

**As Reported by the Senate Judiciary--Civil Justice Committee**

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

**Sub. 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~~ injury, death, or loss to 111  
person or property that ~~result~~ results from the inherent risks of 112  
skiing, which include, but are not limited to, ~~losses or damages~~ 113  
injury, death, or loss to person or property caused by ~~variations~~ 114  
~~in terrain~~ changing weather conditions; surface or subsurface snow 115  
or ice conditions; hard pack, powder, packed powder, wind pack, 116  
corn, crust, slush, cut-up snow, and machine-made snow; bare 117  
spots, rocks, trees, stumps, and other forms of forest growth or 118  
debris; lift towers or other forms of towers and their components, 119  
either above or below the snow surface; variations in steepness or 120  
terrain, whether natural or as the result of snowmaking, slope 121  
design, freestyle terrain, jumps, catwalks, or other terrain 122  
modifications; any other objects and structures, including, but 123  
not limited to, passenger tramways and related structures and 124  
equipment, competition equipment, utility poles, fences, posts, 125  
ski equipment, slalom poles, ropes, out-of-bounds barriers and 126  
their supports, signs, ski racks, walls, buildings, and sheds; and 127  
plainly marked or otherwise visible snowmaking and snow-grooming 128  
equipment, snowmobiles, snow cats, and over-snow vehicles. 129

(2) Provided that the ski operator complies with division 130  
(B)(4) of this section, no liability shall attach to a ski area 131  
operator for injury, death, or loss to person or property suffered 132  
by any competitor or freestyler using a freestyle terrain, which 133  
injury, death, or loss to person or property is caused by course, 134  
venue, or area conditions that visual inspection should have 135  
revealed or by collision with a spectator, competition official, 136  
ski area personnel, or another competitor or freestyler. 137

(3) Provided the ski operator complies with division (B)(5) 138  
of this section, no liability shall attach to a ski area operator 139  
for injury, death, or loss to person or property suffered by any 140

skier using a tubing park, which injury, death, or loss to person 141  
or property is caused by course design or maintenance or 142  
conditions that visual inspection should have revealed or by 143  
collision with another skier. 144

(B) ~~Therefore, the~~ The legal responsibilities of a ski area 145  
operator to a skier with respect to any injury ~~or~~, death, or loss 146  
to person or property resulting in any way from an inherent risk 147  
of the sport shall not be those of the common law duty of premises 148  
owners to business invitees. A ski area operator shall have, 149  
however, the following responsibilities: 150

(1) To mark all trail maintenance vehicles and to furnish 151  
such vehicles with flashing or rotating lights that shall be in 152  
operation whenever the vehicles are working or are moving in the 153  
ski area; 154

(2) To mark with a visible sign or other warning implement 155  
the location of any hydrant or similar equipment that is used in 156  
snowmaking operations and located anywhere in the ski area; 157

(3) To mark, at the base of a slope or hill where skiers 158  
embark on a passenger tramway serving the slope or hill or at the 159  
top of a trail or slope, such slopes, trails, and hills with signs 160  
indicating their relative degree of difficulty. The signs must be 161  
the type that have been approved by the national ski areas 162  
association and are in current use by the industry; 163

(4) Prior to the use of any portion of a freestyle terrain 164  
area made available by the ski area operator, to allow each 165  
freestyle skier or competitor an opportunity to reasonably inspect 166  
the course, venue, or area of the freestyle terrain; 167

(5) To allow skiers using a tubing park visible access to the 168  
course. 169

(C) A skier shall have the following responsibilities: 170

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

**Section 2.** That existing sections 4169.01, 4169.03, 4169.08, 211  
and 4169.09 of the Revised Code are hereby repealed. 212