

HOUSE BILL NO. 258

INTRODUCED BY SPAETH, COHEN, GRADY,
GUTHRIE, GOOD, REAM

BY REQUEST OF THE DEPARTMENT OF COMMERCE

IN THE HOUSE

JANUARY 18, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
JANUARY 27, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 28, 1989	PRINTING REPORT.
JANUARY 30, 1989	SECOND READING, DO PASS.
JANUARY 31, 1989	ENGROSSING REPORT.
FEBRUARY 1, 1989	THIRD READING, PASSED. AYES, 82; NOES, 16.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 11, 1989	ON MOTION, CONSIDERATION PASSED UNTIL 59TH LEGISLATIVE DAY.
MARCH 14, 1989	SECOND READING, CONCURRED IN.
MARCH 16, 1989	THIRD READING, CONCURRED IN. AYES, 46; NOES, 1.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 30, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 31, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 298
2 INTRODUCED BY Speth Ray Grundy Hall
3 BY REQUEST OF THE DEPARTMENT OF COMMERCE Ream
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF
6 PASSENGER TRAMWAY SAFETY; TRANSFERRING TO THE NEW BOARD THE
7 POWERS, DUTIES, AND FUNCTIONS OF THE DEPARTMENT OF COMMERCE
8 RELATING TO TRAMWAYS; PROVIDING FOR ANNUAL TRAMWAY
9 REGISTRATION CERTIFICATES; PROVIDING LIABILITY LIMITS;
10 AMENDING SECTIONS 23-2-701, 23-2-702, 23-2-711 THROUGH
11 23-2-715, 23-2-721 THROUGH 23-2-725, AND 23-2-734, MCA; AND
12 PROVIDING A DELAYED EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. Board of passenger tramway
16 safety. (1) There is a board of passenger tramway safety.

17 (2) The board consists of seven members appointed by
18 the governor. Members of the board shall serve staggered
19 4-year terms, commencing on January 1 of each year of
20 appointment. A member who has served two successive complete
21 terms is not eligible for reappointment for 1 year. Upon
22 notice and hearing, the governor may remove a member for
23 neglect of duty or other just cause. A vacancy on the board
24 must be filled in the same manner as the original
25 appointment and only for the unexpired portion of the term.

1 (3) The members are:
2 (a) two skiers representative of the public;
3 (b) one licensed attorney who is a member of the
4 skiing public;
5 (c) one employee from the United States forest service
6 working in the field of passenger tramway safety;
7 (d) two persons involved with the operation of active
8 ski areas; and
9 (e) one person who is a Montana-licensed professional
10 engineer.

11 (4) Board members shall receive compensation for
12 performance of board duties as provided in 2-15-124.

13 (5) The board is allocated to the department for
14 administrative purposes only as prescribed in 2-15-121.

15 NEW SECTION. Section 2. Liability limits. The board,
16 individual board members, technical advisers appointed by
17 the board, and any independent contractor with whom the
18 board contracts must be provided all protections of
19 governmental immunity granted to public employees by
20 2-9-108, including but not limited to the provision of legal
21 defense, the payment of court costs, and the payment of
22 judgments and settlements. These protections are provided
23 only with regard to actions brought because of acts or
24 omissions committed by such persons in the course of
25 official tramway duties.

Section 3. Section 23-2-701, MCA, is amended to read:

"23-2-701. Policy of state. In order to safeguard the life, health, property, and welfare of the citizens of Montana while using passenger tramways, as defined in 23-2-702, it shall be the policy of the state to protect its citizens and visitors from unnecessary mechanical hazards in the design, construction, and operation of passenger tramways but not from the hazards inherent in the sports of mountaineering, skiing, and hiking or from the hazards of the area utilized by the skier or other sportsman and that periodic inspections be required of passenger tramways with a view to assuring that each one of them meets the rules set forth by the department board. The state, through the department board, shall register all passenger tramways in the state, establish reasonable standards of design, construction, and operational practices, and cause to be made such inspections as may be necessary in carrying this policy into effect."

Section 4. Section 23-2-702, MCA, is amended to read:

"23-2-702. Definitions. As used in this part, the following definitions apply:

(1) "Area" means the area, terrain, or ski slopes served by a passenger tramway.

(2) "Board" means the board of passenger tramway safety provided for in [section 1].

~~(2) "Department" means the department of commerce provided for in 2-15-1801.~~

(3) "Industry" means the passenger tramway business activities of all those persons in the state who own, manage, or direct the operation of passenger tramways.

(4) "Operator" means a person, including any political subdivision or instrumentality thereof, who owns, manages, or directs the operation of a passenger tramway.

(5) "Passenger tramway" means a device used to transport passengers by means of any of the following:

(a) two-car aerial passenger tramway, a device used to transport passengers in two open or enclosed cars attached to and suspended from a moving wire rope or attached to a moving wire rope and supported on a standing wire rope or similar devices;

(b) multicar aerial passenger tramway, a device used to transport passengers in several open or enclosed cars or carrying device attached to and suspended from a moving wire rope or attached to a moving wire rope and supported on a standing wire rope or similar devices;

(c) skimobile, a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable or similar devices;

(d) chair lift, a type of transportation on which passengers are carried on chairs suspended in the air and

attached to a moving cable, chain, or link belt supported by trestles or towers with one or more spans or similar devices;

(e) a J-bar, T-bar, or platterpull, so-called, and similar types of devices or means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans;

(f) rope tow, a type of transportation which pulls the skier, riding on skis as the skier grasps the rope or wire rope manually, or similar devices."

