuries were as a result of an inherent risk of skiing. The court held that AS 09.65.135 did bar suits when the skier was injured by an inherent risk of skiing, but did not eliminate a ski area operator's liability under the comparative negligence doctrine if the ski area operator was also at fault. If the ski area operator is negligent in some regard, then the doctrine of comparative negligence applies and the injured skier may recover for injuries minus the fault attributed to the skier. Only if the skier is injured solely by an inherent risk of skiing would recovery be barred by AS 09.65.135. In short the court harmonized AS 09.16.070^{17.050} and AS 09.65.135 by allowing a lawsuit to proceed if the ski area operator was a negligent cause of the skier's injury.

The most significant policy issue raised by this draft is the question of the type and scope of immunity to be granted to ski area operators. The scope of the immunity granted is largely dependent on the definition of "inherent danger and risk of skiing." This definition should be carefully reviewed. There is also the issue of whether a ski area operator loses immunity when the negligence of the operator contributes to the injury, as held by the Alaska Supreme Court in Hiibschman. That issue could be decided differently by the legislature, but this draft probably does not change the law as set out in Hiibschman. (See proposed AS 05.45.010 and 05.45.020(b); and AS 05.45.010 and 05.45.100 in the draft you provided.)

If you have further questions on these matters please contact me.

MFF:lmb:pl
92-196.lmb

Enclosure

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO : CSSB 44 (JUD)am

Revision Date: _____

Department Affected: Labor

Title: Civil liability for skiing accidents

BRU: Labor Standards & Safety

Sponsor: Senator Keily

Component: _____

Requestor: House Finance

Mechanical Inspection

COMPONENT SERIAL NO. 346

EXPENDITURES/REVENUES:

(Thousands of Dollars)

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

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

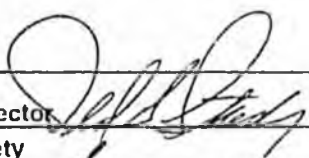
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

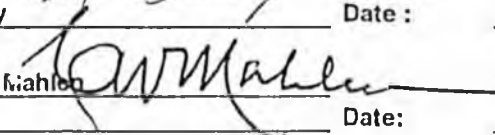
FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Donald Study, CSP, Director  Phone: 465-6003

Division: Labor Standards & Safety Date: 2/18/94

Approved by Commissioner: Charles W. Mahler 

Agency: Department of Labor Date: 2/18/94

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For further distribution information call the Governor's Legislative Office

ALYESKA RESORT

P.O. BOX 249 • GIRDWOOD, ALASKA 99587
TEL. (907) 783-2222 • FAX (907) 783-2814

September 21, 1993

The Honorable Tim Kelly
United States Senate
716 W 4th Avenue, Suite 400
Anchorage, AK 99501-2133

Dear Senator Kelly:

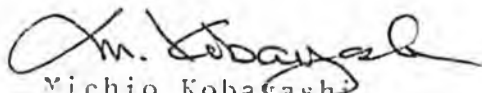
I am familiar with HB 41 and SB 44. I believe this legislation protects both the interests of the skiers and ski area operators throughout Alaska.

As a ski industry employee, I strongly support any legislation that will strengthen that industry. This legislation will help the skiing industry in our state by balancing the responsibilities of the ski area operators with those of individual skiers.

It will also encourage ski area development in our state, thus creating more ski industry jobs. Summer tourism has been a boon to our state; increased winter tourism will only increase this source of positive economic growth for our state.

This is fair legislation, which I encourage you to support. Thank you.

Sincerely,



Michio Kobayashi
General Manager

PACIFIC ALASKA LEASING CO.

