WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

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ENROLLED

Com. Sub. for
HOUSE BILL No. 1452

(By Del. Hornow & Del. J. Martin)

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Passed .................. March 10, .................. 1984

In Effect ................ Ninety Days from Passage
AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three-a, relating to ski areas generally; the operation of such areas and of aerial tramways in connection therewith; providing definitions of certain terms with respect thereto; the relative duties of operators, aerial tramway passengers and skiers; and setting forth the liabilities of such operators, passengers and skiers.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three-a, to read as follows:

ARTICLE 3A. SKIING RESPONSIBILITY ACT.

§20-3A-1. Legislative purpose.

1 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 opera-
tors shall be liable for loss, damage or injury and those risks
which the skier expressly assumes for which there can be
no recovery.


Unless the context of usage clearly requires otherwise:

(a) “Aerial passenger tramway” means any device oper-
ated 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 or similar device; or a
fiber rope tow.

(b) “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.

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

(d) “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 opera-
tional responsibility for any ski area or aerial passenger tram-
way.

(e) “Skiing area” means all slopes and trails not including
any aerial passenger tramway.

(f) “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 by utilizing the ski slopes
and trails, but does not include a passenger using an aerial
passenger tramway.

(g) “Ski slopes and trails” means those areas designated
by the ski area operator to be used by skiers for the purpose
of participating in the sport of skiing.
§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 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:
36 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 component thereof; or, collisions with snowmaking equipment which is marked by a visible sign or other warning implement in compliance with subdivision two of this section.

42 (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.

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

1 No passenger shall:

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

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

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

5 (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.

6 (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

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


1 It is recognized that skiing as a recreational sport is hazardous to skiers, regardless of all feasible safety measures which can be taken.

2 Each skier expressly assumes the risk of and legal responsibility for any injury, loss of 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; 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 snow-making 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 own ability to negotiate any 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.

No person shall place any object in the skiing area or on the uphill track or on any aerial passenger tramway which may cause a passenger or skier to fall; or which crosses the track of any T-bar lift, J-bar lift, platter lift or similar device, or a fiber rope tow except at a designated location; nor shall any person involved in a skiing accident depart the ski area without leaving personal identification, including name and address, 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. No skier shall fail to wear retention straps or other devices to help prevent runaway skis.


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

4 casually 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 one hundred thousand dollars per person, three hundred thousand dollars per occurrence, and ten thousand dollars for property damage.


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


1 Any skier shall be liable for injury, loss or damage resulting from violations of the duties set forth in section five.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Donald Amello
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within _______________ this the ___

day of _______________, 1984.

Governor