

SECOND REGULAR SESSION

SENATE BILL NO. 771

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS NIEVES AND CUNNINGHAM.

Read 1st time February 8, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5710S.011

AN ACT

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

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 by trestles or towers with one or more spans. "Passenger tramway" includes all of the following:

(a) Aerial passenger tramway, a device used to transport

21 passengers in several open or enclosed cars attached to and suspended
22 from a moving wire rope or attached to a moving wire rope and
23 supported on a standing wire rope, or similar devices;

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

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

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

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

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

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

45 The operation of a passenger tramway shall not constitute the
46 operation of a common carrier;

47 (6) "Ski area" all the ski slopes, ski trails, and passenger
48 tramways that are administered or operated as a single enterprise
49 within this state;

50 (7) "Ski area operator", a person or organization that is
51 responsible for the operation of a ski area, including an agency of this
52 state or of a political subdivision thereof;

53 (8) "Ski slopes" or "ski trails", those sites that are reserved or
54 maintained and are open for use, as designated by a ski area operator;

55 (9) "Skier", any person who is using the facilities of a ski area,
56 including, but not limited to, the ski slopes and ski trails, for the
57 purpose of skiing, which includes, without limitation, sliding or

58 jumping on snow or ice on skis, a snowboard, sled, tube, snowbike,
59 toboggan, or any other device;

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

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

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

30 3. Provided the ski area operator complies with subdivision (5)
31 of subsection 4 of this section, no liability shall attach to a ski area
32 operator for injury, death, or loss to person or property suffered by any

33 skier using a tubing park, which injury, death, or loss to person or
34 property is caused by course design or maintenance or conditions that
35 visual inspection should have revealed or by collision with another
36 skier.

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

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

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

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

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

58 (5) To allow skiers using a tubing park visible access to the
59 course;

60 (6) To use that care in the operation of the ski area that an
61 ordinarily prudent person would use under the same or similar
62 circumstances.

63 5. A skier shall have the following responsibilities:

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

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

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

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

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

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

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