7900 King Street • Anchorage, Alaska 99518
(907) 349-9899 • FAX (907) 349-3001

February 9, 1993

Sen. Tim Kelly
P.O. Box 5
Juneau, Alaska 99811

RE: House Bill 41
Senate Bill 44

Dear Senator Kelly:

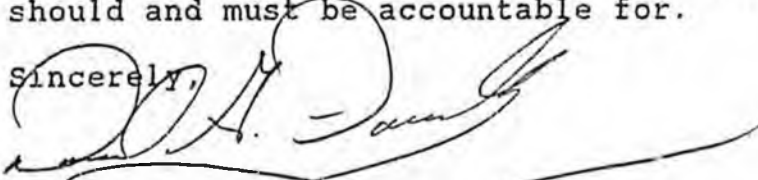
Enclosed is a release form that must be signed before Alyeska Ski Resort will issue a season pass for skiing at Mt. Alyeska. Failure to sign this statement for yourself and dependent children results in not receiving your pass to use the ski lifts.

My real concern is not waiving all individual rights for inherent risks associated with this sport; but the obvious intent of Alyeska to completely refuse to assume any liability when injury is a direct result of negligence, even when reckless.

Should you pursue in your efforts to pass and support these bills, I strongly urge additional wording to protect consumers from these tactics to include a document of this sort to be unenforceable, null and void when presented as evidence.

As I was born in Anchorage, and one of the first people to ski at Alyeska on it's opening day, I fully understand the natural risks of any out door sport, and assume these natural risks. I do not like the tactics used in their document to go beyond the natural risks to defend a company from obvious negligent acts that they should and must be accountable for.

Sincerely,



David G. Faulk

CC: Alaska Academy of Trial Lawyers
Charles G. Evans

ALYESKA RESORT SEASON PASS AGREEMENT

I, the undersigned 1992-93 Season Passholder at Alyeska Resort, understand and agree:

1. My season pass must be worn at all times when I ski at Alyeska Resort. This pass is nontransferable. Allowing its use by any other person under any condition is cause for Alyeska Resort to immediately revoke the pass without refund, and to refuse to sell future passes to the holder.

2. The pass remains the property of Alyeska Resort. Alyeska Resort retains the right to revoke the pass and to refuse to sell me future passes if I disregard any ski area policies or directions given me by authorized Alyeska Resort personnel.

3. The duration of the skiing season, the skiing conditions and the amount of the ski hill open for public are subject to natural forces beyond the control of Alyeska Resort. Alyeska Resort makes no guarantee as to the number of days and nights or the amount of the ski hill which will be open for skiing, or the quality of the skiing conditions.

4. If I am a parent or guardian of children with an Alyeska Resort season pass, I accept responsibility for informing my children of Alyeska Resort policies governing the use of season passes, as well as all general policies and rules which govern skiing at Alyeska Resort. I accept responsibility for my child's actions while he or she is at Alyeska Resort.

5. If the pass is lost, stolen, damaged, defaced, or otherwise unusable, I must pay \$50.00 for a replacement pass.

6. Alyeska Resort will grant me a discounted ticket at the HALF DAY RATE on a one-time basis if I forget my pass. Thereafter I will be charged the FULL RATE if I forget my pass.

7. Much of Alyeska Resort lies within U.S. Forest Service permitted property. Forest Service regulations authorize Alyeska Resort to close areas due to avalanche or terrain hazards, or for the protection of public health and safety. Violations of these closures are punishable by a fine of not more than \$5,000.00 or imprisonment for not more than six months or both.

8. Skiing and snowboarding are hazardous sports with many dangers and risks. Injuries are a common and ordinary occurrence of the sports. I freely accept and voluntarily assume the risks of personal injury, death and property damage. I release Alyeska Resort, its employees, and agents from any and all liability for personal injury, death or property damage resulting from negligence, conditions of the premises, operations of the ski area, actions or omissions of employees or agents of the ski area, or from my participation in skiing or snowboarding. The Release, Indemnification and Covenant Not to Sue attached hereto is an integral part of the season pass agreement with Alyeska Resort. I have read, understand and agree to all terms of this agreement.