Section 5. Section 23-2-711, MCA, is amended to read:

"23-2-711. Registration of tramways required. No passenger tramway shall be operated in this state unless it has been and continues to be registered with the department board, provided that the initial application for the registration of a passenger tramway shall permit the operator to operate such passenger tramway until final action on the application shall have been taken by the department board. If an operator files an application with the department board for the registration of a passenger tramway, which at that time is registered, then the operator may continue the operation of such passenger tramway under the existing registration until the department board takes final action on the pending application and shall have:

(1) issued a certificate to the operator; or

(2) given written notice to the operator that the passenger tramway has not qualified for certification."

Section 6. Section 23-2-712, MCA, is amended to read:

"23-2-712. Application for registration. Each year on or before October 1, every operator of a passenger tramway shall apply to the department board, on forms prepared by it, for registration of the passenger tramways owned, operated, or managed by him. The application shall contain such information as the department board may reasonably require in order for it to determine whether the passenger tramways sought to be registered comply with the intent of this part as specified in 23-2-701 and the rules promulgated by the department board pursuant to 23-2-721."

Section 7. Section 23-2-713, MCA, is amended to read:

"23-2-713. Issuance of certificates. (1) The department board shall issue to the applying operator annual registration certificates for each passenger tramway owned, managed, or operated by such operator when it is satisfied:

(a) that the facts stated in the application are sufficient to enable the department board to fulfill its duties under this part; and

(b) that each such passenger tramway sought to be registered complies with the rules of the department board promulgated pursuant to 23-2-721.

(2) In order to satisfy itself that the conditions described in subsections (1)(a) and (1)(b) of this section have been fulfilled, the department board may cause to be made such inspections described in 23-2-722 as it may reasonably deem necessary.

(3) When an operator installs a passenger tramway subsequent to October 1 of any year, such operator shall file a supplemental application for registration of such passenger tramway. Upon the receipt of such supplemental application, the department board shall proceed immediately to initiate proceedings leading to the registration or rejection of registration of such passenger tramway pursuant to the provisions of this part.

(4) Each annual registration shall expire on September 30 of the year next following the year of issuance.

(5) Each operator shall cause the registration certificate for each passenger tramway registered to be displayed conspicuously at the place where passengers load."

Section 8. Section 23-2-714, MCA, is amended to read:

"23-2-714. Fees. (1) The application for annual registration or supplemental application shall be accompanied by such annual fees as the department board may by rule fix from year to year, not to exceed the following annual fees:

(a) passenger tramways described in subsections (5)(e)

and (5)(f) of 23-2-702, \$25 each;

(b) passenger tramways described in subsections (5)(c) and (5)(d) of 23-2-702, \$50 each;

(c) passenger tramways described in subsections (5)(a) and (5)(b) of 23-2-702, \$100 each.

(2) All fees collected by the department board shall be deposited in the state special revenue fund."

Section 9. Section 23-2-715, MCA, is amended to read:

"23-2-715. Assessment on passenger tramway receipts.

(1) The department board is hereby authorized to impose an assessment of up to 1/4 of 1% on the gross receipts of all passenger tramways operated in the state of Montana. A minimum of \$100 shall be collected annually from the owner of a passenger tramway facility. The assessment shall be calculated upon gross receipts received during the period July 1 of any year to July 1 of the following year. The assessments shall be collected by the department of revenue and remitted to the state special revenue fund by December 31 of each year.

(2) All proceeds of the gross receipts assessment and the fees collected under 23-2-714 shall be used only to support the duties of the department board set forth in this part."

Section 10. Section 23-2-721, MCA, is amended to read:

"23-2-721. Additional powers and duties of department

1 board. In addition to all other powers and duties conferred
2 and imposed upon the department board by this part, the
3 department board shall:

4 (1) adopt reasonable rules relating to public safety
5 in the design, construction, and operation of passenger
6 tramways but which may not relate or pertain to an area
7 served by a passenger tramway. In adopting such rules the
8 department board shall:

9 (a) use as a guideline the standards contained in "The
10 American National Standards Institute--Safety--Requirements
11 for ~~Aerial~~ Passenger Tramways--Aerial Tramways and Lifts,
12 Surface Lifts, and Tows--Safety Requirements", ANSI B
13 77.1--~~1970~~ 1982, as amended from time to time, or equivalent
14 and as amended or supplemented from time to time by the
15 department board;

16 (b) hold hearings and take in all evidence relating to
17 the adoption of these rules;

18 {2}(c) supply to each operator a copy of its rules and
19 each amendment thereto or revision thereof;

20 {3}(d) avoid discrimination in application of the
21 rules to operators of passenger tramways;

22 (2) The board may:

23 {4}(a) hold hearings and take evidence in all matters
24 relating to the exercise and performance of the powers and
25 duties vested in the department board, subpoena witnesses,

1 administer oaths, and compel the testimony of witnesses and
2 the production of books, papers, and records relevant to any
3 inquiry;

4 {5}(b) approve, deny, revoke, and renew the
5 registrations provided for in this part;

6 {6}(c) cause the prosecution and enjoinder of all
7 persons violating the provisions of this part and incur the
8 necessary expenses thereof;

9 {7}(d) ~~employ,--within--the---funds---available,---and~~
10 prescribe the duties of such personnel as the department
11 board considers necessary."

12 **Section 11.** Section 23-2-722, MCA, is amended to read:

13 "23-2-722. Inspection of tramways. The department
14 board may cause to be made such inspection of the design,
15 construction, operation, and maintenance of passenger
16 tramways as the department board may reasonably require. The
17 department board may employ qualified engineers to make such
18 inspections for reasonable fees plus expenses. If, as the
19 result of an inspection, it is found that a violation of the
20 department's board's rules exists or a condition in
21 passenger tramway design, construction, operation, or
22 maintenance exists endangering the safety of the public, an
23 immediate report shall be made to the operator whose
24 passenger tramway has received such inspection and to the
25 department board for appropriate investigation and order."

