

As Reported by the House Civil and Commercial Law Committee

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**Senator Wachtmann
Representatives Seitz, Latta**

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A B I L L

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 area operators and skiers, 3
including duties and liabilities relating to the 4
use of freestyle terrain and tubing parks in ski 5
areas. 6

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

Section 1. That sections 4169.01, 4169.03, 4169.08, and 7
4169.09 of the Revised Code be amended to read as follows: 8

Sec. 4169.01. As used in this chapter: 9

(A) "Skier" means any person who is using ~~or wearing skis or~~ 10
~~any other device or any person who for the purpose of skiing is on~~ 11
~~a ski slope or ski trail that is located at~~ the facilities of a 12
ski area, including, but not limited to, the ski slopes and ski 13
trails, for the purpose of skiing, which includes, without 14
limitation, sliding or jumping on snow or ice on skis, a 15
snowboard, sled, tube, snowbike, toboggan or any other device. 16

(B) "Passenger" means any person who is being transported or 17
conveyed by a passenger tramway. 18

(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;

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(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;

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(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;

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

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

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(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.

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

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(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.

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(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.

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Sec. 4169.03. (A) Before a passenger tramway operator may operate any passenger tramway in the state, the operator shall

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apply to the ski tramway board, on forms prepared by it, for 78
registration by the board. The application shall contain an 79
inventory of the passenger tramways that the applicant intends to 80
operate and ~~such~~ other information as the board may reasonably 81
require and shall be accompanied by the following annual fees: 82

(1) Each aerial passenger tramway, five hundred dollars; 83

(2) Each skimobile, two hundred dollars; 84

(3) Each chair lift, two hundred dollars; 85

(4) Each J bar, T bar, or platter pull, one hundred dollars; 86

(5) Each rope tow, fifty dollars; 87

(6) Each wire rope tow, seventy-five dollars; 88

(7) Each conveyor, one hundred dollars. 89

When an operator operates an aerial passenger tramway, a 90
skimobile, or a chair lift during both a winter and summer season, 91
the annual fee shall be one and one-half the above amount for the 92
respective passenger tramway. 93

(B) Upon payment of the appropriate annual fees in accordance 94
with division (A) of this section, the board shall issue a 95
registration certificate to the operator. Each certificate shall 96
remain in force until the thirtieth day of September next ensuing. 97
The board shall renew an operator's certificate in accordance with 98
the standard renewal procedure in Chapter 4745. of the Revised 99
Code upon payment of the appropriate annual fees. 100

(C) Money received from the registration fees and from the 101
fines collected pursuant to section 4169.99 of the Revised Code 102
shall be paid into the state treasury to the credit of the 103
industrial compliance operating fund created in section 121.084 of 104
the Revised Code. 105

(D) No person shall operate a passenger tramway in this state 106
unless the person has been registered by the board. 107

Sec. 4169.08. (A)(1) The general assembly recognizes that 108
skiing as a recreational sport is hazardous to skiers regardless 109
of all feasible safety measures that can be taken. It further 110
recognizes that a skier expressly assumes the risk of and legal 111
responsibility for ~~any losses or damages~~ injury, death, or loss to 112
person or property that ~~result~~ results from the inherent risks of 113
skiing, which include, but are not limited to, ~~losses or damages~~ 114
injury, death, or loss to person or property caused by ~~variations~~ 115
in terrain changing weather conditions; surface or subsurface snow 116
or ice conditions; hard pack, powder, packed powder, wind pack, 117
corn, crust, slush, cut-up snow, and machine-made snow; bare 118
spots, rocks, trees, stumps, and other forms of forest growth or 119
debris; lift towers or other forms of towers and their components, 120
either above or below the snow surface; variations in steepness or 121
terrain, whether natural or as the result of snowmaking, slope 122
design, freestyle terrain, jumps, catwalks, or other terrain 123
modifications; any other objects and structures, including, but 124
not limited to, passenger tramways and related structures and 125
equipment, competition equipment, utility poles, fences, posts, 126
ski equipment, slalom poles, ropes, out-of-bounds barriers and 127
their supports, signs, ski racks, walls, buildings, and sheds; and 128
plainly marked or otherwise visible snowmaking and snow-grooming 129
equipment, snowmobiles, snow cats, and over-snow vehicles. 130