Date: _____

Signature of Season Passholder

Pass Number: _____

Season Passholder Name (Please Print)

RELEASE, INDEMNIFICATION AND COVENANT NOT TO SUE

READ CAREFULLY: Skiing, snowboarding and participation in other winter activities at or near Alyeska Resort involve risks, including those inherent in the activity, and the negligence of Alyeska Resort and others. These risks include, but are not limited to, (1) changing weather and lighting conditions, (2) variations or steepness in terrain, whether natural or as a result of slope design, including roads, catwalks, jumps, or other terrain modifications; (3) snow conditions as they exist or may change, including ice, hard pack, powder, wind pack, corn, slush, cut-up snow, and machine-made snow; (4) surface or subsurface conditions, including bare spots, forest growth, rocks, gullies, streambeds, trees, stumps, other natural objects and collisions with natural objects; (5) collisions with tramway towers, light towers, signs, posts, fences, enclosures, hydrants, water pipes, other manmade structures, and their components; (6) collisions with other skiers; (7) a skier's failure to ski within the limits of his ability; and (8) snowmaking or grooming operations or results. These risks may lead to personal injury, loss of consortium, property damage or death.

RELEASE OF LIABILITY: The *Season Passholder* hereby releases *Alyeska Resort* from any and all *claims* arising from or related to the participation of the *Season Passholder* in winter activities, including skiing and snowboarding, at or near *Alyeska Resort*.

Initial: _____

INDEMNIFICATION: The *Season Passholder* hereby agrees to indemnify, defend and hold harmless *Alyeska Resort* against any *claims* made against *Alyeska Resort* and arising from or related to the participation of the *Season Passholder* in winter activities, including skiing and snowboarding, at or near *Alyeska Resort*.

Initial: _____

COVENANT NOT TO SUE: The *Season Passholder* hereby covenants and agrees he will never bring, authorize to be brought, or otherwise participate in any *claims* against *Alyeska Resort*, arising from or related to the participation of the *Season Passholder* in winter activities, including skiing and snowboarding, at or near *Alyeska Resort*.

Initial: _____

DEFINITIONS: In this document --

Alyeska Resort means Seibu Alaska, Inc., dba *Alyeska Resort*, its parent and affiliate companies,

and the United States Forest Service, together with all of their respective shareholders, directors, officers, employees, volunteers, agents, successors, assigns, indemnitors, and subrogees.

Season Passholder means the *Season Passholder*, other signer(s) of this document, and all others who may make *claims* on behalf of the *Season Passholder* or the signers of this document, including the heirs, beneficiaries, relatives, dependents, assigns, indemnitors and subrogees of the undersigned.

Claims means any claim, liability, or cause of action of any kind for personal injury, loss of consortium, property damage or death, made against *Alyeska Resort* and arising from or related to the participation of the *Season Passholder* in winter activities, including skiing and snowboarding, at or near *Alyeska Resort*, whether arising from the acts, omissions, or negligence of *Alyeska Resort*, or any other cause.

I HAVE READ THE RELEASE OF LIABILITY, INDEMNIFICATION AND COVENANT NOT TO SUE. I UNDERSTAND AND AGREE TO THESE PROVISIONS.

Date

Season Passholder

Date

Parent or Legal Guardian

IRS: Most foreign firms pay no U.S. tax

By JIM LUTHER
The Associated Press

WASHINGTON — Foreign-owned businesses operating in the United States may be illegally dodging income taxes worth up to \$30 billion a year, and many pay no tax at all on billions of dollars of sales, a House panel was told Thursday.

The Internal Revenue Service acknowledged there is a compliance problem among many foreign companies, but Commissioner Shirley D. Peterson said there is not nearly enough information available to estimate the loss. She suggested the maximum loss would be about \$3 billion a year.

Seventeen foreign companies that distribute cars in this country paid the United States an average \$4 in tax for each \$1,000 of sales over several years, according to an investigation by the staff of the House Ways and

Means oversight subcommittee. One company sold \$3.4 billion worth of cars over two years and paid zero tax.

The panel checked a sample of tax returns filed by foreign-based electronics companies and found that 40 percent paid no U.S. income tax.

One company with \$6.6 billion of U.S. sales paid no tax. In a subsequent year, the same company had sales of \$2.8 billion and paid \$156.

"In our society, a teacher or factory worker can pay more in federal income tax than a major multinational corporation with billions in annual U.S. sales," said Rep. J.J. Pickle, D-Texas, chairman of the subcommittee.