Section 12. Section 23-2-723, MCA, is amended to read:

"23-2-723. Order for corrective action and compliance.

If, after investigation, the department board finds that a violation of this part or any of its rules exists or that there is a condition in passenger tramway design, construction, operation, or maintenance endangering the safety of the public, it shall forthwith issue its written order setting forth its findings, and the corrective action to be taken, and fixing a reasonable time for compliance therewith. Such order shall be served upon the operator involved in such violation personally or by registered--or certified mail ~~at--the--department's--election,--and--return shall--be--made--as--provided--in--the--Montana--Rules--of--Civil Procedure.~~"

Section 13. Section 23-2-724, MCA, is amended to read:

"23-2-724. Remedies to enforce compliance. If any operator fails to comply with a legal order or rule of the department board, the department board, at its election, may:

(1) suspend the registration of the affected passenger tramway until the operator complies therewith; or

(2) bring injunctive proceedings in the district court of the judicial district in which the affected passenger tramway is located to compel compliance therewith. In such proceedings the department board shall not be required to

post bond."

Section 14. Section 23-2-725, MCA, is amended to read:

"23-2-725. Judicial review. Any order of the department board adverse to an operator may be appealed by the operator to the district court of the district wherein is located his passenger tramway which is the subject of such order, and said district court shall conduct a proceeding, de novo, and the decision of the district court shall be subject to appeal to the supreme court of Montana, as in civil cases."

Section 15. Section 23-2-734, MCA, is amended to read:

"23-2-734. Duties of operator with respect to passenger tramways. A ski area operator shall construct, operate, maintain, and repair any passenger tramway in accordance with the rules of the department board. 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."

NEW SECTION. Section 16. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 17. Codification instruction.

(1) [Section 1] is intended to be codified as an integral

1 part of Title 2, chapter 15, part 18, and the provisions of
2 Title 2, chapter 15, part 18, apply to [section 1].

3 (2) [Section 2] is intended to be codified as an
4 integral part of Title 23, chapter 2, part 7, and the
5 provisions of Title 23, chapter 2, part 7, apply to [section
6 2].

7 NEW SECTION. **Section 18.** Coordination instruction. If
8 __Bill No.__ [LC 0522] is passed and approved, __Bill No.__
9 [LC 0521] is void.

10 NEW SECTION. **Section 19.** Effective date. [This act]
11 is effective January 1, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB258, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB258 creates a Board of Passenger Tramway Safety, transferring to the board the powers, duties and functions of the Department of Commerce relating to tramways and limiting liability.

ASSUMPTIONS:

1. The board will meet three times per year consistent with the current Tramway Advisory Council; however, the meetings will last two days rather than one day and compensation for the members will increase from \$25 per day for council members to \$50 per day for board members.
2. The location of board meetings and the respective costs will be comparable to the current expenditures of the advisory council.
3. The tramway rules will be completely redone in FY90.
4. Because the tramway program has never been budgeted to pay for Department of Commerce support services and overhead, this adjustment would occur regardless of status as an advisory council or a board.
5. The figures used for the current program at the 1991 biennium executive budget recommendations.

FISCAL IMPACT:

		FY90			FY91	
Dept. of Commerce	Current	Proposed		Current	Proposed	
<u>Expenditures:</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
Personal Services	\$ 500	\$ 2,100	\$1,600	\$ 500	\$ 2,100	\$1,600
Operating Expenses	16,539	18,370	1,831	16,579	18,370	1,791
Total	\$17,039	\$20,470	\$3,431	\$17,079	\$20,470	\$3,391

Funding:

State Special Revenue	\$17,039	\$20,470	\$3,431	\$17,079	\$20,470	\$3,391
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Revenues:

Gross Receipts Tax	\$25,742	\$25,742	-0-	\$25,742	\$25,742	-0-
Registration Fee	2,125	2,125	-0-	2,125	2,125	-0-



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

1/25/89

DATE



GARY L. SPAETH, PRIMARY SPONSOR

DATE

Fiscal Note for HB258, as introduced

HB 258

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 258

INTRODUCED BY SPAETH, COHEN, GRADY,

GUTHRIE, GOOD, REAM

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF PASSENGER TRAMWAY SAFETY; TRANSFERRING TO THE NEW BOARD THE POWERS, DUTIES, AND FUNCTIONS OF THE DEPARTMENT OF COMMERCE RELATING TO TRAMWAYS; PROVIDING FOR ANNUAL TRAMWAY REGISTRATION CERTIFICATES; PROVIDING LIABILITY LIMITS; AMENDING SECTIONS 23-2-701, 23-2-702, 23-2-711 THROUGH 23-2-715, 23-2-721 THROUGH 23-2-725, AND 23-2-734, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. **Section 1.** Board of passenger tramway safety. (1) There is a board of passenger tramway safety.

(2) The board consists of seven members appointed by the governor. Members of the board shall serve staggered 4-year terms, commencing on January 1 of each year of appointment. A member who has served two successive complete terms is not eligible for reappointment for 1 year. Upon notice and hearing, the governor may remove a member for neglect of duty or other just cause. A vacancy on the board must be filled in the same manner as the original

appointment and only for the unexpired portion of the term.

(3) The members are:

(a) two skiers representative of the public;

(b) one licensed attorney who is a member of the skiing public;

(c) one employee from the United States forest service working in the field of passenger tramway safety;

(d) two persons involved with the operation of active ski areas; and

(e) one person who is a Montana-licensed professional engineer.

(4) Board members shall receive compensation for performance of board duties as provided in 2-15-124.

(5) The board is allocated to the department OF COMMERCE for administrative purposes only as prescribed in 2-15-121.

