

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 1420

H. P. 1019

House of Representatives, February 8, 1961

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Baxter of Pittsfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Creating the Passenger Tramway Safety Board.

Be it enacted by the People of the State of Maine, as follows :

Sec. 1. R. S., c. 35-A, additional. The Revised Statutes are amended by adding a new chapter to be numbered 35-A, to read as follows :

'Chapter 35-A.

Passenger Tramway Safety.

Sec. 1. Declaration of policy. It shall be the policy of the State of Maine to protect its citizens and visitors from unnecessary mechanical hazards in the operation of ski tows, lifts and tramways, to ensure that reasonable design and construction are used, that accepted safety devices and sufficient personnel are provided for, and that periodic inspections and adjustments are made which are deemed essential to the safe operation of ski tows, ski lifts and passenger tramways. The primary responsibility for design, construction, maintenance and inspection rests with the operators of such passenger tramway devices. The State, through its Passenger Tramway Safety Board, shall register all ski lift devices, establish reasonable standards of design and operational practices, and make such independent inspections as may be necessary in carrying out this policy.

Sec. 2. Definitions. Each word or term defined in this section has the meaning indicated in this section for the purposes of this chapter, unless a different meaning is plainly required by the context:

I. Board. "Board" means the Passenger Tramway Safety Board.

II. Commission. "Commission" means the State Park Commission.

III. Industry. "Industry" means the activities of all those persons in the State who own or control the operation of passenger tramways.

IV. Operator. "Operator" means a person who owns or controls the operation of a passenger tramway. "Operator" shall include the State or any political subdivision.

V. Passenger tramway. "Passenger tramway" means a device used to transport passengers uphill on skis, or in cars on tracks or suspended in the air, by the use of steel cables, chains or belts or by ropes, and usually supported by trestles or towers with one or more spans. "Passenger tramway" shall include the following:

A. Two-car aerial passenger tramway, a device used to transport passengers in 2 open or enclosed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices.

B. Multi-car aerial passenger tramway, a device used to transport passengers in several open or enclosed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices.

C. Skimobile, a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar devices.

D. Chair lift, a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one or more spans, or similar devices.

E. J bar, T bar, platter pull, so called, and similar types of devices are means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans.

F. Rope tow, a type of transportation which pulls the skiers riding on skis as the skier grasps the rope manually, or similar devices.

Sec. 3. Passenger Tramway Safety Board. There shall be a Passenger Tramway Safety Board of 4 appointive members and the Director of State Parks, ex officio. The appointive members shall be appointed by the Governor, with the advice and consent of the Council, from persons representing the following interests: 2 members from the passenger tramway industry, one of whom shall operate a rope tow, and in making such appointments consideration shall be given to recommendations made by members of the industry; one member to represent the public at large; and one member to represent insurance companies which engage in insuring passenger tramway operations, and in appointing such member consideration shall be given to recommendations made by such insurance companies.

Sec. 4. Term of office. Of the first appointments, one member shall be appointed for a term of one year, one for a term of 2 years, one for a term of 3 years and one for a term of 4 years, and until their successors are appointed and qualified. Thereafter each of the appointed members shall be appointed for a term of 4 years and until his successor is appointed and qualified. Vacancies in the board shall be filled for the unexpired term.

Sec. 5. Compensation. The appointive members of the board shall serve without compensation, but shall be reimbursed for their reasonable expenses, incurred in their official duties.

Sec. 6. Records. The State Park Commission shall provide the board with such office space and clerical assistance as may be necessary to carry on the work of the board. Said commission shall preserve the records, codes, inspection reports and business records of the board.

