

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 268

Session of
1979

INTRODUCED BY MESSRS. BITTLE, GEESEY, McCALL, HASAY, MUSTO,
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SCHWEDER AND LASHINGER, FEBRUARY 13, 1979

AS RE-REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 16, 1979

AN ACT

1 Establishing the responsibilities and liabilities of ski area
2 operators and skiers in the sport of skiing.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the "Skiing
7 Responsibility Act."

8 ~~Section 2. Legislative purpose.~~

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9 ~~The General Assembly finds that the sport of skiing is~~
10 ~~practiced by a large number of citizens of Pennsylvania and also~~
11 ~~attracts to Pennsylvania large numbers of nonresidents,~~
12 ~~significantly contributing to the economy of Pennsylvania. Since~~
13 ~~it is recognized that as in other sports there are inherent~~
14 ~~risks in the sport of skiing which should be understood by each~~
15 ~~skier and which are essentially impossible to eliminate by the~~
16 ~~ski area operator, it is the purpose of this act to define~~

~~certain areas of responsibility and certain affirmative acts for which ski area operators shall be liable for loss, damage or injury and certain risks for which the skier is responsible.~~

~~Section 3. Definitions.~~

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

~~"Aerial passenger tramway." Any device operated by a ski area operator used to transport passengers, by a single or double reversible tramway; chair lift or gondola lift; T bar lift; J bar lift; platter lift or similar device; or a fiber rope tow which is subject to regulations adopted by the Industrial Board of the Department of Labor and Industry.~~

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

~~"Ski area." The property owned or leased and under the control of the ski area operator and administered as a single enterprise within the Commonwealth of Pennsylvania.~~

~~"Ski area operator." Any person, partnership, corporation or other commercial entity or governmental agency and their agents, officers, employees or representatives, who have operational responsibility for any ski area or aerial passenger tramway.~~

~~"Skier." Any person wearing skis, and any person while actually on a ski slope or trail at a skiing area under the control of a ski area operator for the purpose of engaging in the sport of skiing.~~

~~"Skiing area." All slopes and trails not including any aerial passenger tramway.~~

~~"Ski slopes and trails." Those areas designated by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing.~~

~~Section 4. Duties of ski area operators with respect to ski areas.~~

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

~~(1) conspicuously marking all trail maintenance vehicles and equipping such vehicles with flashing or rotating lights which shall be in operation whenever the vehicles are working or are in movement in the skiing area;~~

~~(2) marking with a conspicuously visible sign or other warning measure the location of any hydrant or similar equipment used in snow making operations and located on ski slopes and trails;~~

~~(3) marking conspicuously the top or entrance to each slope or trail, and designated entrance to any segment thereof with the appropriate symbol for its relative degree of difficulty and those slopes, trails, or areas which are closed, or portions of which present an unusual obstacle, shall be marked at the top or entrance with the appropriate symbols as are approved by the National Ski Areas Association as of the effective date of this act and as shall be hereafter modified by the Industrial Board of the Department of Labor and Industry after conferring with the association;~~

~~(4) maintaining one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon with the aforementioned symbols code and containing a key to the code in accordance with the above designations;~~

1 ~~(5) designating by trail board or otherwise which trails~~
2 ~~or slopes are open or closed;~~

3 ~~(6) placing or causing to be placed, whenever snow~~
4 ~~grooming or snow making operations are being undertaken upon~~
5 ~~any trail or slope while such trail or slope is open to the~~
6 ~~public, a conspicuous notice to that effect at or near the~~
7 ~~top of such trail or slope and entrances to any affected~~
8 ~~segment thereof;~~

9 ~~(7) making generally available either by oral or written~~
10 ~~report or otherwise of the general surface conditions of the~~
11 ~~slopes or trails prior to daily operations;~~

12 ~~(8) removing as soon as practicable apparent man made~~
13 ~~obstacles other than those that result from skier use and/or~~
14 ~~weather factors or those enumerated in section 7 as inherent~~
15 ~~risks in the sport;~~

16 ~~(9) posting notice at ticket sale facilities, on trail~~
17 ~~maps and trail boards that there are inherent risks in the~~
18 ~~sport of skiing which can cause injury, which inherent risks~~
19 ~~are enumerated in section 7;~~

20 ~~(10) making inspections of the skiing area and marking~~
21 ~~with visible sign or other warning measure the following:~~
22 ~~excavations, disabled or abandoned vehicles or equipment, and~~
23 ~~man made structures the top of which protrudes less than two~~
24 ~~feet from the surface of the snow within a five foot radius~~
25 ~~of the structure;~~

26 ~~(11) providing illumination certified as adequate by the~~
27 ~~Department of Labor and Industry in accord with standards~~
28 ~~adopted by that department for each individual ski area which~~
29 ~~is open for night skiing. This duty shall become effective in~~
30 ~~accord with rules and regulations as may be adopted by the~~

department;

~~(12) providing individuals who, at a minimum, are certified by the National Ski Patrol System, the American National Red Cross, or who have equivalent training, in rendering emergency first aid to those persons who may suffer injury while using the ski area;~~