NEW SECTION. **Section 2.** Liability limits. The board, individual board members, technical advisers appointed by the board, and any independent contractor with whom the board contracts must be provided all protections of governmental immunity granted to public employees by 2-9-108, including but not limited to the provision of legal defense, the payment of court costs, and the payment of judgments and settlements. These protections are provided only with regard to actions brought because of acts or

1 omissions committed by such persons in the course of
2 official tramway duties.

3 **Section 3.** Section 23-2-701, MCA, is amended to read:

4 "23-2-701. Policy of state. In order to safeguard the
5 life, health, property, and welfare of the citizens of
6 Montana while using passenger tramways, as defined in
7 23-2-702, it shall be the policy of the state to protect its
8 citizens and visitors from unnecessary mechanical hazards in
9 the design, construction, and operation of passenger
10 tramways but not from the hazards inherent in the sports of
11 mountaineering, skiing, and hiking or from the hazards of
12 the area utilized by the skier or other sportsman and that
13 periodic inspections be required of passenger tramways with
14 a view to assuring that each one of them meets the rules set
15 forth by the department board. The state, through the
16 department board, shall register all passenger tramways in
17 the state, establish reasonable standards of design,
18 construction, and operational practices, and cause to be
19 made such inspections as may be necessary in carrying this
20 policy into effect."

21 **Section 4.** Section 23-2-702, MCA, is amended to read:

22 "23-2-702. Definitions. As used in this part, the
23 following definitions apply:

24 (1) "Area" means the area, terrain, or ski slopes
25 served by a passenger tramway.

1 (2) "Board" means the board of passenger tramway
2 safety provided for in [section 1].

3 ~~(2) "Department" means the department of commerce~~
4 ~~provided for in 2-15-1001.~~

5 (3) "Industry" means the passenger tramway business
6 activities of all those persons in the state who own,
7 manage, or direct the operation of passenger tramways.

8 (4) "Operator" means a person, including any political
9 subdivision or instrumentality thereof, who owns, manages,
10 or directs the operation of a passenger tramway.

11 (5) "Passenger tramway" means a device used to
12 transport passengers by means of any of the following:

13 (a) two-car aerial passenger tramway, a device used to
14 transport passengers in two open or enclosed cars attached
15 to and suspended from a moving wire rope or attached to a
16 moving wire rope and supported on a standing wire rope or
17 similar devices;

18 (b) multicar aerial passenger tramway, a device used
19 to transport passengers in several open or enclosed cars or
20 carrying device attached to and suspended from a moving wire
21 rope or attached to a moving wire rope and supported on a
22 standing wire rope or similar devices;

23 (c) skimobile, a device in which a passenger car
24 running on steel or wooden tracks is attached to and pulled
25 by a steel cable or similar devices;

(d) chair lift, a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain, or link belt supported by trestles or towers with one or more spans or similar devices;

(e) a J-bar, T-bar, or platterpull, so-called, and similar types of devices or means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans;

(f) rope tow, a type of transportation which pulls the skier, riding on skis as the skier grasps the rope or wire rope manually, or similar devices."

Section 5. Section 23-2-711, MCA, is amended to read:

"23-2-711. **Registration of tramways required.** No passenger tramway shall be operated in this state unless it has been and continues to be registered with the department board, provided that the initial application for the registration of a passenger tramway shall permit the operator to operate such passenger tramway until final action on the application shall have been taken by the department board. If an operator files an application with the department board for the registration of a passenger tramway, which at that time is registered, then the operator may continue the operation of such passenger tramway under

the existing registration until the department board takes final action on the pending application and shall have:

(1) issued a certificate to the operator; or

(2) given written notice to the operator that the passenger tramway has not qualified for certification."

Section 6. Section 23-2-712, MCA, is amended to read:

"23-2-712. **Application for registration.** Each year on or before October 1, every operator of a passenger tramway shall apply to the department board, on forms prepared by it, for registration of the passenger tramways owned, operated, or managed by him. The application shall contain such information as the department board may reasonably require in order for it to determine whether the passenger tramways sought to be registered comply with the intent of this part as specified in 23-2-701 and the rules promulgated by the department board pursuant to 23-2-721."

Section 7. Section 23-2-713, MCA, is amended to read:

"23-2-713. **Issuance of certificates.** (1) The department board shall issue to the applying operator annual registration certificates for each passenger tramway owned, managed, or operated by such operator when it is satisfied:

(a) that the facts stated in the application are sufficient to enable the department board to fulfill its duties under this part; and

(b) that each such passenger tramway sought to be

1 registered complies with the rules of the department board
2 promulgated pursuant to 23-2-721.

3 (2) In order to satisfy itself that the conditions
4 described in subsections (1)(a) and (1)(b) of this section
5 have been fulfilled, the department board may cause to be
6 made such inspections described in 23-2-722 as it may
7 reasonably deem necessary.

8 (3) When an operator installs a passenger tramway
9 subsequent to October 1 of any year, such operator shall
10 file a supplemental application for registration of such
11 passenger tramway. Upon the receipt of such supplemental
12 application, the department board shall proceed immediately
13 to initiate proceedings leading to the registration or
14 rejection of registration of such passenger tramway pursuant
15 to the provisions of this part.

16 (4) Each annual registration shall expire on September
17 30 of the year next following the year of issuance.

18 (5) Each operator shall cause the registration
19 certificate for each passenger tramway registered to be
20 displayed conspicuously at the place where passengers load."

21 **Section 8.** Section 23-2-714, MCA, is amended to read:

22 "23-2-714. Fees. (1) The application for annual
23 registration or supplemental application shall be
24 accompanied by such annual fees as the department board may
25 by rule fix from year to year, not to exceed the following

1 annual fees:

2 (a) passenger tramways described in subsections (5)(e)
3 and (5)(f) of 23-2-702, \$25 each;

4 (b) passenger tramways described in subsections (5)(c)
5 and (5)(d) of 23-2-702, \$50 each;

6 (c) passenger tramways described in subsections (5)(a)
7 and (5)(b) of 23-2-702, \$100 each.