"We have got to stop chasing our tails around the block and tell these people ... this is outright tax evasion and we are not going to take it anymore," said

Rep. Paul Kanjorski, D-Pa. He is sponsoring a bill to impose a new minimum tax on foreign companies.

All told, only 28 percent of the 45,000 foreign companies operating here pay U.S. income tax at all. But most authorities who have investigated the issue agree that does not mean the others are cheating. Many of them, for example, have no profit to tax.

Investigators have found, however, that in general, foreign companies report less than half the earnings of similar U.S. companies.

By one measure of profit — return on assets — foreign companies averaged only 0.9 percent compared with 2.2 percent for U.S. firms. In 1989, the disparity worsened: foreign firms earned 0.6 percent and U.S. firms 1.8 percent.

January 21, 1992

TO: Senators Kelly, Rieger, Pierce, Lincoln, and Salo

FR: Patti Rizer

RE: SB 44

Before you discuss SB 44 today, I would sincerely appreciate your reading the attached summary of the Hiibschman v. City of Valdez. This condensed summary of the case clearly shows that the Supreme Court has a state statute with which than can make rulings fairly for the consumer.

The second paragraph summarizes the current statute and states:

The Act precludes recovery by skiers from a ski area operator for injuries resulting from an inherent risk of skiing which is defined in the statute as including, but not limited to, in part, variations or steepness in terrain, snow or ice conditions, and surface of subsurface conditions such as bar spots, forest growth and rock, and a skier's failure to ski within the limits of the skier's ability.

The Supreme Court concluded that the statute was intended to bar recovery for those actions which only the skier could control and that were beyond the ski area operation control. The court concluded that the Act preserved the common law duty of reasonable care of ski area operators and that evidence of negligence on the part of a ski area operator takes the case out of the inherent risk of skiing context.

The court stated that the statute aids trial courts by listing those risks which are considered inherent in the sport of skiing: those risks which are obvious and necessary.

The Court defined necessary dangers as those which cannot reasonably be eliminated by the area operator.

The Court also observed that a risk not listed in the statute may still be an inherent risk of the sport if necessary and obvious, but this risk must be subjectively obvious to the skier, who must know of the risk's presence, understand its nature, and freely and voluntarily choose to encounter it.

The Court also ruled that to bar an action, "skiing beyond one's ability" means the skier must subjectively know he or she is skiing beyond his or her ability as

an inherent risk of skiing must be necessary and subjectively obvious. However, once evidence of a ski area operator's negligence exists, the operator is free to argue that the skier voluntarily and unreasonably assumed a negligently created risk.

After you have read this summary, please ask yourselves these questions:

1. Is the current statute unfair, inadequate, in need of revision, and not clear for the courts to work with? If it works, why is the ski industry trying to change it?
2. Whom does this bill protect—Alaskans or private industry?
3. How specifically does this bill help tourism? Will it bring more skiers to Alaska? How?
4. Do other industries in America have this type of protection?
5. Why should Alaska reward Alyeska with such a comprehensive protection bill when they have had four deaths that I know of on the mountain (the two that Mr. Heiser could remember, one in 1978, and one a few years ago when a man fell to his death when he couldn't get out of the chair lift)?
6. Who will be the watch dog for ski operators? We have found it is those who are closely linked with the industry and not a consumer protection type board.
7. Have you seen Alyeska's safety report? If not, shouldn't you? And remember, it is Seibu that compiles it and many injuries are not actually reported.
8. Look at Seibu's record: four deaths on the mountain plus two additional deaths when the corporation served so much alcohol to a customer in the bar that he proceeded to kill Scott and Wesley Gerrish and their dog while walking home from the ski resort. (The drunken driver was three times the legal limit and through these two tragic deaths, MADD was established in Alaska.) The Gerrish case settled in court against Seibu.

Furthermore, Seibu was found negligent for paralyzing the young boy who went off a road cut of near 90 degrees in the middle of a ski area instead of shaving off its upper edge to make a roll. An expert who is revered in the national ski industry stated this was "murderous and totally unacceptable."

