

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1927

H. P. 1870

Office of the Clerk of the House

The Committee on Judiciary suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Miss Brown of Bethel.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT Concerning Limitations of Actions and Notice of Claim before Suit under the Elevator and Tramway Statutes Pertaining to Ski Areas.

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

26 MRSA §§ 490-H and 490-I are enacted to read:

§ 490-H. Limitations of actions

An action for damages for injury or death against a ski area, ski area operator or its employees, whether based upon tort or breach of contract or otherwise, arising out of a violation of this subchapter or the regulations of the board, which violation is causal of injury complained of, shall be commenced within 2 years after the cause of action accrues.

§ 490-I. Notice of claim before suit

No action for death or injuries to the person arising out of a violation of this subchapter shall be commenced unless, within 90 days of the injury, the ski area and ski area operator are notified in writing of the alleged violation of this subchapter and the nature and circumstances of the injuries and damages by serving the notice on the ski area and ski area operator personally or by registered or certified mail.

STATEMENT OF FACT

Maine ski areas are presently experiencing a crisis, similar to the medical malpractice crisis, in the availability and price of their liability insurance. Because of the nature of the skiing business, it is very difficult for insurance companies and ski areas to determine what

contingent liabilities they may have as a result of accidents that happen on their mountains. The areas do not know who was at their mountain on any given day and frequently are not aware of accidents that may have happened during the course of their season. An injured party can, under present law, bring suit 6 years later when it is completely impossible for the area operators and the insurance company to make an investigation that is meaningful in order to defend themselves. Because of this fact, insurance companies are currently raising premiums for liability insurance on mountains by 300% and 400% coupled with a policy that provides for a 30-day cancellation.

The enactment of this bill would provide that a person injured at an area must notify the area within 90 days of the injury, thus allowing the area to make a reasonable determination as to whether or not they were at fault in the party's injuries. In addition, it would allow the insurance company to look at the past history of the area and know conclusively what contingent liabilities they are insuring. They would be aware of all suits that have been brought within the 2-year period and would also be aware of all notices of claims that would be filed. There would be no unknown suits by unknown parties pending more than 2 years old.

If relief is not granted in this area, the cost of insurance or the possibility of operating without insurance, will force many of Maine's ski areas to close.