8 (2) All fees collected by the department board shall
9 be deposited in the state special revenue fund."

10 **Section 9.** Section 23-2-715, MCA, is amended to read:

11 "23-2-715. Assessment on passenger tramway receipts.

12 (1) The department board is hereby authorized to impose an
13 assessment of up to 1/4 of 1% on the gross receipts of all
14 passenger tramways operated in the state of Montana. A
15 minimum of \$100 shall be collected annually from the owner
16 of a passenger tramway facility. The assessment shall be
17 calculated upon gross receipts received during the period
18 July 1 of any year to July 1 of the following year. The
19 assessments shall be collected by the department of revenue
20 and remitted to the state special revenue fund by December
21 31 of each year.

22 (2) All proceeds of the gross receipts assessment and
23 the fees collected under 23-2-714 shall be used only to
24 support the duties of the department board set forth in this
25 part."

Section 10. Section 23-2-721, MCA, is amended to read:

"23-2-721. Additional powers and duties of department board. In addition to all other powers and duties conferred and imposed upon the department board by this part, the department board shall:

(1) adopt reasonable rules relating to public safety in the design, construction, and operation of passenger tramways but which may not relate or pertain to an area served by a passenger tramway. In adopting such rules the department board shall:

(a) use as a guideline the standards contained in "The American National Standards Institute--Safety Requirements for Aerial Passenger Tramways--Aerial Tramways and Lifts, Surface Lifts, and Tows--Safety Requirements", ANSI B 77.1--~~1970~~ 1982, as amended from time to time, or equivalent and as amended or supplemented from time to time by the department board;

(b) hold hearings and take in all evidence relating to the adoption of these rules;

~~(2)~~(c) supply to each operator a copy of its rules and each amendment thereto or revision thereof;

~~(3)~~(d) avoid discrimination in application of the rules to operators of passenger tramways;

(2) The board may:

~~(4)~~(a) hold hearings and take evidence in all matters

relating to the exercise and performance of the powers and duties vested in the department board, subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers, and records relevant to any inquiry;

~~(5)~~(b) approve, deny, revoke, and renew the registrations provided for in this part;

~~(6)~~(c) cause the prosecution and enjoinder of all persons violating the provisions of this part and incur the necessary expenses thereof;

~~(7)~~(d) employ,---within---the---funds---available,---and prescribe the duties of such personnel as the department board considers necessary."

Section 11. Section 23-2-722, MCA, is amended to read:

"23-2-722. Inspection of tramways. The department board may cause to be made such inspection of the design, construction, operation, and maintenance of passenger tramways as the department board may reasonably require. The department board may employ qualified engineers to make such inspections for reasonable fees plus expenses. If, as the result of an inspection, it is found that a violation of the department's board's rules exists or a condition in passenger tramway design, construction, operation, or maintenance exists endangering the safety of the public, an immediate report shall be made to the operator whose

passenger tramway has received such inspection and to the department board for appropriate investigation and order."

Section 12. Section 23-2-723, MCA, is amended to read:

"23-2-723. Order for corrective action and compliance.

If, after investigation, the department board finds that a violation of this part or any of its rules exists or that there is a condition in passenger tramway design, construction, operation, or maintenance endangering the safety of the public, it shall forthwith issue its written order setting forth its findings, and the corrective action to be taken, and fixing a reasonable time for compliance therewith. Such order shall be served upon the operator involved in such violation personally or by registered or certified mail at the department's election, and return shall be made as provided in the Montana Rules of Civil Procedure."

Section 13. Section 23-2-724, MCA, is amended to read:

"23-2-724. Remedies to enforce compliance. If any operator fails to comply with a legal order or rule of the department board, the department board, at its election, may:

(1) suspend the registration of the affected passenger tramway until the operator complies therewith; or

(2) bring injunctive proceedings in the district court of the judicial district in which the affected passenger

tramway is located to compel compliance therewith. In such proceedings the department board shall not be required to post bond."

Section 14. Section 23-2-725, MCA, is amended to read:

"23-2-725. Judicial review. Any order of the department board adverse to an operator may be appealed by the operator to the district court of the district wherein is located his passenger tramway which is the subject of such order, and said district court shall conduct a proceeding, de novo, and the decision of the district court shall be subject to appeal to the supreme court of Montana, as in civil cases."

Section 15. Section 23-2-734, MCA, is amended to read:

"23-2-734. Duties of operator with respect to passenger tramways. A ski area operator shall construct, operate, maintain, and repair any passenger tramway in accordance with the rules of the department board. 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."

NEW SECTION. Section 16. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

1 NEW SECTION. **Section 17.** Codification instruction.

2 (1) [Section 1] is intended to be codified as an integral
3 part of Title 2, chapter 15, part 18, and the provisions of
4 Title 2, chapter 15, part 18, apply to [section 1].

5 (2) [Section 2] is intended to be codified as an
6 integral part of Title 23, chapter 2, part 7, and the
7 provisions of Title 23, chapter 2, part 7, apply to [section
8 2].

9 NEW SECTION. **Section 18.** Coordination instruction. If

10 __Bill No. __ [LC 0522] is passed and approved, __Bill No. __
11 [LC 0521] is void.

12 NEW SECTION. **Section 19.** Effective date. [This act]

13 is effective January 1, 1990.

