

MAINE STATE LEGISLATURE

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Legislative Document

No. 1171

S.P. 419

March 7, 2007

An Act To Modernize the Laws Pertaining to the Sport of Skiing and Use of Ski Areas

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

A handwritten signature in black ink, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRYANT of Oxford.
Cosponsored by Representative CARTER of Bethel and
Senators: GOOLEY of Franklin, SULLIVAN of York, TURNER of Cumberland,
Representatives: HOLMAN of Fayette, LUNDEEN of Mars Hill, MILLS of Farmington,
MIRAMANT of Camden, PATRICK of Rumford.

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

2 **Sec. 1. 32 MRSA §15202, sub-§14**, as amended by PL 2001, c. 573, Pt. B, §7
3 and affected by §36, is further amended to read:

4 **14. Skier.** "Skier" means any person ~~while wearing skis or using a snowboard and~~
5 ~~any person while actually on a ski slope or trail located at a ski area for the purpose of~~
6 ~~skiing, including a person engaged in snowboarding or cross country, nordic or telemark~~
7 skiing who engages in any of the activities described in section 15217, subsection 1,
8 paragraph B.

9 **Sec. 2. 32 MRSA §15202, sub-§15**, as enacted by PL 1995, c. 560, Pt. H, §14
10 and affected by §17, is amended to read:

11 **15. Ski area.** "Ski area" means the ski slopes and trails, adjoining skiable terrain,
12 areas designated by the ski area operator to be used for skiing as defined by section
13 15217, subsection 1, paragraph B and passenger tramways administered or operated as a
14 single enterprise within this State.

15 **Sec. 3. 32 MRSA §15217**, as enacted by PL 1995, c. 560, Pt. H, §14 and affected
16 by §17, is amended to read:

17 **§15217. Skiers' and tramway passengers' responsibilities**

18 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
19 following terms have the following meanings.

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

35 B. "Skiing" means the use of a ski area for snowboarding or downhill, telemark or
36 cross-country skiing; for sliding downhill or jumping on snow or ice on skis ~~or~~, a
37 toboggan, sled, tube, snowboard, snowbike or any other device; or for similar uses of
38 any of the facilities of the ski area, including, but not limited to, ski slopes ~~and~~, trails
39 and adjoining terrain.

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

3 D. "Competitor" means a skier actually engaged in competition or a special event or
4 training or practicing for competition or a special event on any portion of the ski area
5 made available by the ski area operator.

6 E. "Freestyle terrain" includes, but is not limited to, terrain parks and terrain park
7 features such as jumps, rails, fun boxes and all other constructed or natural features,
8 halfpipes, quarterpipes and freestyle-bump terrain.

9 **2. Acceptance of inherent risks.** Because skiing as a recreational sport, and the use
10 of passenger tramways associated with skiing, may be hazardous to skiers or passengers,
11 regardless of all feasible safety measures that may be taken, each person who participates
12 in the sport of skiing accepts, as a matter of law, the risks inherent in the sport and, to that
13 extent, may not maintain an action against or recover from the ski area operator, or its
14 agents, representatives or employees, for any losses, injuries, damages or death that result
15 from the inherent risks of skiing.

16 **3. Warning notice.** A ski area operator shall post and maintain at the ski area where
17 the lift tickets and ski school lessons are sold and at the loading point of each passenger
18 tramway signs that contain the following warning notice:

19 **WARNING:**

20 Under Maine law, a skier assumes the risk of any injury to person or property
21 resulting from any of the inherent dangers and risks of skiing and may not recover
22 from any ski area operator for any injury resulting from any of the inherent dangers
23 and risks of skiing, including, but not limited to: existing and changing weather
24 conditions; existing and changing snow conditions, such as ice, hardpack, powder,
25 packed powder, corn, crust and slush and cut-up, granular and machine-made snow;
26 surface or subsurface conditions, such as dirt, grass, bare spots, rocks, stumps, trees,
27 forest growth or other natural objects and collisions with such natural objects; lift
28 towers, lights, signs, posts, fences, mazes or enclosures, hydrants, water or air pipes,
29 snowmaking and snow-grooming equipment, marked or lit trail maintenance vehicles
30 and snowmobiles, and other man-made structures or objects; variations in steepness
31 or terrain, whether natural or as a result of slope design, snowmaking or grooming
32 operations, including, but not limited to, ski freestyle terrain, jumps, roads and
33 catwalks or other terrain modifications; the presence of and collisions with other
34 skiers; and the failure of skiers to ski safely, in control or within their own abilities.

35 **4. Duty to ski within limits of ability.** A skier has the sole responsibility for
36 knowing the range of the skier's own ability to negotiate any slope or ski trail, and it is the
37 duty of the skier to ski within the limits of the skier's own ability, to maintain control of
38 the rate of speed and the course at all times while skiing, to heed all posted and oral
39 warnings and instructions by the ski area operator and to refrain from acting in a manner
40 that may cause or contribute to the injury of the skier or others.

41 4-A. Competition and freestyle terrain. The ski area operator shall, prior to the
42 use of any portion of the ski area made available by the ski area operator, allow each
43 competitor an opportunity to visually inspect the course, venue or area. The competitor

1 accepts, as a matter of law, all risks of course, venue or area conditions, including, but not
2 limited to, weather and snow conditions; obstacles; course or feature location,
3 construction and layout; freestyle terrain configuration or condition; and other courses,
4 layouts or configurations of area to be used, and to that extent may not maintain any
5 action against or recover from the ski area operator, or its agents, representatives or
6 employees, for injury or death to any competitor caused by course, venue or area
7 conditions that a visual inspection should have revealed or by collision with other
8 competitors.

9 **5. Responsibility for collisions.** The responsibility for a collision between any skier
10 while skiing and any person or object is solely that of the skier or skiers involved in the
11 collision and not the responsibility of the ski area operator or its agents, representatives or
12 employees.

13 **6. Liability.** A ski area operator or its agents, representatives or employees are not
14 liable for any loss, injury, damage or death resulting from the design of the ski area.

15 **7. Provision of name and current address required.** A skier involved in, causing
16 or contributing to a collision or other accident at a ski area that results in a fall or injury
17 may not leave the vicinity of the collision or accident before giving that skier's name and
18 current address to an employee or representative of the ski area operator or a member of
19 the ski patrol, except for the purpose of securing aid for a person injured in the collision,
20 in which case the person leaving the scene of the collision shall give that skier's name and
21 current address after securing such aid. A ski area operator, or its agents, representatives
22 or employees, is not liable for a skier's failure to provide that skier's name and address or
23 for leaving the vicinity of an accident or collision.

24 **8. Actions not prohibited.** This section does not prevent the maintenance of an
25 action against a ski area operator for:

26 A. The negligent operation or maintenance of the ski area; or

27 B. The negligent design, construction, operation or maintenance of a passenger
28 tramway.

29 SUMMARY

30 This bill amends the definitions of "skier" and "ski area" and expands skiers' and
31 tramway passengers' responsibilities to include forms of skiing and other uses of ski
32 facilities that have arisen since the last time these statutory provisions were amended.