

CHAPTER NO. 509.

HOUSE BILL NO. 836

INTRODUCED BY SCULLY, ROTH

IN THE HOUSE

February 16, 1979	Introduced and referred to Committee on Judiciary.
February 20, 1979	Committee recommend bill do pass. Report adopted.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 20, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 22, 1979	Second reading, concurred in.
March 24, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 26, 1979	Returned from second house. Concurred in as amended. On motion consideration passed for the day.
March 28, 1979	On motion consideration passed for the day.

March 29, 1979

Second reading, amendments
adopted.

March 30, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 836
 2 INTRODUCED BY Sully Roth
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING THE
 5 RESPONSIBILITY AND LIABILITY OF SKI AREA OPERATORS AND THE
 6 RESPONSIBILITY AND RISK BORNE BY SKIERS."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Purpose. It is recognized that there are
 10 inherent risks in the sport of skiing that are essentially
 11 impossible to eliminate by the ski area operator but that
 12 should be known by the skier. It is the purpose of [this
 13 act] to define those areas of responsibility and affirmative
 14 acts for which the ski area operator is liable for loss,
 15 damage, or injury and those risks for which the skier
 16 expressly assumes or shall be considered to have voluntarily
 17 assumed the risk of loss or damage and for which there can
 18 be no recovery.

19 Section 2. Definitions. As used in [this act], the
 20 following definitions apply:

21 (1) "Skier" means any person admitted to a ski area
 22 under the control of a ski area operator for the purpose of
 23 engaging in the sport of skiing by using the ski slopes,
 24 trails, and areas and does not include the use of an aerial
 25 passenger tramway.

1 (2) "Ski slopes, trails, and areas" means those areas
 2 designated by the ski area operator to be used by skiers for
 3 the purpose of participating in the sport of skiing.

4 Section 3. Duties of operator regarding ski areas. A
 5 ski area operator shall:

6 (1) mark all trail maintenance vehicles and furnish
 7 the vehicles with flashing or rotating lights that must be
 8 in operation whenever the vehicles are working or are in
 9 movement in the ski area;

10 (2) mark with a visible sign or other warning
 11 implement the location of any hydrant or similar equipment
 12 used in snowmaking operations and located on ski slopes,
 13 trails, and areas;

14 (3) maintain one or more trail boards at prominent
 15 locations at each ski area displaying that area's network of
 16 ski trails and slopes;

17 (4) post a notice of the requirement for the use of
 18 ski-retention devices;

19 (5) designate by trail board or otherwise which trails
 20 or slopes are open or closed.

21 Section 4. Duties of operator with respect to
 22 passenger tramways. A ski area operator shall construct,
 23 operate, maintain, and repair any passenger tramway in
 24 accordance with the rules of the department of
 25 administration.

1 Section 5. Duties of passenger. No passenger may:

2 (1) board or disembark from a passenger tramway except
3 at an area designated for such purposes;

4 (2) throw or expel any object from a passenger
5 tramway;

6 (3) commit an act that interferes with the running or
7 operation of a passenger tramway;

8 (4) use a passenger tramway unless the passenger has
9 the ability to use it safely without any instruction on its
10 use by the operator;

11 (5) embark on a passenger tramway without the
12 authority of the operator.

13 Section 6. Skier's assumption of responsibility --
14 duties. (1) A skier assumes the risk and all legal
15 responsibility for injury to himself or loss of property
16 that results from participating in the sport of skiing by
17 virtue of his participation. The assumption of risk and
18 responsibility includes but is not limited to injury or loss
19 caused by the following: variations in terrain, surface or
20 subsurface snow or ice conditions, bare spots, rocks, trees,
21 other forms of forest growth or debris, lift towers and
22 components thereof, pole lines, and plainly marked or
23 visible snowmaking equipment.

24 (2) A skier is responsible for knowing the range of
25 his own ability to ski any slope, trail, or area and for

1 skiing within the limits of his ability, skiing only on
2 designated slopes and trails, maintaining control of speed
3 and course at all times while skiing, heeding all posted
4 warnings, and refraining from acting in a manner that may
5 cause or contribute to the injury of anyone. The
6 responsibility for collisions with a person or object while
7 skiing, is the responsibility of the person or persons and
8 not the responsibility of the ski area operator.