-End-

1 HOUSE BILL NO. 258

2 INTRODUCED BY SPAETH, COHEN, GRADY,

3 GUTHRIE, GOOD, REAM

4 BY REQUEST OF THE DEPARTMENT OF COMMERCE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF
7 PASSENGER TRAMWAY SAFETY; TRANSFERRING TO THE NEW BOARD THE
8 POWERS, DUTIES, AND FUNCTIONS OF THE DEPARTMENT OF COMMERCE
9 RELATING TO TRAMWAYS; PROVIDING FOR ANNUAL TRAMWAY
10 REGISTRATION CERTIFICATES; PROVIDING LIABILITY LIMITS;
11 AMENDING SECTIONS 23-2-701, 23-2-702, 23-2-711 THROUGH
12 23-2-715, 23-2-721 THROUGH 23-2-725, AND 23-2-734, MCA; AND
13 PROVIDING A DELAYED EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:16 NEW SECTION. **Section 1.** Board of passenger tramway
17 safety. (1) There is a board of passenger tramway safety.

18 (2) The board consists of seven members appointed by
19 the governor. Members of the board shall serve staggered
20 4-year terms, commencing on January 1 of each year of
21 appointment. A member who has served two successive complete
22 terms is not eligible for reappointment for 1 year. Upon
23 notice and hearing, the governor may remove a member for
24 neglect of duty or other just cause. A vacancy on the board
25 must be filled in the same manner as the original

1 appointment and only for the unexpired portion of the term.

2 (3) The members are:

3 (a) two skiers representative of the public;

4 (b) one licensed attorney who is a member of the
5 skiing public;6 (c) one employee from the United States forest service
7 working in the field of passenger tramway safety;8 (d) two persons involved with the operation of active
9 ski areas; and10 (e) one person who is a Montana-licensed professional
11 engineer.12 (4) Board members shall receive compensation for
13 performance of board duties as provided in 2-15-124.14 (5) The board is allocated to the department OF
15 COMMERCE for administrative purposes only as prescribed in
16 2-15-121.

17 NEW SECTION. **Section 2.** Liability limits. The board,
18 individual board members, technical advisers appointed by
19 the board, and any independent contractor with whom the
20 board contracts must be provided all protections of
21 governmental immunity granted to public employees by
22 2-9-108, including but not limited to the provision of legal
23 defense, the payment of court costs, and the payment of
24 judgments and settlements. These protections are provided
25 only with regard to actions brought because of acts or

1 omissions committed by such persons in the course of
2 official tramway duties.

3 **Section 3.** Section 23-2-701, MCA, is amended to read:

4 "23-2-701. Policy of state. In order to safeguard the
5 life, health, property, and welfare of the citizens of
6 Montana while using passenger tramways, as defined in
7 23-2-702, it shall be the policy of the state to protect its
8 citizens and visitors from unnecessary mechanical hazards in
9 the design, construction, and operation of passenger
10 tramways but not from the hazards inherent in the sports of
11 mountaineering, skiing, and hiking or from the hazards of
12 the area utilized by the skier or other sportsman and that
13 periodic inspections be required of passenger tramways with
14 a view to assuring that each one of them meets the rules set
15 forth by the department board. The state, through the
16 department board, shall register all passenger tramways in
17 the state, establish reasonable standards of design,
18 construction, and operational practices, and cause to be
19 made such inspections as may be necessary in carrying this
20 policy into effect."

21 **Section 4.** Section 23-2-702, MCA, is amended to read:

22 "23-2-702. Definitions. As used in this part, the
23 following definitions apply:

24 (1) "Area" means the area, terrain, or ski slopes
25 served by a passenger tramway.

1 (2) "Board" means the board of passenger tramway
2 safety provided for in [section 1].

3 ~~(2) "Department" means the department of commerce~~
4 ~~provided for in 2-15-1881.~~

5 (3) "Industry" means the passenger tramway business
6 activities of all those persons in the state who own,
7 manage, or direct the operation of passenger tramways.

8 (4) "Operator" means a person, including any political
9 subdivision or instrumentality thereof, who owns, manages,
10 or directs the operation of a passenger tramway.

11 (5) "Passenger tramway" means a device used to
12 transport passengers by means of any of the following:

13 (a) two-car aerial passenger tramway, a device used to
14 transport passengers in two open or enclosed cars attached
15 to and suspended from a moving wire rope or attached to a
16 moving wire rope and supported on a standing wire rope or
17 similar devices;

18 (b) multicar aerial passenger tramway, a device used
19 to transport passengers in several open or enclosed cars or
20 carrying device attached to and suspended from a moving wire
21 rope or attached to a moving wire rope and supported on a
22 standing wire rope or similar devices;

23 (c) skimobile, a device in which a passenger car
24 running on steel or wooden tracks is attached to and pulled
25 by a steel cable or similar devices;

(d) chair lift, a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain, or link belt supported by trestles or towers with one or more spans or similar devices;

(e) a J-bar, T-bar, or platterpull, so-called, and similar types of devices or means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans;

(f) rope tow, a type of transportation which pulls the skier, riding on skis as the skier grasps the rope or wire rope manually, or similar devices."

Section 5. Section 23-2-711, MCA, is amended to read:

"23-2-711. Registration of tramways required. No passenger tramway shall be operated in this state unless it has been and continues to be registered with the department board, provided that the initial application for the registration of a passenger tramway shall permit the operator to operate such passenger tramway until final action on the application shall have been taken by the department board. If an operator files an application with the department board for the registration of a passenger tramway, which at that time is registered, then the operator may continue the operation of such passenger tramway under

the existing registration until the department board takes final action on the pending application and shall have:

(1) issued a certificate to the operator; or

(2) given written notice to the operator that the passenger tramway has not qualified for certification."

Section 6. Section 23-2-712, MCA, is amended to read:

"23-2-712. Application for registration. Each year on or before October 1, every operator of a passenger tramway shall apply to the department board, on forms prepared by it, for registration of the passenger tramways owned, operated, or managed by him. The application shall contain such information as the department board may reasonably require in order for it to determine whether the passenger tramways sought to be registered comply with the intent of this part as specified in 23-2-701 and the rules promulgated by the department board pursuant to 23-2-721."