Sec. 7. Rules, regulations and codes. The board is empowered to adopt reasonable rules, regulations and codes relating to public safety in the construction, operation and maintenance of passenger tramways. The rules, regulations and codes authorized hereunder shall be in accordance with established standards, if any, and shall not be discriminatory in their application to operators of passenger tramways. Such rules, regulations and codes shall be adopted only after public hearing, notice of which shall be published in a newspaper of general circulation in the State at least 14 days before holding such hearing. The board shall also give notice of such hearing by registered mail to each registered operator at least 14 days before holding same. At such hearing, the board shall afford any interested person an opportunity to present data, views and arguments with respect to the proposed rules, regulations or code, either orally or in written form. The board shall publish a summary of the text of any such rules, regulations and codes adopted by it, together with information as to where the full text of the same may be obtained, in a newspaper of general circulation in the State, and shall mail copies of the full text of such rules, regulations and codes to each registered operator. Such rules, regulations and codes shall become effective upon such date subsequent to the publication of the summary thereof and the mailing of copies to registered operators, as required, as may be specified by the board therein. The foregoing procedure shall be followed by the board in amending or repealing any of its rules, regulations or codes.

Sec. 8. Declaratory judgment. The validity or reasonableness of any rule, regulation or code adopted by the board may be judicially determined upon a petition to the Superior Court for declaratory judgment, brought within 30 days after the effective date of such rule, regulation or code. The court shall hear the petition and render a declaratory judgment thereon only when it appears that the rule, regulation or code or the threatened application thereof, interferes with or impairs or threatens to interfere with or impair the legal rights and privileges of the plaintiff. In rendering judgment the court shall give effect to any pertinent constitutional limitations upon the powers of the board, the limits

of the authority and jurisdiction of the board, and the procedural requirements of this chapter.

Sec. 9. Inspections. The commission may make such inspection of the construction, operation and maintenance of passenger tramways as the board may reasonably require. The commission may, at its own expense, employ other qualified engineers to make such inspections, or may borrow them from other departments in the State.

Sec. 10. Operators to pay certain costs. The expenses in connection with making inspections under section 9 shall be paid in the first instance by the commission, provided that each operator shall, upon notification by the board of the amount due, reimburse the commission for the share of the salary of commission personnel engaged in making such inspections. The commission shall not charge in excess of \$5 an hour for the services of its personnel in making such inspections and shall not be entitled to any reimbursement for the travelling time or expenses of such personnel. Any reimbursement shall be credited to the special appropriation for the commission to be expended for the purposes of this chapter.

Sec. 11. Inspection reports. If, as the result of an inspection, it is found that a violation of the board's rules, regulations or code exists, or a condition in passenger tramway construction, operation or maintenance exists endangering the safety of the public, an immediate report shall be made to the board for appropriate investigation and order.

Sec. 12. Complaints. Any person may make written complaint to the board setting forth any thing or act claimed to be done or omitted to be done by any registered operator which is alleged to be in violation of any rule, regulation or code adopted by the board, or setting forth any condition in passenger tramway construction, operation or maintenance which is alleged to endanger the safety of the public. Thereupon, the board shall cause a copy of said complaint to be forwarded to the registered operator complained of, which may be accompanied by an order requiring that the matter complained of be answered in writing within a time to be specified by the board. The board may investigate the matter complained of if it shall appear to the board that there are reasonable grounds therefor.

Sec. 13. Registration required. No passenger tramway shall be operated in this State, unless the operator thereof has been registered by the board.

Sec. 14. Application for registration. On or before December 1st in each year every operator of a passenger tramway shall apply to the board, on forms prepared by it, for registration hereunder. The application shall contain such information as the board may reasonably require.

Sec. 15. Fees. The application for registration shall be accompanied by the following annual fees: For a rope tow, \$10; for a T, J bar or platter pull, \$25; for a chair lift or skimobile, \$75; and for an aerial tramway, \$150. When an

operator operates either a chair lift, skimobile or aerial tramway during both a winter and summer season the annual fee shall be double the above amount for the respective lift.

Sec. 16. Registration. The board, if satisfied with the facts stated in the application, shall issue a registration certificate to the operator. Each registration shall expire on November 30th next following the day of issue.