9 (3) A person who is skiing may not place an object in
10 the ski area or on the uphill track of a passenger tramway
11 that may cause a passenger or skier to fall, cross the track
12 of a passenger tramway except at a designated and approved
13 area, or if involved in a skiing accident, depart from the
14 scene of the accident without leaving personal
15 identification before notifying the proper authorities or
16 obtaining assistance when the skier knows that a person
17 involved in the accident is in need of medical or other
18 assistance.

19 Section 7. Liability of ski area operator. A ski area
20 operator is liable for loss or damages caused by failure to
21 follow the provisions of [sections 3 and 4]. A ski area
22 operator is not liable to any passenger or skier who acts in
23 violation of those duties and responsibilities provided for
24 in [sections 5 and 6]. A ski area operator is not liable for
25 any injury or damage to a person in violation of 45-6-305.

1 Section 8. Liability of passenger. A passenger is
2 liable for loss or damage resulting from violation of those
3 duties provided for in [section 5] and may not recover any
4 loss or damage suffered while acting in violation of
5 [section 5].

6 Section 9. Liability of skier. A skier is liable for
7 any loss or damage resulting from violation of those
8 responsibilities provided for in [section 6] and may not
9 recover any loss or damage suffered while acting in
10 violation of [section 6].

11 Section 10. Effect of comparative negligence.
12 Notwithstanding any comparative negligence law in this
13 state, a person is, consistent with the provisions of [this
14 act], barred from recovery for loss or damage resulting from
15 any risk inherent in the sport of skiing, whenever it is
16 established that a person has knowingly exposed himself to
17 the real or potential hazards of a situation.

-End-

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 11 impossible to eliminate by the ski area operator but that
 12 should be known by the skier. It is the purpose of [this
 13 act] to define those areas of responsibility and affirmative
 14 acts for which the ski area operator is liable for loss,
 15 damage, or injury and those risks for which the skier
 16 expressly assumes or shall be considered to have voluntarily
 17 assumed the risk of loss or damage and for which there can
 18 be no recovery.

19 Section 2. Definitions. As used in [this act], the
 20 following definitions apply:

21 (1) "Skier" means any person admitted to a ski area
 22 under the control of a ski area operator for the purpose of
 23 engaging in the sport of skiing by using the ski slopes,
 24 trails, and areas and does not include the use of an aerial
 25 passenger tramway.

1 (2) "Ski slopes, trails, and areas" means those areas
 2 designated by the ski area operator to be used by skiers for
 3 the purpose of participating in the sport of skiing.

4 Section 3. Duties of operator regarding ski areas. A
 5 ski area operator shall:

6 (1) mark all trail maintenance vehicles and furnish
 7 the vehicles with flashing or rotating lights that must be
 8 in operation whenever the vehicles are working or are in
 9 movement in the ski area;

10 (2) mark with a visible sign or other warning
 11 implement the location of any hydrant or similar equipment
 12 used in snowmaking operations and located on ski slopes,
 13 trails, and areas;

14 (3) maintain one or more trail boards at prominent
 15 locations at each ski area displaying that area's network of
 16 ski trails and slopes;

17 (4) post a notice of the requirement for the use of
 18 ski-retention devices;

19 (5) designate by trail board or otherwise which trails
 20 or slopes are open or closed.

21 Section 4. Duties of operator with respect to
 22 passenger tramways. A ski area operator shall construct,
 23 operate, maintain, and repair any passenger tramway in
 24 accordance with the rules of the department of
 25 administration.

1 Section 5. Duties of passenger. No passenger may:

2 (1) board or disembark from a passenger tramway except
3 at an area designated for such purposes;

4 (2) throw or expel any object from a passenger
5 tramway;

6 (3) commit an act that interferes with the running or
7 operation of a passenger tramway;

8 (4) use a passenger tramway unless the passenger has
9 the ability to use it safely without any instruction on its
10 use by the operator;

11 (5) embark on a passenger tramway without the
12 authority of the operator.