Section 7. Section 23-2-713, MCA, is amended to read:

"23-2-713. Issuance of certificates. (1) The department board shall issue to the applying operator annual registration certificates for each passenger tramway owned, managed, or operated by such operator when it is satisfied:

(a) that the facts stated in the application are sufficient to enable the department board to fulfill its duties under this part; and

(b) that each such passenger tramway sought to be

1 registered complies with the rules of the department board
2 promulgated pursuant to 23-2-721.

3 (2) In order to satisfy itself that the conditions
4 described in subsections (1)(a) and (1)(b) of this section
5 have been fulfilled, the department board may cause to be
6 made such inspections described in 23-2-722 as it may
7 reasonably deem necessary.

8 (3) When an operator installs a passenger tramway
9 subsequent to October 1 of any year, such operator shall
10 file a supplemental application for registration of such
11 passenger tramway. Upon the receipt of such supplemental
12 application, the department board shall proceed immediately
13 to initiate proceedings leading to the registration or
14 rejection of registration of such passenger tramway pursuant
15 to the provisions of this part.

16 (4) Each annual registration shall expire on September
17 30 of the year next following the year of issuance.

18 (5) Each operator shall cause the registration
19 certificate for each passenger tramway registered to be
20 displayed conspicuously at the place where passengers load."

21 **Section 8.** Section 23-2-714, MCA, is amended to read:

22 "23-2-714. Fees. (1) The application for annual
23 registration or supplemental application shall be
24 accompanied by such annual fees as the department board may
25 by rule fix from year to year, not to exceed the following

1 annual fees:

2 (a) passenger tramways described in subsections (5)(e)
3 and (5)(f) of 23-2-702, \$25 each;

4 (b) passenger tramways described in subsections (5)(c)
5 and (5)(d) of 23-2-702, \$50 each;

6 (c) passenger tramways described in subsections (5)(a)
7 and (5)(b) of 23-2-702, \$100 each.

8 (2) All fees collected by the department board shall
9 be deposited in the state special revenue fund."

10 **Section 9.** Section 23-2-715, MCA, is amended to read:

11 "23-2-715. Assessment on passenger tramway receipts.

12 (1) The department board is hereby authorized to impose an
13 assessment of up to 1/4 of 1% on the gross receipts of all
14 passenger tramways operated in the state of Montana. A
15 minimum of \$100 shall be collected annually from the owner
16 of a passenger tramway facility. The assessment shall be
17 calculated upon gross receipts received during the period
18 July 1 of any year to July 1 of the following year. The
19 assessments shall be collected by the department of revenue
20 and remitted to the state special revenue fund by December
21 31 of each year.

22 (2) All proceeds of the gross receipts assessment and
23 the fees collected under 23-2-714 shall be used only to
24 support the duties of the department board set forth in this
25 part."

Section 10. Section 23-2-721, MCA, is amended to read:

"23-2-721. **Additional powers and duties of department board.** In addition to all other powers and duties conferred and imposed upon the department board by this part, the department board shall:

(1) adopt reasonable rules relating to public safety in the design, construction, and operation of passenger tramways but which may not relate or pertain to an area served by a passenger tramway. In adopting such rules the department board shall:

(a) use as a guideline the standards contained in "The American National Standards Institute--Safety-Requirements for Aerial Passenger Tramways--Aerial Tramways and Lifts, Surface Lifts, and Tows--Safety Requirements", ANSI B 77.1--1970 1982, as amended from time to time, or equivalent and as amended or supplemented from time to time by the department board;

(b) hold hearings and take in all evidence relating to the adoption of these rules;

(2)(c) supply to each operator a copy of its rules and each amendment thereto or revision thereof;

(3)(d) avoid discrimination in application of the rules to operators of passenger tramways;

(2) The board may:

(4)(a) hold hearings and take evidence in all matters

relating to the exercise and performance of the powers and duties vested in the department board, subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers, and records relevant to any inquiry;

(5)(b) approve, deny, revoke, and renew the registrations provided for in this part;

(6)(c) cause the prosecution and enjoinder of all persons violating the provisions of this part and incur the necessary expenses thereof;

(7)(d) employ, within the funds available, and prescribe the duties of such personnel as the department board considers necessary."

Section 11. Section 23-2-722, MCA, is amended to read:

"23-2-722. **Inspection of tramways.** The department board may cause to be made such inspection of the design, construction, operation, and maintenance of passenger tramways as the department board may reasonably require. The department board may employ qualified engineers to make such inspections for reasonable fees plus expenses. If, as the result of an inspection, it is found that a violation of the department's board's rules exists or a condition in passenger tramway design, construction, operation, or maintenance exists endangering the safety of the public, an immediate report shall be made to the operator whose

1 passenger tramway has received such inspection and to the
2 department board for appropriate investigation and order."

3 **Section 12.** Section 23-2-723, MCA, is amended to read:

4 "23-2-723. Order for corrective action and compliance.

5 If, after investigation, the department board finds that a
6 violation of this part or any of its rules exists or that
7 there is a condition in passenger tramway design,
8 construction, operation, or maintenance endangering the
9 safety of the public, it shall forthwith issue its written
10 order setting forth its findings, and the corrective action
11 to be taken, and fixing a reasonable time for compliance
12 therewith. Such order shall be served upon the operator
13 involved in such violation personally or by registered-or
14 certified mail at--the--department's--election;--and--return
15 shall--be--made--as--provided--in--the--Montana--Rules--of--Civil
16 Procedure."

