

HB 4842 S

FILED

2006 MAR 30 A 10: 04

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

House Bill No. 4842

(By Delegates Proudfoot, Amores, Craig and Trump)



Passed March 10, 2006

In Effect Ninety Days from Passage

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E N R O L L E D

H. B. 4842

(BY DELEGATES PROUDFOOT, AMORES, CRAIG AND TRUMP)

[Passed March 10, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §20-3A-2 and §20-3A-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §20-3A-9, all relating to the Skiing Responsibility Act; amending and adding definitions; modifying duties of ski skiers; and adding provisions relating to ski competitions.

Be it enacted by the Legislature of West Virginia:

That §20-3A-2 and §20-3A-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §20-3A-9, all to read as follows:

ARTICLE 3A. SKIING RESPONSIBILITY ACT.

§20-3A-2. Definitions.

- 1 Unless the context of usage clearly requires otherwise:
- 2 (a) "Aerial passenger tramway" means any device operated
- 3 by a ski area operator used to transport passengers, by single or

4 double reversible tramway; chair lift or gondola lift; T-bar lift,
5 J-bar lift, platter lift, conveyor lift or similar device; or a fiber
6 rope tow.

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

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

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

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

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

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

30 (h) "Skier" means any person present at a skiing area under
31 the control of a ski area operator for the purpose of engaging in
32 the sport of skiing in locations designated as the ski slopes and

33 trails, but does not include a passenger using an aerial passen-
34 ger tramway.

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

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

§20-3A-5. Duties of skiers.

1 (a) It is recognized that skiing as a recreational sport is
2 hazardous to skiers, regardless of all feasible safety measures
3 which can be taken. Each skier expressly assumes the risk of
4 and legal responsibility for any injury, loss or damage to person
5 or property which results from participation in the sport of
6 skiing including, but not limited to, any injury, loss or damage
7 caused by the following: Variations in terrain ~~including~~^{including}
8 freestyle terrain; surface or subsurface snow or ice conditions;
9 bare spots, rocks, trees, other forms of forest growth or debris;
10 collisions with pole lines, lift towers or any component thereof;
11 or, collisions with snowmaking equipment which is marked by
12 a visible sign or other warning implement in compliance with
13 section three of this article. Each skier shall have the sole
14 individual responsibility for knowing the range of his or her
15 own ability to negotiate any ski slope or trail, and it shall be the
16 duty of each skier to ski within the limits of the skier's own
17 ability, to maintain reasonable control of speed and course at all

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18 times while skiing, to heed all posted warnings, to ski only on
19 a skiing area designated by the ski area operator and to refrain
20 from acting in a manner which may cause or contribute to the
21 injury of anyone. If while actually skiing, any skier collides
22 with any object or person, except an obviously intoxicated
23 person of whom the ski area operator is aware, the responsibil-
24 ity for such collision shall be solely that of the skier or skiers
25 involved and not that of the ski area operator.

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

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

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

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

47 (f) Each skier has the duty to maintain control of his or her
48 speed and course at all times when skiing and to maintain a
49 proper lookout so as to be able to avoid other skiers and objects.

50 However, the primary duty shall be on the person skiing
51 downhill to avoid collision with any person or objects below
52 him or her.

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

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

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

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

§20-3A-9. Competition.


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

6 (b) The competitor shall be held to assume the risk of all ski
7 slopes and trails or freestyle terrain conditions including, but
8 not limited to, weather and snow conditions; obstacles, course
9 or feature location, construction or layout, freestyle terrain
10 configuration and conditions; and other courses, layouts, or
11 configurations of the area to be used. No liability shall attach to
12 a ski area operator for injury or death to any competitor caused
13 by course, venue, or area conditions that a visual inspection
14 should have revealed or by collisions with other competitors.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



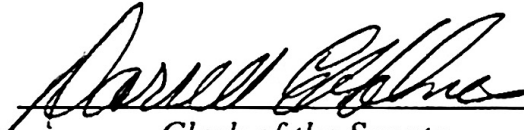
Chairman Senate Committee



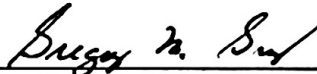
Chairman House Committee

Originating in the House.


In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 28th
day of March, 2006.



Governor

PRESENTED TO THE
GOVERNOR

MAR 22 2006

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