13 Section 6. Skier's assumption of responsibility --
14 duties. (1) A skier assumes the risk and all legal
15 responsibility for injury to himself or loss of property
16 that results from participating in the sport of skiing by
17 virtue of his participation. The assumption of risk and
18 responsibility includes but is not limited to injury or loss
19 caused by the following: variations in terrain, surface or
20 subsurface snow or ice conditions, bare spots, rocks, trees,
21 other forms of forest growth or debris, lift towers and
22 components thereof, pole lines, and plainly marked or
23 visible snowmaking equipment.

24 (2) A skier is responsible for knowing the range of
25 his own ability to ski any slope, trail, or area and for

1 skiing within the limits of his ability, skiing only on
2 designated slopes and trails, maintaining control of speed
3 and course at all times while skiing, heeding all posted
4 warnings, and refraining from acting in a manner that may
5 cause or contribute to the injury of anyone. The
6 responsibility for collisions with a person or object while
7 skiing, is the responsibility of the person or persons and
8 not the responsibility of the ski area operator.

9 (3) A person who is skiing may not place an object in
10 the ski area or on the uphill track of a passenger tramway
11 that may cause a passenger or skier to fall, cross the track
12 of a passenger tramway except at a designated and approved
13 area, or if involved in a skiing accident, depart from the
14 scene of the accident without leaving personal
15 identification before notifying the proper authorities or
16 obtaining assistance when the skier knows that a person
17 involved in the accident is in need of medical or other
18 assistance.

19 Section 7. Liability of ski area operator. A ski area
20 operator is liable for loss or damages caused by failure to
21 follow the provisions of [sections 3 and 4]. A ski area
22 operator is not liable to any passenger or skier who acts in
23 violation of those duties and responsibilities provided for
24 in [sections 5 and 6]. A ski area operator is not liable for
25 any injury or damage to a person in violation of 45-6-305.

1 Section 8. Liability of passenger. A passenger is
2 liable for loss or damage resulting from violation of those
3 duties provided for in [section 5] and may not recover any
4 loss or damage suffered while acting in violation of
5 [section 5].

6 Section 9. Liability of skier. A skier is liable for
7 any loss or damage resulting from violation of those
8 responsibilities provided for in [section 6] and may not
9 recover any loss or damage suffered while acting in
10 violation of [section 6].

11 Section 10. Effect of comparative negligence.
12 Notwithstanding any comparative negligence law in this
13 state, a person is, consistent with the provisions of [this
14 act], barred from recovery for loss or damage resulting from
15 any risk inherent in the sport of skiing, whenever it is
16 established that a person has knowingly exposed himself to
17 the real or potential hazards of a situation.

-End-

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20 following definitions apply:

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22 under the control of a ski area operator for the purpose of
23 engaging in the sport of skiing by using the ski slopes,
24 trails, and areas and does not include the use of A PERSON
25 USING an aerial passenger tramway.

1 (2) "Ski slopes, trails, and areas" means those areas
2 designated by the ski area operator to be used by skiers for
3 the purpose of participating in the sport of skiing.

4 Section 3. Duties of operator regarding ski areas. A
5 ski area operator shall:

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7 the vehicles with flashing or rotating lights that must be
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10 (2) mark with a visible sign or other warning
11 implement the location of any hydrant or similar equipment
12 used in snowmaking operations and located on ski slopes,
13 trails, and areas;

14 (3) maintain one or more trail boards at prominent
15 locations at each ski area displaying that area's network of
16 ski trails and slopes;

17 (4) post a notice of the requirement for the use of
18 ski-retention devices;

19 (5) designate by trail board or otherwise which trails
20 or slopes are open or closed.

21 Section 4. Duties of operator with respect to
22 passenger tramways. A ski area operator shall construct,
23 operate, maintain, and repair any passenger tramway in
24 accordance with the rules of the department of
25 administration. HOWEVER, NOTHING IN THIS SECTION BELIEVES

1 AN OPERATOR FROM THE DUTY OF TAKING WHATEVER OTHER ACTIONS
2 ARE NECESSARY TO PROPERLY CONSTRUCT, OPERATE, MAINTAIN, AND
3 REPAIR A PASSENGER TRAMWAY.

