

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS35453-LD-202 (1/29)

Short Title: Amend Liability of Ski Area Operators. (Public)

Sponsors: Senator Goss.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING THE LIABILITY OF SKI AREA
OPERATORS FOR DAMAGES RELATED TO CERTAIN WINTER SPORTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 99C of the General Statutes reads as rewritten:

"Chapter 99C.

"Actions Relating to Skier Safety and Skiing Accidents.

"§ 99C-1. ~~Definitions.~~ Findings; purpose; definitions.

(a) The General Assembly finds that the sport of skiing and other winter sports are practiced by a large number of citizens of North Carolina; that winter sports attract a large number of nonresidents to North Carolina; and that winter sports make a significant contribution to the economy of North Carolina. The General Assembly further finds that there are inherent risks in these winter sports that should be understood by each participant and that these risks are essentially impossible to eliminate by the ski area operator. It is the purpose of this Chapter to specify certain areas of responsibility and affirmative acts for which ski area operators should be liable for physical injury, loss, or property damage and to specify the risks that the winter sport participant expressly assumes and for which the ski area operator should not be liable. It is not the purpose of this Chapter to heavily regulate this industry.

(b) ~~When As~~ used in this Chapter, unless the context otherwise requires:

- (1) "Competitor" means a ~~skier-winter sports participant who is actually~~ engaged in competition or in practice therefor with the permission of the ski area operator on any ~~slope or trail~~ winter sport slope, alpine or Nordic trail, freestyle terrain, or any portion thereof of such slope, trail, or terrain designated by the ski area operator for the purpose of competition.

- 1 (1a) "Freestyle terrain" means a terrain park or a feature of a terrain park,
2 such as a jump, rail, fun box, or any other constructed or natural
3 feature, half-pipe, quarter-pipe, or freestyle bump terrain.
- 4 (2) "Passenger" means any person who is being transported or is awaiting
5 transportation, or being conveyed on a passenger tramway or is
6 moving from the disembarkation point of a passenger tramway or is in
7 the act of embarking upon or disembarking from a passenger tramway.
- 8 (3) ~~"Passenger Tramway" shall mean~~tramway" means any device used to
9 transport passengers uphill on ~~skis, or~~skis or other winter sports
10 device; in cars on ~~tracks, tracks;~~ or suspended in the ~~air, air;~~ by the use
11 of steel cables, chains, ~~belts~~ belts, or ropes. ~~Such definition shall~~
12 include"Passenger tramway" includes such devices as a chair lift, J
13 Bar, ~~or~~ platter pull, rope tow, conveyor lift, and wire tow.
- 14 (4) "Ski Area" area means all the ~~ski~~winter sports slopes, ~~ski~~alpine and
15 Nordic trails, freestyle terrain, and passenger tramways, that are
16 administered or operated as a ~~ski area~~winter sports enterprise within
17 this State.
- 18 (5) ~~"Ski Area Operator"~~area operator" means a person, corporation, or
19 organization that is responsible for the safe operation and maintenance
20 of the ski area.
- 21 (6) "Skier" means any person who is wearing skis or any other winter
22 sports device, any person who for the purpose of skiing or any other
23 winter sports activity is on a designated and clearly marked ~~ski slope~~
24 or ~~ski trail~~winter sport slope, alpine or Nordic trail, or freestyle terrain
25 that is located at a ski area, or any person who is a passenger or
26 spectator of a winter sport at a ski area.
- 27 (7) "Winter sport" means any use of snow skis, snowboards, snowshoes,
28 or any device for skiing, sliding, jumping, or traveling on snow or ice.

29 **"§ 99C-2. Duties of ski area operators and skiers.**

30 (a) A ski area operator shall be responsible for the maintenance and safe
31 operation of any passenger tramway in his or her ski area and ~~insure~~ensure that ~~such the~~
32 tramway is in conformity with the rules ~~and regulations prescribed and~~ adopted by the
33 ~~North Carolina~~ Department of Labor pursuant to ~~G.S. 95-120(1) as such appear in the~~
34 ~~North Carolina Administrative Procedures Act.~~G.S. 95-120(1). The ~~North Carolina~~
35 Department of Labor shall conduct certifications and inspections of passenger
36 tramways.

37 A ski area operator's responsibility regarding passenger tramways shall include, but
38 is not limited to, ~~insuring~~ensuring that operating personnel are adequately trained and
39 are adequate in number; meeting all standards set forth for terminals, stations, line
40 structures, and line equipment; meeting all rules and regulations regarding the safe
41 operation and maintenance of all passenger lifts and tramways, including all necessary
42 inspections and record keeping.

43 (b) A skier ~~and/or~~and a passenger ~~shall have~~have the following responsibilities:

