

SECOND REGULAR SESSION

# HOUSE BILL NO. 1978

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SUTHERLAND (Sponsor) AND JONES (89) (Co-sponsor).

Read 1st time February 4, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4538L.01I

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### AN ACT

To amend chapter 537, RSMo, by adding thereto three new sections relating to duties and liabilities of ski area operators and skiers.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 537, RSMo, is amended by adding thereto three new sections, to be known as sections 537.800, 537.803, and 537.806, to read as follows:

**537.800. As used in sections 537.800 to 537.806, the following terms shall mean:**

- (1) "Competitor", 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;
- (2) "Freestyler", a skier utilizing freestyle terrain marked with signage approved by the national ski areas association;
- (3) "Freestyle terrain", 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;
- (4) "Passenger", any person who is being transported or conveyed by a passenger tramway;
- (5) "Passenger tramway", 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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 15 by trestles or towers with one or more spans. "Passenger tramway" includes all of the following:
- 16 (a) Aerial passenger tramway, a device used to transport passengers in several open
- 17 or enclosed cars attached to and suspended from a moving wire rope or attached to a
- 18 moving wire rope and supported on a standing wire rope, or similar devices;
- 19 (b) Skimobile, a device in which a passenger car running on steel or wooden tracks
- 20 is attached to and pulled by a steel cable, or similar devices;
- 21 (c) Chair lift, a device on which passengers are carried on chairs suspended in the
- 22 air and attached to a moving cable, chain, or link belt supported by trestles or towers with
- 23 one or more spans, or similar devices. Chair lifts need not include foot-rests or passenger
- 24 restraint devices;
- 25 (d) J bar, T bar, or platter pull, devices that pull skiers riding on skis or other
- 26 devices by means of an attachment to a main overhead cable supported by trestles or
- 27 towers with one or more spans, or similar devices;
- 28 (e) Rope tow, a device with one span and no intermediate towers that pulls skiers
- 29 riding on skis or other devices as they grasp a rope manually, or similar devices;
- 30 (f) Wire rope tow, a device with one span and no intermediate towers by which
- 31 skiers are pulled on skis or other devices while manually grasping a bar attached to a wire
- 32 hauling cable;
- 33 (g) Conveyor, a flexible moving element, including a belt, that transports
- 34 passengers on one path and returns underneath the uphill portion.
- 35 The operation of a passenger tramway shall not constitute the operation of a common
- 36 carrier;
- 37 (6) "Ski area" all the ski slopes, ski trails, and passenger tramways that are
- 38 administered or operated as a single enterprise within this state;
- 39 (7) "Ski area operator", a person or organization that is responsible for the
- 40 operation of a ski area, including an agency of this state or of a political subdivision
- 41 thereof;
- 42 (8) "Ski slopes" or "ski trails", those sites that are reserved or maintained and are
- 43 open for use, as designated by a ski area operator;
- 44 (9) "Skier", any person who is using the facilities of a ski area, including, but not
- 45 limited to, the ski slopes and ski trails, for the purpose of skiing, which includes, without
- 46 limitation, sliding or jumping on snow or ice on skis, a snowboard, sled, tube, snowbike,
- 47 toboggan, or any other device;
- 48 (10) "Tubing park", a ski slope designated and maintained for the exclusive use of
- 49 skiers utilizing tubes to slide to the bottom of the course and serviced by a dedicated
- 50 passenger tramway.

537.803. 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 injury, death, or loss to person or property that results from the inherent risks of skiing, which include, but are not limited to, injury, death, or loss to person or property caused by 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 subdivision (4) of subsection 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 subdivision (5) of subsection 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 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.

4. The legal responsibilities of a ski area operator to a skier with respect to any injury, 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;

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

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

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

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

47           **5. A skier shall have the following responsibilities:**

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

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

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

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

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

**537.806.** A ski area operator, a tramway passenger, freestyler, competitor, or a  
2 skier is liable for injury, death, or loss to person or property caused by his the operator's,  
3 passenger's, freestyler's, competitor's, or skier's failure to fulfill any of the responsibilities  
4 required by sections 537.800 to 537.806. A ski area operator, a tramway passenger,

5 freestyler, competitor, or a skier is not liable for injury, death, or loss to person or property  
6 caused by another's failure to fulfill any of the responsibilities required of another by  
7 sections 537.800 to 537.806. A ski area operator, a tramway passenger, freestyler,  
8 competitor, or a skier is not entitled to recover for injury, death, or loss to person or  
9 property caused by the operator's, passenger's, freestyler's, competitor's, or skier's failure  
10 to fulfill any of the responsibilities required by sections 537.800 to 537.806.

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