4 Section 5. Duties of passenger. No passenger may:

5 (1) board or disembark from a passenger tramway except
6 at an area designated for such purposes;

7 (2) throw or expel any object from a passenger
8 tramway;

9 (3) commit an act that interferes with the running or
10 operation of a passenger tramway;

11 (4) use a passenger tramway unless the passenger has
12 the ability to use it safely without any instruction on its
13 use by the operator OR REQUESTS AND RECEIVES INSTRUCTION
14 BEFORE BOARDING;

15 (5) embark on a passenger tramway without the
16 authority of the operator.

17 Section 6. Skier's assumption of responsibility --

18 duties. (1) A skier assumes the risk and all legal
19 responsibility for injury to himself or loss of property
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1 components thereof, pole lines, and plainly marked or
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4 his own ability to ski any slope, trail, or area and for
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6 designated slopes and trails, maintaining control of speed
7 and course at all times while skiing, heeding all posted
8 warnings, and refraining from acting in a manner that may
9 cause or contribute to the injury of anyone. The
10 responsibility for collisions with a person or object while
11 skiing, is the responsibility of the person or persons and
12 not the responsibility of the ski area operator.

13 (3) A person who is skiing may not place an object in
14 the ski area or on the uphill track of a passenger tramway
15 that may cause a passenger or skier to fall, cross the track
16 of a passenger tramway except at a designated and approved
17 area, or if involved in a skiing accident, depart from the
18 scene of the accident without leaving personal
19 identification before notifying the proper authorities or
20 obtaining assistance when the skier knows that a person
21 involved in the accident is in need of medical or other
22 assistance.

23 ~~Section 7. Liability of ski area operator. A ski area~~
24 ~~operator is liable for loss or damages caused by failure to~~
25 ~~follow the provisions of [sections 3 and 4]. A ski area~~

1 operator-is-not-liable-to-any-passenger-or-skier-who-acts-in
2 violation-of-those-duties-and-responsibilities-provided-for
3 in-[sections-5-and-6]-A-ski-area-operator-is-not-liable-for
4 any-injury-or-damage-to-a-person-in-violation-of-45-6-385v

5 Section 8. Liability of passengers. A passenger is
6 liable for loss or damage resulting from violation of those
7 duties provided for in [section 5] and may not recover any
8 loss or damage suffered while acting in violation of
9 [section 5].

10 Section 9. Liability of skier. A skier is liable for
11 any loss or damage resulting from violation of those
12 responsibilities provided for in [section 6] and may not
13 recover any loss or damage suffered while acting in
14 violation of [section 6].

15 Section 7. Effect of comparative negligence.
16 Notwithstanding any comparative negligence law in this
17 state, a person is consistent with the provisions of [this
18 act] barred from recovery FROM A SKI AREA OPERATOR for loss
19 or damage resulting from any risk inherent in the sport of
20 skiing whenever it is established that a person has
21 knowingly exposed himself to the real or potential hazards
22 of a situation AS DESCRIBED IN [SECTION 6].

-End-

March 20, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 836, third reading bill, be amended as follows:

1. Page 1, line 24.
Following: "include"
Strike: "the use of"
Insert: "a person using"
2. Page 2, line 25.
Following: "administration."
Insert: "However, nothing in this section relieves an operator from the duty of taking whatever other actions are necessary to properly construct, operate, maintain, and repair a passenger tramway."
3. Page 3, line 10.
Following: "operator"
Insert: "or requests and receives instruction before boarding"
4. Page 4, line 19 through line 10 on page 5.
Strike: sections 7 through 9 in their entirety
Renumber: subsequent section
5. Page 5, lines 13 and 14.
Strike: ", consistent with the provisions of [this act],"
6. Page 5, line 14.
Following: "recovery"
Insert: "from a ski area operator"
7. Page 5, lines 15 through 17.
Following: "skiing" on line 15
Strike: remainder of line 15 through "situation" on line 17
Insert: "as described in [section 6]"