

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4

J.S. McCarthy Company
Augusta, Maine
1995

the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §17001, sub-§42, ¶B, as repealed and replaced by PL 1989, c. 878, Pt. D, §4, is amended to read:

B. Any employee of a public school who fills any position not included in paragraph A, the principal function of which is to introduce new learning to students, except that an employee who is employed in adult education as defined in Title 20-A, section 8601-A, subsection 1 and who is not otherwise covered by the definition of teacher defined in this subsection may not be considered a teacher for purposes of this Part;

Sec. 2. 5 MRSA §17154, sub-§6, ¶E, as enacted by PL 1993, c. 387, Pt. A, §7 and c. 482, §3, is repealed and the following enacted in its place:

E. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapters 315 and 606.

Sec. 3. 5 MRSA §17154, sub-§6, ¶F is enacted to read:

F. Notwithstanding this section, effective September 1, 1993, the employer retirement cost related to the retirement system, less the unfunded liability, applicable to a teacher who is permitted to continue to accrue service credit while on released time and serving as president of a recognized or certified collective bargaining agent representing teachers must be paid from funds provided by the collective bargaining agent or school administrative unit. For purposes of this paragraph, in computing the employer cost, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position.

Sec. 4. Application. The exclusion of certain adult education employees from the definition of teacher that is provided by section 1 of this Act applies to those employees who are employed on or after July 1, 1995 in circumstances to which the exclusion applies, regardless of whether an employee has been employed in those circumstances prior to that

date. An employee who was employed in those circumstances prior to that date and whose contributions related to that employment are in the Maine State Retirement System on that date may, but is not required to, withdraw those contributions.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1995.

Effective July 1, 1995.

CHAPTER 472

H.P. 801 - L.D. 1118

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

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

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

§488. Skiers' and tramway passengers' responsibilities

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

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

B. "Skiing" means the use of a ski area for downhill, telemark or cross country skiing or snowboarding; for sliding downhill on snow or ice on skis, a toboggan, sled, tube, snowboard or any other device; or for similar uses of the ski slopes and trails.

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

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

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

WARNING:

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

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

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

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

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

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

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

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

See title page for effective date.

CHAPTER 473

S.P. 203 - L.D. 546

An Act to Change the Law That Determines When a Sentence in Excess of 20 Years May Be Imposed for a Class A Crime