WEST VIRGINIA CODE CHAPTER 20 ARTICLE 3A

WV Legislature

§20-3A-1. Legislative purpose.

The Legislature finds that the sport of skiing is practiced by a large number of citizens of West Virginia and also attracts to West Virginia a large number of nonresidents, significantly contributing to the economy of West Virginia. Since it is recognized that there are inherent risks in the sport of skiing which should be understood by each skier and which are essentially impossible to eliminate by the ski area operator, it is the purpose of this article to define those areas of responsibility and affirmative acts for which ski area operators shall be liable for loss, damage or injury and those risks which the skier expressly assumes for which there can be no recovery.

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§20-3A-2. Definitions.

Unless the context of usage clearly requires otherwise:

(a) "Aerial passenger tramway" means any device operated by a ski area operator used to transport passengers, by single or double reversible tramway; chair lift or gondola lift; T-bar lift, J-bar lift, platter lift, conveyor lift or similar device; or a fiber rope tow.

(b) "Competitor" means a skier actually engaged in competition, a special event, or training or practicing for competition or a special event on any portion of the area made available by the ski area operator.

(c) "Freestyle terrain" includes, but is not limited to, terrain parks and terrain park features such as jumps, rails, fun boxes, and all other constructed and natural features, half-pipes, quarter pipes, and freestyle-bump terrain.

(d) "Passenger" means any person who is lawfully using an aerial passenger tramway, or is waiting to embark or has recently disembarked from an aerial passenger tramway and is in its immediate vicinity.

(e) "Ski area" means any property owned or leased and under the control of the ski area operator or operators within West Virginia.

(f) "Ski area operator" means any person, partnership, corporation or other commercial entity and their agents, officers, employees or representatives, or the State of West Virginia, or any political subdivision thereof, who has operational responsibility for any ski area or aerial passenger tramway.

(g) "Skiing area" means all ski slopes and trails not including any aerial passenger tramway.

(h) "Skier" means any person present at a skiing area under the control of a ski area operator for the purpose of engaging in the sport of skiing in locations designated as the ski slopes and trails, but does not include a passenger using an aerial passenger tramway.

(i) "Skiing" means sliding downhill or jumping on snow or ice on skis, a toboggan, a sled, a tube, a snowbike, a snowboard, or any other device by utilizing any of the facilities of the ski area.

(j) "Ski slopes and trails" means all ski slopes or trails and adjoining skiable terrain, including all their edges and features, and those areas designated by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing in areas designated for that type of skiing activity. Ski slopes and trails shall be designated on trail maps, if provided, and by signs indicating to the skiing public the designated skiing activity for skiing areas.

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§20-3A-3. Duties of ski area operators with respect to ski areas.

Every ski area operator shall:

(1) Mark all trail maintenance vehicles and furnish such vehicles with flashing or rotating lights which shall be in operation whenever the vehicles are working or are in movement in the skiing area.

(2) Mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski slopes and trails.

(3) Mark conspicuously the top or entrance to each ski slope, trail or area to designate open or closed and relative degree of difficulty using the appropriate symbols approved by the national ski areas association as of the effective date of this article and as may thereafter be modified by the association.

(4) Maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon in accordance with the aforementioned symbols' code and containing a key to the code in accordance with the designations in subdivision (3) herein.

(5) Designate by trail board or otherwise which trails or slopes are open or closed.

(6) Place, or cause to be placed, whenever snow grooming or snowmaking operations are being undertaken upon any trail or slope while such trail or slope is open to the public, a conspicuous notice to that effect at or near the top of the trail or slope.

(7) Post notice at prominent locations of the requirements of this article concerning the use of ski retention devices. This obligation shall be the sole requirement imposed upon the ski area operator regarding the requirement for or use of ski retention devices.

(8) Maintain the ski areas in a reasonably safe condition, except that such operator shall not be responsible for any injury, loss or damage caused by the following: variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, other forms of forest growth or debris; collisions with pole lines, lift towers or any components thereof; or, collisions with snowmaking equipment which is marked by a visible sign or other warning implement in compliance with subdivision (2) of this section.

(9) When no certified ambulance service is available in the vicinity, have on duty at or near the skiing area, during all times that skiing areas are open for skiing, at least one trained and currently certified emergency medical technician.

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§20-3A-4. Responsibilities of passengers.