And now Seibu faces a suit that is pending in court. The only reason we have chosen to go to court is after six months of trying to get information about Bart's death, Mike Grandinetti, the Risk Manager for Seibu Corporation, told us we would have to go through the court system to get any information about Bart's death.

This "extremely serious" accident, as Mr. Lamb puts it, should have been investigated. But Seibu Corporation will not share any information with us. Are they hiding something? Should they be allowed to have a bill pass that makes them nearly unaccountable or irresponsible for accidents and deaths and maintenance of the mountain?

And finally, about 26 states have inherent risk ski laws. Colorado's is the most comprehensive. I have skied in Colorado, and I can tell you Alyeska does not come close to Colorado ski resorts as far as services, amenities, state-of-the-art equipment, number of ski patrollers, etc. They have huge, wide, gentle runs—smooth as a baby's bottom—for beginners. Alyeska is one of the steepest mountains in the world with weather conditions that are extreme.

Colorado uses nearly all professional ski patrol and is closely monitored by the U.S. Forestry Service. Colorado adopted the extreme inherent risk of skiing law because the skiing industry is very powerful and most of the injuries/deaths occur from out-of-state skiers. The U.S. Forestry Service and Colorado state officials have many doubts within their minds about the fairness of this law.

One U.S. Forest Service employee said that in his opinion the law assumes all skiers are at an expert level and able to identify dangerous situations.

My final question is this: I would like you to consider giving me 14-21 days to obtain signatures of people throughout the state who oppose this bill. I feel like David in the story of "David and Goliath." I am opposed to this bill but did not hear about it until late Sunday night, January 17. January 18 was my first day back to work at the University, and I have not had time to tell Alaskans about this bill. If you would give me just two to three weeks, I believe I could accumulate several hundred signatures of Alaskans who oppose this bill.

Who is supporting this bill? Who is lobbying you? Is it special interest groups, or is it truly the people of this state who have no special interest?

Will you please give me a little time to prove to you Alaskans are not for this bill?

While the facts surrounding the accident were disputed, since the Court was reviewing a summary judgment ruling, the Court drew the inferences in the plaintiff's favor, as she was the party opposing summary judgment. The ski lift operator had testified that he thought the jump was dangerous. However, neither the ski lift operator nor the head of the ski patrol were aware of any other skier having ever been injured on the jump where the plaintiff's injury occurred. (The plaintiff landed on her tailbone after skiing off of the jump and was paralyzed from the waist down.) An expert in ski area design and planning thought it was inappropriate to have this jump on any jump, on a beginner's hill, unless the jump were marked as appropriate only for more advanced skiers. The plaintiff, 15 years old at the time of the accident, estimated that she had consumed between one and a half and three beers before the accident. She also asserted that she had taken four ski runs between her last consumption of beer and the time of the accident and that she did not fall on any of those runs. An emergency medical technician who attended the plaintiff stated that the plaintiff's breath smelled of alcohol, but that she was not obviously intoxicated.

Following two motions for reconsideration of the trial court's ruling on the City's motion for summary judgment, the trial court submitted the issue of adequate signage to a jury, which returned a verdict in favor of the City.

The Supreme Court concluded that the statute in question was intended to bar recovery for those actions which only the skier could control and that were beyond the ski area operator's control. The Court concluded that the Act preserved the common law duty of reasonable care of ski area operators and that evidence of negligence on the part of a ski area operator makes the case out of the inherent risk of skiing context. The Court stated that the statute aids trial courts by listing those risks which are considered inherent in the sport of skiing: those risks which are obvious and necessary. The Court defined necessary dangers as those which cannot reasonably be eliminated by the area operator. The Court also observed that a risk not listed in the statute may still be an inherent risk of the sport if necessary and obvious, but this risk must be subjectively obvious to the skier, who must know of the risk's presence, understand its nature, and freely and voluntarily choose to encounter it.

Reviewing the evidence, the Court concluded that genuine issues of material fact existed as to whether the jump constituted an inherent risk of skiing. The Court noted that a jump is not specifically listed in the statute and its risk is not necessarily obvious or necessary. The plaintiff had testified that she did not think that the jump was hazardous in the way it was designed or constructed before she went off of it. The Court also noted testimony that the jump was not safe for beginner skiers and that the jump was not marked as being suitable only for expert skiers.

