

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 870**

H. P. 692

House of Representatives, March 1, 1979

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Miss Brown of Bethel.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT Amending the Law Relating to Elevators and Tramways.**

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

**Sec. 1. 26 MRSA § 488**, as amended by PL 1977, c. 608, § 2, is repealed and the following enacted in its place:

**§ 488. Skiers' and tramway passengers' responsibilities**

It is hereby recognized that, regardless of all safety measures which may be taken by the ski area operator, skiing as a sport and the use of passenger tramways associated therewith may be hazardous to the skiers or passengers. Therefore, the following shall apply in skiing and the use of passenger tramways.

1. **Acceptance of inherent dangers.** Each person who participates in the sport of skiing accepts as a matter of law, the dangers inherent in the sport, and to that extent may not maintain an action against the operator for any injuries which result from those inherent risks, dangers or hazards. The categories of such risks, hazards or dangers which the skier or passenger assumes as a matter of law include, but are not limited to, the following whether above or below snow surface: Variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, stumps and other forms of forest growth or debris, lift towers and components thereof, pole lines and plainly marked or visible snow making equipment, collisions with other skiers or other persons or with anything listed in the categories included in this paragraph.

2. **Personal ability.** Each skier and passenger shall have the sole responsibility for knowing the range of his own ability to negotiate any slope, trail or passenger tramway. Any passenger who boards the tramway shall be presumed to have sufficient abilities to negotiate the lift, and no liability shall attach to any operator or attendant for failure to instruct persons on the use thereof.

3. **Conduct within limits of ability.** Each skier or passenger shall conduct himself within the limits of his own ability, maintain control of his speed and course at all times while skiing, heed all posted warnings and refrain from acting in a manner which may cause or contribute to the injury of himself or others.

4. **Limitation on actions against operators.** Each passenger shall be the sole judge of his ability to negotiate any uphill track, and no action shall be maintained against any operator by reason of the condition of the track unless the board, upon appropriate evidence furnished to it, makes a finding that the condition of the track, unless the board, upon appropriate evidence furnished to it, makes a finding that the condition of the track, at the time and place of an accident, did not meet the board's requirements, provided that the ski area operator shall have had notice, prior to the accident, of the board's requirements the violation of which is claimed to be the basis for any action by the passenger.

Sec. 2. 26 MRS § 489, sub-§ 4, as enacted by PL 1977, c. 543, § 4, is repealed and the following enacted in its place:

4. **Closed trails.** Ski or otherwise use a slope or trail which has been designated "closed" by the operator without written permission of said operator or designee; or

5. **Removal or destruction of signs.** Remove, alter, deface or destroy any sign or notice placed in the ski area or on the trail by the operator.

Sec. 3. 26 MRS § 489-A is enacted to read:

#### § 489-A. Limitations

Unless an operator is in violation of this chapter or the regulations of the board, which violation is causal of the injury complained of, no action shall lie against any operator by any passenger or representative thereof; this prohibition shall not prevent the maintenance of an action against an operator for negligent operation, construction or maintenance of the passenger tramway itself.

#### STATEMENT OF FACT

The purpose of this bill is to provide that persons who ski must accept the dangers inherent in that sport and in the use of tramways. The bill also provides that a person may not bring suit against a ski area operator for injuries resulting from those inherent risks.