

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1118

H.P. 801

House of Representatives, March 30, 1995

**An Act to Amend the Laws Pertaining to the Duties of Skiers and
Tramway Passengers by Defining Inherent Risks.**

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CAMERON of Rumford.
Cosponsored by Representatives: CAMPBELL of Holden, CROSS of Dover-Foxcroft, DEXTER of Kingfield, DiPIETRO of South Portland, DONNELLY of Presque Isle, FISHER of Brewer, KNEELAND of Easton, LEMONT of Kittery, LIBBY of Kennebunk, REED of Dexter, ROBICHAUD of Caribou, STONE of Bangor, VIGUE of Winslow, WINGLASS of Auburn, WINSOR of Norway, Senators: BEGLEY of Lincoln, CIANCHETTE of Somerset, HANLEY of Oxford, HARRIMAN of Cumberland.

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

2
3 **Sec. 1. 26 MRSA §488**, as amended by PL 1979, c. 514, §3, is
4 repealed and the following enacted in its place:

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

8 **1. Definitions.** As used in this section, unless the
9 context otherwise indicates, the following terms have the
10 following meanings.

12 A. "Inherent risks of skiing" means those dangers or
13 conditions that are an integral part of the sport of skiing,
14 including, but not limited to: existing and changing weather
15 conditions; existing and changing snow conditions, such as
16 ice, hardpack, powder, packed powder, slush and granular,
17 corn, crust, cut-up and machine-made snow; surface or
18 subsurface conditions, such as dirt, grass, bare spots,
19 forest growth, rocks, stumps, trees and other natural
20 objects and collisions with or falls resulting from such
21 natural objects; lift towers, lights, signs, posts, fences,
22 mazes or enclosures, hydrants, water or air pipes,
23 snow-making and snow-grooming equipment, marked or lit trail
24 maintenance vehicles and snowmobiles, and other man-made
25 structures or objects and their components, and collisions
26 with or falls resulting from such man-made objects;
27 variations in steepness or terrain, whether natural or as a
28 result of slope design; snow-making or snow-grooming
29 operations, including but not limited to ski jumps, roads
30 and catwalks or other terrain modifications; the presence of
31 and collisions with other skiers; and the failure of skiers
32 to ski safely, in control or within their own abilities.
33 The term "inherent risks of skiing" does not include the
34 negligent operation of the ski area by the ski area
35 operator, its agents, representatives or employees.

36 B. "Skiing" means the use of a ski area for the purpose of
37 downhill, telemark or cross country skiing or snowboarding;
38 for the purpose of sliding downhill on snow or ice on skis,
39 a toboggan, sled, tube, snowboard or any other device; or
40 for the purpose of using any of the facilities of the ski
41 area, including but not limited to ski slopes and trails.

42 C. "Skier" means any person who participates in any of the
43 activities at a ski area described in paragraph B.

44 **2. Acceptance of inherent risks.** Because skiing as a
45 recreational sport, and the use of passenger tranways associated
46 with skiing, may be hazardous to skiers or passengers, regardless
47 of all feasible safety measures that may be taken, each person
48 of all feasible safety measures that may be taken, each person
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50 of all feasible safety measures that may be taken, each person

2 who participates in the sport of skiing accepts, as a matter of
3 law, the risks inherent in the sport and, to that extent, may not
4 maintain an action against or recover from the ski area operator,
5 its agents, representatives or employees, for any losses,
6 injuries, damages or death that result from the inherent risks of
7 skiing.

8 **3. Duty to ski within limits of ability.** A skier has the
9 sole responsibility for knowing the range of the skier's own
10 ability to negotiate any slope or ski trail, and it is the duty
11 of the skier to ski within the limits of the skier's own ability,
12 to maintain control of the rate of speed and the course at all
13 times while skiing, to heed all posted and verbal warnings and
14 instructions and to refrain from acting in a manner that may
15 cause or contribute to the injury of the skier or others.

16 **4. Responsibility for collisions.** The responsibility for a
17 collision between any skier while skiing and any person or object
18 is solely that of the skier or skiers involved in the collision
19 and not the responsibility of the ski area operator, its agents,
20 representatives or employees.

21 **5. Liability.** A ski area operator, its agents,
22 representatives or employees are not liable for any loss, injury,
23 damage or death resulting from the design of the ski area.

24 **6. Provision of name and current address required.** A skier
25 involved in, causing or contributing to a collision or other
26 accident at a ski area that results in a fall or injury may not
27 leave the vicinity of the collision or accident before giving
28 that skier's name and current address to an employee or
29 representative of the ski area operator or a member of the ski
30 patrol, except for the purpose of securing aid for a person
31 injured in the collision, in which case the person leaving the
32 scene of the collision shall give that skier's name and current
33 address after securing such aid. A ski area operator, or its
34 agents, representatives or employees, is not liable for a skier's
35 failure to provide that skier's name and address or for leaving
36 the vicinity of an accident or collision.

37 **7. Actions not prohibited.** This section does not prevent
38 the maintenance of an action against a ski area operator for:

39 A. The negligent operation of the ski area; or

40 B. The negligent design, construction, operation or
41 maintenance of a passenger tramway.

STATEMENT OF FACT

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4 Current law provides that inherent dangers exist in the
sport of skiing and that skiers are deemed to have assumed the
6 risk of those dangers. However, existing law does not include a
list of what constitutes an inherent danger.

8 This bill amends the law to define the inherent risks of
skiing in order to assist in determining the liability of skiers
10 and ski area operators as a matter of law prior to trial. The
bill also specifies that downhill, telemark and cross country
12 skiing, snowboarding and other methods of sliding downhill are
all covered by the law. The bill also establishes the bases for
14 recovery by skiers against ski areas for personal injuries and
establishes the duties of skiers and the areas of legal
16 responsibility for ski area operations.