The Court held that the duty owed to a skier (for a natural or an artificial condition) is governed by the holding in *Webb v. City and Borough of Sitka*, 561 P.2d 731, 733 (Alaska 1977), which adopted the rule that a landowner must act as a reasonable person in maintaining his property in a reasonably safe condition in view of all of the circumstances, including the

likelihood of injury to others, the seriousness of the injury, and the burden on the respective parties of avoiding the risk. The Court observed that the origin of the danger (whether natural or artificial) is applicable to the rule announced in *Webb* as it affects the burden on the respective parties of avoiding the risk, and it is also relevant to the issue of the ski area operator's knowledge of the danger. However, the Court held, as a matter of law, an artificially created jump cannot be considered a variation or steepness in terrain or a surface condition, concluding that these categories relating to the inherent risk of skiing do not encompass artificially created conditions. Since the evidence was conflicting as to whether the jump was a natural variation in terrain or surface condition or an artificial structure, a jury question was presented as to whether a natural or artificial condition created the jump.

The Court also concluded that a jury question was presented with regard to the issue of whether the plaintiff was skiing beyond her ability. The Court ruled that, to bar an action, "skiing beyond one's ability" means the skier must subjectively know he or she is skiing beyond his or her ability, as an inherent risk of skiing must be necessary and subjectively obvious. However, once evidence of a ski area operator's negligence exists, the operator is free to argue that the skier voluntarily and unreasonably assumed a negligently created risk. The skier's negligence would then reduce recovery under the doctrine of comparative negligence. If an injury is caused by a combination of an inherent risk of skiing and the ski area operator's negligence, the doctrine of comparative fault will apply to determine the extent of the operator's negligence.

The Court next rejected the plaintiff's contention that the posted signs in the ski area were insufficient as a matter of law to comply with the statutory requirements. Although no "trail" signs were posted, the Court noted that the ski area consisted of one small open hill and that there were no real designated trails as such. The Court also noted evidence indicating that number of signs were posted at the bottom of the hill, where they were likely to be seen by skiers, and affirmed the trial court's ruling that genuine issues of material fact existed as to whether the signage at the ski area complied with the statutory requirement.

The Court also affirmed the lower court's order prohibiting the City from discovering or using evidence relating to the plaintiff's prior driving while intoxicated conviction and prior drinking experience pursuant to Evidence Rules 402 and 403. The Court concluded that the evidence of prior drinking did have marginal relevance on the issue of the plaintiff's knowledge of the effect alcohol can have on one's judgment. The Court noted that the plaintiff admitted having knowledge about the effects of alcohol and that there was other evidence available to the City regarding the plaintiff's consumption of alcohol and impairment. The Court concluded that the potential for prejudice, that the jury might punish the plaintiff for her prior conduct, may outweigh the marginal relevance of the prior drinking evidence and concluded that the trial court did not abuse its discretion in precluding discovery into and use of this evidence. On the other hand, the Court ruled that evidence concerning the plaintiff's drinking on the day

of the accident, as opposed to prior incidents of drinking, was relevant to the issue of comparative negligence.

Ski Resort Negligence Liability

Hibschman v. City of Valdez, 653 P.2d 135 (Alaska 1991), involved issues of the interpretation of Alaska's Limitations on Claims Arising from Skiing Act (the "Act") A.S. 09.65.135, comparative negligence, and a protective order limiting the defendant's discovery and use of evidence regarding the plaintiff's prior DWI conviction and prior drinking experience. Hibschman sued the City of Valdez for injuries incurred as she went over a ski bump/jump at a city ski hill.