- 1 (1) To know the range of his or her own abilities to negotiate any ski slope
2 or trail and to ski within the limits of ~~such ability;~~each of these
3 abilities.
- 4 (2) To maintain control of his or her speed and course at all times when
5 skiing and to maintain a proper lookout so as to be able to avoid other
6 skiers and visible ~~objects;~~objects.
- 7 (3) To stay clear of snow grooming equipment, all vehicles, lift towers,
8 signs, and any other equipment on the ski slopes and ~~trails;~~trails.
- 9 (3a) To avoid collisions with any person or object below him or her on the
10 ski slopes and trails.
- 11 (4) To heed all posted information and other warnings and to refrain from
12 acting in a manner ~~which~~that may cause or contribute to the injury of
13 the skier or ~~others;~~others.
- 14 (5) To wear retention straps, ski brakes, or other devices to prevent
15 runaway ~~skis;~~skis or any other winter sport device.
- 16 (6) Before beginning to ski from a stationary position or before entering a
17 ski slope or trail from the side, to avoid moving skiers already on the
18 ski slope or ~~trail;~~trail.
- 19 (6a) Regardless of the skier or passenger's age, to understand that he or she
20 expressly assumes the risk of legal responsibility for any physical
21 injury, loss, or property damage that results from participation in a
22 winter sport, including any injury, loss, or damage caused by any one
23 or more of the following: any variation in terrain; surface or subsurface
24 snow or ice conditions; any bare spots, rocks, trees, or other forms of
25 forest growth or debris; any collision with pole lines, lift towers, or
26 any component thereof; or any collision with snow-making equipment
27 that is marked by a visible sign or other warning implement under
28 subdivision (2) of subsection (c) of this section.
- 29 (7) ~~To not~~Not to move uphill on any passenger tramway or use any ski
30 slope or trail while such person's ability to do so is impaired by the
31 consumption of alcohol or by the use of any narcotic or other drug or
32 while such person is under the influence of alcohol or any narcotic or
33 any ~~drug;~~drug.
- 34 (8) If involved in a collision with another skier or person, ~~to not~~not to
35 leave the vicinity of the collision before giving his or her name and
36 current address to an employee of the ski area operator, a member of
37 the ski patrol, or the other skier or person with whom the skier
38 collided, except in those cases when medical treatment is required; in
39 which case, ~~said~~this information shall be provided as soon as practical
40 after the medical treatment has been obtained. If the other person
41 involved in the collision is unknown, the skier shall leave the personal
42 identification required by this ~~subsection~~subdivision with the ski area
43 ~~operator;~~operator.

- 1 (9) Not to embark upon or disembark from a passenger tramway except at
2 an area that is designated for ~~such purpose;~~this purpose.
- 3 (10) Not to throw or expel any object from a passenger ~~tramway;~~tramway.
- 4 (11) Not to perform any action that interferes with the operation or running
5 of a passenger ~~tramway;~~tramway.
- 6 (12) Not to use such tramway unless he or she has the ability to use it with
7 reasonable ~~safety;~~safety.
- 8 (13) Not to engage willfully or negligently in any type of conduct that
9 contributes to or causes injury to another person or ~~his~~
10 ~~properties;~~damage to the property of another person.
- 11 (14) Not to embark upon a passenger tramway without the authority of the
12 ski area operator.
- 13 (c) A ski area operator shall have the following responsibilities:
- 14 (1) To mark all trails and maintenance vehicles and to furnish ~~such~~these
15 vehicles with flashing or rotating lights that shall be in operation
16 whenever the vehicles are working or moving in the ski ~~area;~~area.
- 17 (2) To mark with a visible sign or other warning implement the location of
18 any hydrant or similar equipment that is used in snowmaking
19 operations and located anywhere in the ski ~~area;~~area.
- 20 (3) To indicate the relative degree of difficulty of a slope or trail by
21 appropriate signs. Such signs are to be prominently displayed at the
22 base of a slope where skiers embark on a passenger tramway serving
23 the slope or ~~trail;~~trail or at the top of a slope or trail. The signs must be
24 of the type that have been approved by the National Ski Areas
25 Association and are in current use by the ~~industry;~~industry.
- 26 (4) To post at or near the top ~~of~~of, or entrance to, any designated slope or
27 trail, signs giving reasonable notice of unusual conditions on the slope
28 or ~~trail;~~trail.
- 29 (5) To provide adequate ski ~~patrols;~~patrols.
- 30 (6) ~~To mark clearly any hidden rock, hidden stump, or any other hidden~~
31 ~~hazard known by the ski area operator to exist;~~
- 32 (7) Not to engage willfully or negligently in any type of conduct that
33 contributes to or causes injury to another person or ~~his~~
34 ~~properties.~~damage to the property of another person.
- 35 (8) To maintain the ski area in a reasonably safe condition, except that the
36 operator shall not be responsible for any physical injury, loss, or
37 property damage caused by any one or more of the following: any
38 variation in terrain; surface or subsurface snow or ice conditions; any
39 bare spots, rocks, trees, or other forms of forest growth or debris; any
40 collision with pole lines, lift towers, or any component thereof; or any
41 collision with snow-making equipment that is marked by a visible sign
42 or other warning implement under subdivision (2) of this subsection.

43 **"§ 99C-3. Violation constitutes negligence.**

1 (a) A violation of any responsibility placed on the skier, ~~passenger-passenger~~, or
2 ski area operator ~~as set forth in~~ under G.S. 99C-2, to the extent such violation
3 proximately causes injury to any person or damage to any property, shall constitute
4 negligence on the part of the person violating the provisions of that section.

5 (b) This section does not apply to a violation of G.S. 99C-2(b)(14).

6 **"§ 99C-4. Competition.**

7 The ski area operator shall, prior to the beginning of a competition, allow each
8 competitor a reasonable visual inspection of the course or area where the competition is
9 to be held. The competitor shall be held to assume risk of all course conditions
10 including, but not limited to, weather and snow conditions, course construction or
11 layout, and obstacles which a visual inspection should have revealed. No liability shall
12 attach to a ski area operator for injury or death of any competitor proximately caused by
13 such assumed risk.

14 **"§ 99C-4A. Freestyle terrain.**

15 Regardless of the age of a skier, a skier who chooses to use freestyle terrain assumes
16 the risk of all terrain conditions, including weather and snow conditions, terrain
17 construction or layout, and manmade and natural obstacles that a visual inspection
18 should have revealed. A ski area operator shall not be liable for injury or death of any
19 skier proximately caused by such assumed risk.

20 **"§ 99C-5. Operation of passenger tramway.**

21 The operation of a passenger tramway shall not constitute the operation of a
22 common carrier."

23 **SECTION 2.** This act becomes effective October 1, 2008, and applies to
24 causes of actions that arise on or after that date.