Sec. 17. Fees. All fees collected by the board shall be credited to the special appropriation for the commission to be expended for the purposes of this chapter.

Sec. 18. Emergency shut-down. When facts are presented to the board, or to any member thereof, tending to show that an unreasonable hazard exists in the continued operation of a tramway, the board or member, after such verification of said facts as is practical under the circumstances and consistent with the public safety, may by an emergency order require the operator of said tramway forthwith to cease using the same for the transportation of passengers. Such emergency order shall be in writing and notice thereof may be served by any person upon the operator or his agent immediately in control of said tramway by a true and attested copy of such order, the return of such service to be shown by an affidavit on the back thereof. Such emergency shall be effective for a period not to exceed 48 hours from the time of service. Immediately after the issuance of an emergency order, the board shall conduct an investigation into the case as contemplated in section 19, and shall take such action under said section 19 as may be appropriate.

Sec. 19. Orders. If, after investigation, the board finds that a violation of any of its rules, regulations or code exists, or that there is a condition in passenger tramway construction, operation or maintenance endangering the safety of the public, it shall forthwith issue its written order setting forth its findings, the corrective action to be taken and fixing a reasonable time for compliance therewith. Such order shall be served upon the operator involved by registered mail, and shall become final, unless the operator shall apply to the board for hearing in the manner provided.

Sec. 20. Operation forbidden. If in any such case the board is of the opinion that the public safety would be unduly endangered by the use of the tramway for the transportation of passengers prior to the taking of some or all of such corrective action, it shall so state in said order, and shall require in said order that the tramway shall not be so used until specified corrective action shall have been taken. From and after receipt of said order by the operator, said tramway shall not be used for the transportation of passengers without the approval of the board. Application for a hearing before the board shall not have the effect of suspending said order. Operation of the tramway following receipt of such order may be enjoined by the Superior Court.

Sec. 21. Hearing. Any such operator, who is aggrieved by any such order, may, within 10 days after the service of such order upon him, apply to the board

for a review of such order. It shall be the duty of the board to hear the same at the earliest convenient day. At such hearing the operator shall have the right to be heard personally or by counsel, to cross-examine witnesses appearing against him and to produce evidence in his own behalf. After such hearing, the board shall report its findings in writing and make such order as the facts may require.

Sec. 22. Appeal. Any such operator, who is aggrieved by any such post-hearing order of the board may, within 14 days after the entry thereof, appeal therefrom to the Superior Court. No such appeal shall suspend the operation of the order made by the board; provided that the Superior Court may suspend the order of the board pending the determination of such appeal whenever, in the opinion of the court, justice may require such suspension. The Superior Court shall hear such appeal at the earliest convenient day and shall make such decree as justice may require.

Sec. 23. Suspension of registration. If any such operator fails to comply with the lawful order of the board issued under sections 19 and 21 and within the time fixed thereby, the board may suspend the registration of such operator for such time as it may consider necessary for the protection of the safety of the public.

Sec. 24. Penalty. Any operator convicted of operating a passenger tramway without having been registered by the board, or after his registration has been suspended by the board, shall be punished by a fine of \$50 per day for each day of such illegal operations.'

Sec. 25. Application. This chapter removes ski tows, lifts and tramways from regulation under any other law covering mechanical rides.

Sec. 26. Provisions. The provisions for regulation, registration and licensing of passenger tramways under this chapter shall be in lieu of all other regulations, registration or licensing requirements by the Insurance Commissioner under chapter 100, sections 69 and 70.

Sec. 2. Appropriation. There is appropriated from the General Fund to the State Park Commission to carry out the purposes of this act, the sum of \$3,500 for the fiscal year ending June 30, 1962 and the sum of \$2,500 for the fiscal year ending June 30, 1963; the breakdown of which shall be as follows:

Department	1961-62	1962-63
STATE PARK COMMISSION		
Personal Services	\$2,500	\$2,000
All Other	1,000	500
	<hr/>	<hr/>
	\$3,500	\$2,500