The Act precludes recovery by skiers from a ski area operator for injuries resulting from an inherent risk of skiing which is defined in the statute as including, but not limited to, in part, variations or steepness in terrain, snow or ice conditions, and surface or subsurface conditions such as bare spots, forest growth and rock, and a skier's failure to ski within the limits of the skier's ability. The particular ski area in question is considered a beginner's hill, measuring 1,300 feet from top to bottom with a 208 foot vertical rise. Several bump/jumps could be found on the hill at the time of the accident. The trial court held that the plaintiff's injuries resulted from an inherent risk of skiing, but found that a genuine issue of material fact existed regarding whether the City complied with the statute's requirement of posting signs at prominent locations within the ski area listing the inherent risks of skiing and the limitation on liability of the ski area operator as provided by the Act.

Alaska State Legislature

Senator Tim Kelly, Chair
Senator Steve Rieger, Vice Chair
Senator Drue Pearce
Senator Judy Salo
Senator Georgianna Lincoln



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M E M O R A N D U M

TO: Patty & Bruce Rizer

FROM: Josh Fink, Committee Aide *JPF*

DATE: January 25, 1992

RE: Committee Tapes for 1/19/93 L&C Hearing
on SB 44 - Civil Liability for Skiing Accidents

Here are the tapes you requested.

I'd like to express my appreciation for your testimony on this legislation. We have attempted to address some of your concerns by increasing the marking requirements for ski area operators, delineating what must be included in the yearly operations and safety plan approved by the Commissioner of Public Safety or land managing agency, and requiring that an operations and safety plan not only be submitted, but implemented throughout the ski season. Failure to properly mark or, for instance, have the appropriate number of ski patrol on the mountain, would constitute negligence.

The Committee is also looking at language to give the Division of Land in the Department of Natural Resources enforcement powers on State lands leased to ski area operators. (Forest Service land currently being utilized by Alyeska Resort has been selected by the State and could be turned over to DNR as early as next year.)

As you know, the next committee of referral is the Senate Judiciary Committee. If I can be of further assistance, please don't hesitate to contact me at 465-3819.

Again, thank you for your testimony.

ITEMIZED LIST OF INHERENT DANGER AND RISK IN SKIING:

snow conditions as they exist or change
including ice, hard pack, powder, packed powder,
wind pack, corn, crust, slush, cut-up snow, and
machine made snow

surface or subsurface condition including
bare spots * forest growth
* rocks * stumps
* streambeds * trees
* other natural objects
collisions with 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
**** roads **** catwalks
**** other terrain modifications

collision with other skiers

failure of skier to ski within their own abilities

The term "inherent danger and risk of skiing" does not include the negligence of a ski area operator under AS 05.45.020(b), or acts or omissions of a ski area operator involving the use or operation of ski lifts;

* Per amendment 2, ski area operator must mark if on groomed slopes or trails that are not readily visible to skiers under conditions of ordinary visibility from a distance of at least 100 feet.

** Ski area operator must mark if not readily visible to skiers under conditions of ordinary visibility from a distance of 100 feet, and must cover man-made structures that create obstructions with a shock absorbent material that will lessen injuries. (Page 8, lines 14-28).

*** At the beginning of each slope or trail, the operator must place the appropriate symbol of the relative difficulty of that trail or slope, unless the trail is designated "easiest" and substantially visible in its entirety. Trail or slope boundaries must also be clearly marked. (Page 8, lines 1-9).

**** Per amendment 2, ski area operator must mark if not readily visible to skiers under conditions of ordinary visibility from a distance of at least 100 feet.

DELANEY, WILES, HAYES, REITMAN & BRUBAKER, INC.

MEMORANDUM

TO: Mitch Gravo
FROM: Marc Bond
DATE: March 11, 1993
TOPIC: Ski Safety Act: Response to Trial Lawyers Suggestions

As best I can understand the notes on the copy of CSHB 41 you provided, here are my responses to the suggestions made by Richard Herron during testimony before the House Judiciary Committee:

Section 1(b)(1): Legislative Purpose

Note: "What about existing operations plan. Is it their responsibility to follow?"

Response: Current law (AS 18.60.822) forbids the operation of a ski area except under an approved snow safety and operations plan. The bill retains this requirement, and, in fact, requires operators to "implement" the plan, and spells out some of the specific contents of the plan. Section 2, AS 05.45.040. The sanction for failure to follow the plan is two fold: (1) the government agency can direct the operator to cease operations until compliance with the plan is attained; and (2) plaintiff's attorneys can introduce the plan as evidence of negligence.

