

As Introduced

**126th General Assembly
Regular Session
2005-2006**

S. B. No. 61

Senator Wachtmann

—

A BILL

To amend sections 4169.01, 4169.03, 4169.08, and 1
4169.09 of the Revised Code to modify duties and 2
liabilities of ski operators and skiers, including 3
duties and liabilities relating to the use of 4
freestyle terrain and tubing parks in ski areas. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4169.01, 4169.03, 4169.08, and 6
4169.09 of the Revised Code be amended to read as follows: 7

Sec. 4169.01. As used in this chapter: 8

(A) "Skier" means any person who is using ~~or wearing skis or~~ 9
~~any other device or any person who for the purpose of skiing is on~~ 10
~~a ski slope or ski trail that is located at~~ the facilities of a 11
ski area, including, but not limited to, the ski slopes and ski 12
trails, for the purpose of skiing, which includes, without 13
limitation, sliding or jumping on snow or ice on skis, a 14
snowboard, sled, tube, snowbike, toboggan or any other device. 15

(B) "Passenger" means any person who is being transported or 16
conveyed by a passenger tramway. 17

(C) "Ski slopes" or "ski trails" means those sites that are 18
reserved or maintained and are open for use, as designated by a 19

ski area operator. 20

(D) "Ski area" means all the ski slopes, ski trails, and 21
passenger tramways that are administered or operated as a single 22
enterprise within this state. 23

(E) "Ski area operator" means a person or organization that 24
is responsible for the operation of a ski area, including an 25
agency of this state or of a political subdivision thereof. 26

(F) "Passenger tramway" means a device used to transport 27
passengers uphill, whether on skis or other devices or without 28
skis or other devices, or in cars on tracks or suspended in the 29
air, by the use of steel cables, chains, or belts or by ropes, and 30
that is usually supported by trestles or towers with one or more 31
spans. "Passenger tramway" includes all of the following: 32

(1) Aerial passenger tramway, a device used to transport 33
passengers in several open or enclosed cars attached to and 34
suspended from a moving wire rope or attached to a moving wire 35
rope and supported on a standing wire rope, or similar devices; 36

(2) Skimobile, a device in which a passenger car running on 37
steel or wooden tracks is attached to and pulled by a steel cable, 38
or similar devices; 39

(3) Chair lift, a device on which passengers are carried on 40
chairs suspended in the air and attached to a moving cable, chain, 41
or link belt supported by trestles or towers with one or more 42
spans, or similar devices. Chair lifts need not include foot-rests 43
or passenger restraint devices. 44

(4) J bar, T bar, or platter pull, devices that pull skiers 45
riding on skis or other devices by means of an attachment to a 46
main overhead cable supported by trestles or towers with one or 47
more spans, or similar devices; 48

(5) Rope tow, a device with one span and no intermediate 49

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 109
recognizes that a skier expressly assumes the risk of and legal 110
responsibility for any losses or damages that result from the 111
inherent risks of skiing, which include, but are not limited to, 112
losses or damages caused by ~~variations in terrain~~ changing weather 113
conditions; surface or subsurface snow or ice conditions; hard 114
pack, powder, packed powder, wind pack, corn, crust, slush, cut-up 115
snow, and machine-made snow; bare spots, rocks, trees, stumps, and 116
other forms of forest growth or debris; lift towers or other forms 117
of towers and their components, either above or below the snow 118
surface; variations in steepness or terrain, whether natural or as 119
the result of snowmaking, slope design, freestyle terrain, jumps, 120
catwalks, or other terrain modifications; any other objects and 121
structures, including, but not limited to, passenger tramways and 122
related structures and equipment, competition equipment, utility 123
poles, fences, posts, ski equipment, slalom poles, ropes, 124
out-of-bounds barriers and their supports, signs, ski racks, 125
walls, buildings, and sheds; and plainly marked or otherwise 126
visible snowmaking and snow-grooming equipment, snowmobiles, snow 127
cats, and over-snow vehicles. 128

(2) Provided that the ski operator complies with division 129
(B)(4) of this section, no liability shall attach to a ski area 130
operator for injury or death to any competitor or freestyler using 131
a freestyle terrain, which injury or death is caused by course, 132
venue, or area conditions that visual inspection should have 133
revealed or by collision with a spectator, competition official, 134
ski area personnel, or another competitor or freestyler. 135

(3) Provided the ski operator complies with division (B)(5) 136
of this section, no liability shall attach to a ski area operator 137
for injury or death to any skier using a tubing park, which injury 138
or death is caused by course design or maintenance or conditions 139
that visual inspection should have revealed or by collision with 140

another skier. 141

(B) ~~Therefore, the~~ The legal responsibilities of a ski area operator to a skier with respect to any injury or death 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: 142-147

(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; 148-151

(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; 152-154

(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; 155-160

(4) Prior to the use of any portion of a freestyle terrain area made available by the ski area operator, to allow each freestyle skier or competitor an opportunity to reasonably inspect the course, venue, or area of the freestyle terrain; 161-164

(5) To allow skiers using a tubing park visible access to the course. 165-166

(C) A skier shall have the following responsibilities: 167

(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 168-170

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
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 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, 201
competitor, or a skier is not entitled to recover for any losses 202
or damages caused by ~~his~~ the operator's, passenger's, 203
freestyler's, competitor's, or skier's failure to fulfill any of 204
the responsibilities required by this chapter. 205

Section 2. That existing sections 4169.01, 4169.03, 4169.08, 206
and 4169.09 of the Revised Code are hereby repealed. 207