No passenger shall:

(1) Board or embark upon or disembark from an aerial passenger tramway except at an area designated for such purpose;

(2) Drop, throw or expel any object from an aerial passenger tramway;

(3) Perform any act which interferes with the running or operation of an aerial passenger tramway;

(4) Enter the boarding area of or use any aerial passenger tramway without requesting and receiving instruction on its use from the ski area operator, unless the passenger has the ability to use it safely without instruction;

(5) Engage in any harmful conduct, or willfully or negligently engage in any type of conduct which contributes to or causes injury to any person; or

(6) Embark on an aerial passenger tramway without the authority, expressed or implied, of the ski area operator.

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§20-3A-5. Duties of skiers.

(a) It is recognized that skiing as a recreational sport is hazardous to skiers, regardless of all feasible safety measures which can be taken. Each skier expressly assumes the risk of and legal responsibility for any injury, loss or damage to person or property which results from participation in the sport of skiing including, but not limited to, any injury, loss or damage caused by the following: Variations in terrain including freestyle terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, other forms of forest growth or debris; collisions with pole lines, lift towers or any component thereof; or, collisions with snowmaking equipment which is marked by a visible sign or other warning implement in compliance with section three of this article. Each skier shall have the sole individual responsibility for knowing the range of his or her own ability to negotiate any ski slope or trail, and it shall be the duty of each skier to ski within the limits of the skier's own ability, to maintain reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator and to refrain from acting in a manner which may cause or contribute to the injury of anyone. If while actually skiing, any skier collides with any object or person, except an obviously intoxicated person of whom the ski area operator is aware, the responsibility for such collision shall be solely that of the skier or skiers involved and not that of the ski area operator.

(b) No person shall place any object in the skiing area or on the uphill track or any aerial passenger tramway which may cause a passenger or skier to fall.

(c) No skier shall cross the track of any T-bar lift, J-bar lift, platter lift, conveyor lift or similar device, or a fiber rope tow except at a designated location, nor shall any skier place any object in such an uphill track.

(d) No person involved in a skiing accident shall depart the ski area without leaving personal identification, including name and address, with an employee of the ski area operator or without notifying the proper authorities or without obtaining assistance when that person knows or reasonably should know that any other person involved in the accident is in need of medical or other assistance.

(e) A ski or snowboard used by a skier while skiing or snowboarding shall be equipped with a strap or other device capable of stopping the ski or snowboard should the ski or snowboard detach from the skier. No skier shall fail to wear retention straps or other devices to help prevent runaway skis or snowboards. This requirement shall not apply to cross country skis.

(f) Each skier has the duty to maintain control of his or her speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below him or her.

(g) No skier shall ski on a ski slope or trail that has been posted as "Closed."

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(h) No skier shall use any ski slope while such person's ability to do so is impaired by the consumption of alcohol or by the use of any controlled substance or other drug or while such person is under the influence of alcohol or any controlled substance or other drug.

(i) Each skier has the duty to heed all posted information and other warnings.

(j) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, the skier shall have the duty to avoid moving skiers already on the ski slope or trail.

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§20-3A-6. Liability of ski area operators.

Any ski area operator shall be liable for injury, loss or damage caused by failure to follow the duties set forth in section three of this article where the violation of duty is causally related to the injury, loss or damage suffered. A ski area operator shall not be liable for any injury, loss or damage caused by the negligence of any person who is not an agent or employee of such operator, nor shall a ski area operator be liable for any injury, loss or damage caused by any object dropped, thrown or expelled by a passenger from an aerial passenger tramway. Every ski area operator shall carry public liability insurance in limits of no less than $100,000 per person, $300,000 per occurrence and $10,000 for property damage.

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§20-3A-7. Liability of passengers.

Any passenger shall be liable for injury, loss or damage resulting from violations of the duties set forth in section four.

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§20-3A-8. Liability of skiers.

Any skier shall be liable for injury, loss or damage resulting from violations of the duties set forth in section five.

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§20-3A-9. Competition.

(a) The ski area operator shall, prior to use of any portion of the area made available by the ski area operator, allow each competitor the opportunity to conduct a reasonable visual inspection of the ski slopes and trails or freestyle terrain used in the competition.

(b) The competitor shall be held to assume the risk of all ski slopes and trails or freestyle terrain 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. No liability shall attach to a ski area operator for injury or death to any competitor caused by course, venue, or area conditions that a visual inspection should have revealed or by collisions with other competitors.

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