Section 2, AS 05.45.010(2): Comparative Fault

Note: "This is not a viable task. The confusion this will create will keep lawyers fully employed."

Response: I agree. If the injury is caused by an inherent risk of skiing, there is by definition no operator negligence, since operator negligence is specifically excluded as an inherent risk. See Sec. 2, AS 05.45.200(3). Subsection (2) should be deleted.

Section 2, AS 05.45.040(a): Plan of Operations

Note: Add the words "and follow" to line 3, between "implement" and "the plan".

Response: The word "implement" means "to carry out" "esp. to give

practical effect to and ensure actual fulfillment by concrete measures." Webster's Third New International Dictionary (1971) at 1134. I think this gives real substance to the requirement, and nothing would be added by inserting "follow" in the bill.

Note: [I can't read the entire note, but it appears to be something to the effect:] Add the following sentence: "If the operator or its predecessor had a plan in effect on January 1, 1993, that plan shall operate as a minimum standard for future plans.

Response: It is axiomatic that ski area operations plans improve over time, as both the ski area and the public lands agency reviewing the plan gain more expertise and experience in the sport of skiing as carried on at the particular hill and elsewhere. However, I do not know how this proposed change could be legally enforced. Who will determine whether a change in a plan is a higher or lower standard? How will this proposed change allow for technology enhancements (i.e., snowmaking; grooming; detachable chairlifts; etc.) which may alter entire approaches to skier safety? It appears better to charge the public lands agency with oversight responsibility and the ability to make appropriate and reasonable demands on the ski area operators in view of local conditions and available technology.

Section 2, AS 05.45.060(e)(5): Marking hazards

Note: Delete "groomed" in line 21 and so to require operators to mark all natural objects anywhere within the ski area boundaries which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least 100 feet.

Response: The Colorado law does not require ski area operators to mark any natural hazards, only manmade hazards. The imposition of this requirement for groomed slopes or trails in (e)(5), along with the requirement to mark terrain modifications wherever they are located in (e)(6), are major burdens on ski area operators. The general rule has always been that if it is natural, it is part of the inherent dangers and risks of skiing. Snow levels change during the day, often rapidly. A ski area operator cannot hire enough people to observe all of those changes and immediately race out to mark something which has recently been "exposed" by weather or skier traffic. Deletion of the word "groomed" from this requirement imposes such an onerous requirement that adoption of the bill would be worse than the current law. Subsection (e)(6) contradicts the last sentence of

(e) (4).

I suggest we delete (e) (5) and (e) (6) in their entirety as improvident and impossible to perform. If (e) (5) is not deleted, a definition of "groomed" would be appropriate. Perhaps something like "'Groomed slope or trail' means that portion of a slope or trail which is regularly packed and prepared, and has been so prepared within the previous twelve hours, for skiing by a ski area operator with an over-the-snow vehicle and attached implements".

Section 2, AS 05.45.060(g): Warning Sign

Note: Add the exclusion of operator negligence from the list of inherent danger and risk to the warning sign.

Response: The purpose of the warning sign is to inform skiers of the inherent risks and dangers of skiing, so the skiers can make an informed decision about whether to participate in the sport. This purpose is best served by summarizing the inherent dangers and risks as is done under the Colorado Ski Safety Act, CRS § 33-44-107(c). Interestingly, the Minnesota proposal requires the area operator to keep copies of the full list of inherent risks available to skiers, and to notify the skiers of the availability of the risk as part of the warning sign:

WARNING

Under Minnesota 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. *A list of these dangers and risks is available from the ski area operator.*

We could certainly live with that obligation. If adopted, the Alaska warning sign would read:

WARNING

Under Alaska law, the risk of an injury to person or property resulting from any of the inherent dangers and risks of skiing rests with the skier. A skier may not recover from a ski area operator for an injury resulting from any of the inherent dangers and risks of skiing, including changing weather conditions, and risks of skiing, including changing weather conditions, existing and changing snow conditions, bare spots, rocks, stumps, trees,