

# AN ACT

To amend sections 4169.01, 4169.03, 4169.08, and 4169.09 of the Revised Code to modify duties and liabilities of ski area operators and skiers, including duties and liabilities relating to the use of freestyle terrain and tubing parks in ski areas.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 4169.01, 4169.03, 4169.08, and 4169.09 of the Revised Code be amended to read as follows:

Sec. 4169.01. As used in this chapter:

(A) "Skier" means any person who is using ~~or wearing skis or any other device or any person who for the purpose of skiing is on a ski slope or ski trail that is located at the facilities of~~ a ski area, including, but not limited to, the ski slopes and ski trails, for the purpose of skiing, which includes, without limitation, sliding or jumping on snow or ice on skis, a snowboard, sled, tube, snowbike, toboggan, or any other device.

(B) "Passenger" means any person who is being transported or conveyed by a passenger tramway.

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

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

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

(F) "Passenger tramway" means a device used to transport passengers uphill, whether on skis or other devices or without skis or other devices, or in cars on tracks or suspended in the air, by the use of steel cables, chains, or belts or by ropes, and that is usually supported by trestles or towers with one or more spans. "Passenger tramway" includes all of the following:

(1) Aerial passenger tramway, a device used to transport passengers in several open or enclosed cars attached to and suspended from a moving wire

rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices;

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

(3) Chair lift, a device on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain, or link belt supported by trestles or towers with one or more spans, or similar devices. Chair lifts need not include foot-rests or passenger restraint devices.

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

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

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

(7) Conveyor, a flexible moving element, including a belt, that transports passengers on one path and returns underneath the uphill portion.

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

(G) "Competitor" means a skier actually engaged in competition, a special event, or training or practicing for competition or a special event in any portion of the area made available by the ski area operator.

(H) "Freestyler" means a skier utilizing freestyle terrain marked with signage approved by the national ski areas association.

(I) "Freestyle terrain" means, but is not limited to, terrain parks and terrain park features, such as jumps, rails, fun boxes, other constructed or natural features, half-pipes, quarter-pipes, and freestyle-bump terrain.

(J) "Tubing park" means a ski slope designated and maintained for the exclusive use of skiers utilizing tubes to slide to the bottom of the course and serviced by a dedicated passenger tramway.

Sec. 4169.03. (A) Before a passenger tramway operator may operate any passenger tramway in the state, the operator shall apply to the ski tramway board, on forms prepared by it, for registration by the board. The application shall contain an inventory of the passenger tramways that the applicant intends to operate and ~~such~~ other information as the board may reasonably require and shall be accompanied by the following annual fees:

- (1) Each aerial passenger tramway, five hundred dollars;
- (2) Each skimobile, two hundred dollars;

- (3) Each chair lift, two hundred dollars;
- (4) Each J bar, T bar, or platter pull, one hundred dollars;
- (5) Each rope tow, fifty dollars;
- (6) Each wire rope tow, seventy-five dollars;
- (7) Each conveyor, one hundred dollars.

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

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

(C) Money received from the registration fees and from the fines collected pursuant to section 4169.99 of the Revised Code shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

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

Sec. 4169.08. (A)(1) The general assembly recognizes that skiing as a recreational sport is hazardous to skiers regardless of all feasible safety measures that can be taken. It further recognizes that a skier expressly assumes the risk of and legal responsibility for ~~any losses or damages~~ injury, death, or loss to person or property that ~~result~~ results from the inherent risks of skiing, which include, but are not limited to, ~~losses or damages~~ injury, death, or loss to person or property caused by ~~variations in terrain~~ changing weather conditions; surface or subsurface snow or ice conditions; hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; bare spots, rocks, trees, stumps, and other forms of forest growth or debris; lift towers or other forms of towers and their components, either above or below the snow surface; variations in steepness or terrain, whether natural or as the result of snowmaking, slope design, freestyle terrain, jumps, catwalks, or other terrain modifications; any other objects and structures, including, but not limited to, passenger tramways and related structures and equipment, competition equipment, utility poles, fences, posts, ski equipment, slalom poles, ropes, out-of-bounds barriers and their supports, signs, ski racks, walls, buildings, and sheds; and plainly marked or otherwise visible snowmaking and snow-grooming equipment, snowmobiles, snow cats, and over-snow vehicles.

(2) Provided that the ski area operator complies with division (B)(4) of this section, no liability shall attach to a ski area operator for injury, death, or loss to person or property suffered by any competitor or freestyler using a freestyle terrain, which injury, death, or loss to person or property is caused by course, venue, or area conditions that visual inspection should have revealed or by collision with a spectator, competition official, ski area personnel, or another competitor or freestyler.

(3) Provided the ski area operator complies with division (B)(5) of this section, no liability shall attach to a ski area operator for injury, death, or loss to person or property suffered by any skier using a tubing park, which injury, death, or loss to person or property is caused by course design or maintenance or conditions that visual inspection should have revealed or by collision with another skier.

(B) ~~Therefore, the~~ The legal responsibilities of a ski area operator to a skier with respect to any injury ~~or~~, death, or loss to person or property resulting in any way from an inherent risk of the sport shall not be those of the common law duty of premises owners to business invitees. A ski area operator shall have, however, the following responsibilities:

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

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

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

(4) Prior to the use of any portion of a freestyle terrain area made available by the ski area operator, to allow each freestyler or competitor a reasonable opportunity to visually inspect the course, venue, or area of the freestyle terrain;

(5) To allow skiers using a tubing park visible access to the course.

(C) A skier shall have the following responsibilities:

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

tramway except at a designated area;

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

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

(4) If the skier is a competitor, freestyler, or user of freestyle terrain, to assume the risk of all course, venue, or area conditions, including, but not limited to, weather and snow conditions; obstacles; course or feature location, construction, or layout; freestyle terrain configuration and conditions; and other courses, layouts, or configurations of the area to be used;

(5) If the skier is utilizing a tubing park, to assume the risk of collision with others on the course.

Sec. 4169.09. A ski area operator, a tramway passenger, freestyler, competitor, or a skier is liable for ~~losses or damages~~ injury, death, or loss to person or property caused by ~~his~~ the operator's, passenger's, freestyler's, competitor's, or skier's failure to fulfill any of the responsibilities required by this chapter. A ski area operator, a tramway passenger, freestyler, competitor, or a skier is not liable for ~~any losses or damages~~ injury, death, or loss to person or property caused by another's failure to fulfill any of the responsibilities required of another by this chapter. A ski area operator, a tramway passenger, freestyler, competitor, or a skier is not entitled to recover for ~~any losses or damages~~ injury, death, or loss to person or property caused by ~~his~~ the operator's, passenger's, freestyler's, competitor's, or skier's failure to fulfill any of the responsibilities required by this chapter.

SECTION 2. That existing sections 4169.01, 4169.03, 4169.08, and 4169.09 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. Sub. S. B. No. 61

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_