(2) Provided that the ski area operator complies with 131
division (B)(4) of this section, no liability shall attach to a 132
ski area operator for injury, death, or loss to person or property 133
suffered by any competitor or freestyler using a freestyle 134
terrain, which injury, death, or loss to person or property is 135
caused by course, venue, or area conditions that visual inspection 136
should have revealed or by collision with a spectator, competition 137
official, ski area personnel, or another competitor or freestyler. 138

(3) Provided the ski area operator complies with division 139
(B)(5) of this section, no liability shall attach to a ski area 140
operator for injury, death, or loss to person or property suffered 141
by any skier using a tubing park, which injury, death, or loss to 142
person or property is caused by course design or maintenance or 143
conditions that visual inspection should have revealed or by 144
collision with another skier. 145

(B) ~~Therefore, the~~ The legal responsibilities of a ski area 146
operator to a skier with respect to any injury ~~or~~, death, or loss 147
to person or property resulting in any way from an inherent risk 148
of the sport shall not be those of the common law duty of premises 149
owners to business invitees. A ski area operator shall have, 150
however, the following responsibilities: 151

(1) To mark all trail maintenance vehicles and to furnish 152
such vehicles with flashing or rotating lights that shall be in 153
operation whenever the vehicles are working or are moving in the 154
ski area; 155

(2) To mark with a visible sign or other warning implement 156
the location of any hydrant or similar equipment that is used in 157
snowmaking operations and located anywhere in the ski area; 158

(3) To mark, at the base of a slope or hill where skiers 159
embark on a passenger tramway serving the slope or hill or at the 160
top of a trail or slope, such slopes, trails, and hills with signs 161
indicating their relative degree of difficulty. The signs must be 162
the type that have been approved by the national ski areas 163
association and are in current use by the industry; 164

(4) Prior to the use of any portion of a freestyle terrain 165
area made available by the ski area operator, to allow each 166
freestyler or competitor a reasonable opportunity to visually 167
inspect the course, venue, or area of the freestyle terrain; 168

(5) To allow skiers using a tubing park visible access to the 169

<u>course.</u>	170
(C) A skier shall have the following responsibilities:	171
(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;	172 173 174 175 176 177 178
(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;	179 180 181 182 183
(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;	184 185 186 187 188
<u>(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;</u>	189 190 191 192 193 194
<u>(5) If the skier is utilizing a tubing park, to assume the risk of collision with others on the course.</u>	195 196
Sec. 4169.09. A ski area operator, a tramway passenger, <u>freestyler, competitor,</u> or a skier is liable for losses or damages <u>injury, death, or loss to person or property</u> caused by his <u>the</u>	197 198 199

operator's, passenger's, freestyler's, competitor's, or skier's 200
failure to fulfill any of the responsibilities required by this 201
chapter. A ski area operator, a tramway passenger, freestyler, 202
competitor, or a skier is not liable for ~~any losses or damages~~ 203
injury, death, or loss to person or property caused by another's 204
failure to fulfill any of the responsibilities required of another 205
by this chapter. A ski area operator, a tramway passenger, 206
freestyler, competitor, or a skier is not entitled to recover for 207
~~any losses or damages~~ injury, death, or loss to person or property 208
caused by ~~his~~ the operator's, passenger's, freestyler's, 209
competitor's, or skier's failure to fulfill any of the 210
responsibilities required by this chapter. 211

Section 2. That existing sections 4169.01, 4169.03, 4169.08, 212
and 4169.09 of the Revised Code are hereby repealed. 213