~~(13) providing employees at the boarding area of all aerial passenger tramways during all times of operation to instruct passengers, at the passenger's request, in the proper method of entering and boarding and departing from the aerial passenger tramway; and~~

~~(14) posting conspicuous signs at all boarding areas for aerial passenger tramways stating that those passengers not familiar with the tramway should not board the aerial passenger tramway before requesting and receiving instructions and that instructions are available.~~

~~Section 5. Duties of ski area operators with respect to aerial passenger tramways.~~

~~Every ski area operator with an aerial passenger tramway located within the ski area has the duty to construct, operate, maintain and repair any aerial passenger tramway in a manner in accordance with the requirements of the regulations adopted by the Industrial Board of the Department of Labor and Industry.~~

~~Section 6. Duties of passengers.~~

~~Every passenger shall have the duty not to:~~

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

~~(2) intentionally drop, throw or expel any object from an aerial passenger tramway;~~

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

~~(4) use any aerial passenger tramway without the ability to use it safely without any instruction on its use by the ski area operator or requests and receives instruction before entering the boarding area of the aerial passenger tramway;~~

~~(5) engage in any harmful conduct, or willfully or negligently engage in any type of conduct which contributes to or causes injury to any person;~~

~~(6) embark on an aerial passenger tramway without the authority of the ski area operator; or~~

~~(7) use any aerial passenger tramway without engaging such safety or restraining devices as may be provided.~~

~~Section 7. Inherent risks.~~

~~It is recognized that skiing as a recreational sport is hazardous to skiers regardless of all feasible safety measures which can be taken. Therefore, each skier expressly assumes the risk of and all legal responsibility for any injury to person or property which results from or is caused by the following:~~

~~variations in terrain; surface or subsurface snow or ice conditions; bare spots; rocks; trees; other forms of forest growth; lift towers and components thereof; utility poles; and equipment used for snow making and snow grooming which is plainly visible or is plainly marked in accordance with the provisions of section 4. Therefore, each skier shall have the sole individual responsibility for: knowing the range of his or her own ability to negotiate any slope or trail; skiing within the limits of the skier's own ability; maintaining reasonable control of speed and course at all times while skiing; obeying strictly all posted warnings; skiing only on a skiing area~~

~~designated by the ski area operator; or refraining from acting in a negligent or reckless manner which may cause or contribute to the injury of anyone.~~

~~The responsibility for collisions by any skier while actually skiing with any other skier or skiers shall be solely that of the individual or individuals involved in such collisions and not that of the ski area operator except where the ski area operator would be responsible for the actions of one or more of such individuals under the doctrine of "respondent superior."~~

~~Section 8. Duties of skiers and other persons.~~

~~No person shall:~~

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

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

~~(3) if involved in a skiing accident, depart from the scene of the accident without leaving personal identification, including name and address, before notifying proper authorities or obtaining assistance when that person knows that any other person involved in the accident is in need of medical or other assistance; or~~

~~(4) fail to wear retention straps or other devices to help prevent runaway skis.~~

~~Section 9. Limitation of ski area operators' liability.~~

~~A ski area operator shall not be liable for any injury or damage to a person in violation of 18 Pa.C.S. § 3926 (relating to theft of services) or for any loss or damages caused by any~~

1 ~~object dropped, thrown or expelled from an aerial passenger~~
2 ~~tramway.~~

3 ~~Section 10. Liability of skiers, passengers and ski area~~
4 ~~—operators.~~

5 ~~Any skier, passenger or ski area operator shall be liable for~~
6 ~~loss or damages resulting from violation of duties set forth in~~
7 ~~sections 4, 5, 6 and 8 and the extent of liability shall be~~
8 ~~determined pursuant to 42 Pa.C.S. § 7102 (relating to~~
9 ~~comparative negligence).~~

10 ~~Section 11. Effective date.~~

11 ~~This act shall take effect in 60 days.~~

12 SECTION 2. LEGISLATIVE PURPOSE.

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13 THE GENERAL ASSEMBLY FINDS THAT THE SPORT OF DOWNHILL SKIING
14 IS PRACTICED BY A LARGE NUMBER OF CITIZENS OF PENNSYLVANIA AND
15 ALSO ATTRACTS TO PENNSYLVANIA LARGE NUMBERS OF NONRESIDENTS
16 SIGNIFICANTLY CONTRIBUTING TO THE ECONOMY OF PENNSYLVANIA. IT IS
17 RECOGNIZED THAT AS IN SOME OTHER SPORTS, THERE ARE INHERENT
18 RISKS IN THE SPORT OF DOWNHILL SKIING.

19 SECTION 3. VOLUNTARY ASSUMPTION OF RISK.

20 THE DOCTRINE OF VOLUNTARY ASSUMPTION OF RISK AS IT APPLIES TO
21 DOWNHILL SKIING INJURIES AND DAMAGES HAS NOT BEEN MODIFIED BY 42
22 PA.C.S. § 7102 (RELATING TO COMPARATIVE NEGLIGENCE).

23 SECTION 4. EFFECTIVE DATE.

24 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.