17 **Section 13.** Section 23-2-724, MCA, is amended to read:

18 "23-2-724. Remedies to enforce compliance. If any
19 operator fails to comply with a legal order or rule of the
20 department board, the department board, at its election,
21 may:

22 (1) suspend the registration of the affected passenger
23 tramway until the operator complies therewith; or

24 (2) bring injunctive proceedings in the district court
25 of the judicial district in which the affected passenger

1 tramway is located to compel compliance therewith. In such
2 proceedings the department board shall not be required to
3 post bond."

4 **Section 14.** Section 23-2-725, MCA, is amended to read:

5 "23-2-725. Judicial review. Any order of the
6 department board adverse to an operator may be appealed by
7 the operator to the district court of the district wherein
8 is located his passenger tramway which is the subject of
9 such order, and said district court shall conduct a
10 proceeding, de novo, and the decision of the district court
11 shall be subject to appeal to the supreme court of Montana,
12 as in civil cases."

13 **Section 15.** Section 23-2-734, MCA, is amended to read:

14 "23-2-734. Duties of operator with respect to
15 passenger tramways. A ski area operator shall construct,
16 operate, maintain, and repair any passenger tramway in
17 accordance with the rules of the department board. However,
18 nothing in this section relieves an operator from the duty
19 of taking whatever other actions are necessary to properly
20 construct, operate, maintain, and repair a passenger
21 tramway."

22 **NEW SECTION. Section 16.** Extension of authority. Any
23 existing authority to make rules on the subject of the
24 provisions of [this act] is extended to the provisions of
25 [this act].

NEW SECTION. Section 17. Codification instruction.

(1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 23, chapter 2, part 7, and the provisions of Title 23, chapter 2, part 7, apply to [section 2].

NEW SECTION. Section 18. Coordination instruction. If

Bill No. [LC 0522] is passed and approved, Bill No. [LC 0521] is void.

NEW SECTION. Section 19. Effective date. [This act]

is effective January 1, 1990.

-End-

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 258 (third reading copy -- blue), respectfully report that HB 258 be amended and as so amended be concurred in:

Sponsor: Spaeth (McLane)

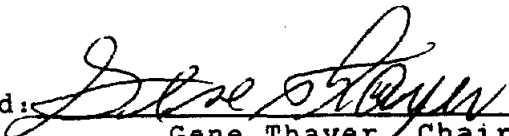
1. Page 2, line 22.

Strike: "2-9-108"

Insert: "2-9-305"

AND AS AMENDED BE CONCURRED IN

Signed:


Gene Thayer, Chairman

SENATE

HB 258

1 HOUSE BILL NO. 258
2 INTRODUCED BY SPAETH, COHEN, GRADY,
3 GUTHRIE, GOOD, REAM
4 BY REQUEST OF THE DEPARTMENT OF COMMERCE
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF
7 PASSENGER TRAMWAY SAFETY; TRANSFERRING TO THE NEW BOARD THE
8 POWERS, DUTIES, AND FUNCTIONS OF THE DEPARTMENT OF COMMERCE
9 RELATING TO TRAMWAYS; PROVIDING FOR ANNUAL TRAMWAY
10 REGISTRATION CERTIFICATES; PROVIDING LIABILITY LIMITS;
11 AMENDING SECTIONS 23-2-701, 23-2-702, 23-2-711 THROUGH
12 23-2-715, 23-2-721 THROUGH 23-2-725, AND 23-2-734, MCA; AND
13 PROVIDING A DELAYED EFFECTIVE DATE."
14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16 NEW SECTION. **Section 1.** Board of passenger tramway
17 safety. (1) There is a board of passenger tramway safety.
18 (2) The board consists of seven members appointed by
19 the governor. Members of the board shall serve staggered
20 4-year terms, commencing on January 1 of each year of
21 appointment. A member who has served two successive complete
22 terms is not eligible for reappointment for 1 year. Upon
23 notice and hearing, the governor may remove a member for
24 neglect of duty or other just cause. A vacancy on the board
25 must be filled in the same manner as the original

1 appointment and only for the unexpired portion of the term.
2 (3) The members are:
3 (a) two skiers representative of the public;
4 (b) one licensed attorney who is a member of the
5 skiing public;
6 (c) one employee from the United States forest service
7 working in the field of passenger tramway safety;
8 (d) two persons involved with the operation of active
9 ski areas; and
10 (e) one person who is a Montana-licensed professional
11 engineer.
12 (4) Board members shall receive compensation for
13 performance of board duties as provided in 2-15-124.
14 (5) The board is allocated to the department OF
15 COMMERCE for administrative purposes only as prescribed in
16 2-15-121.
17 NEW SECTION. **Section 2.** Liability limits. The board,
18 individual board members, technical advisers appointed by
19 the board, and any independent contractor with whom the
20 board contracts must be provided all protections of
21 governmental immunity granted to public employees by 2-9-100
22 2-9-305, including but not limited to the provision of legal
23 defense, the payment of court costs, and the payment of
24 judgments and settlements. These protections are provided
25 only with regard to actions brought because of acts or

1 omissions committed by such persons in the course of
2 official tramway duties.

3 **Section 3.** Section 23-2-701, MCA, is amended to read:

4 "23-2-701. Policy of state. In order to safeguard the
5 life, health, property, and welfare of the citizens of
6 Montana while using passenger tramways, as defined in
7 23-2-702, it shall be the policy of the state to protect its
8 citizens and visitors from unnecessary mechanical hazards in
9 the design, construction, and operation of passenger
10 tramways but not from the hazards inherent in the sports of
11 mountaineering, skiing, and hiking or from the hazards of
12 the area utilized by the skier or other sportsman and that
13 periodic inspections be required of passenger tramways with
14 a view to assuring that each one of them meets the rules set
15 forth by the departement board. The state, through the
16 departement board, shall register all passenger tramways in
17 the state, establish reasonable standards of design,
18 construction, and operational practices, and cause to be
19 made such inspections as may be necessary in carrying this
20 policy into effect."

21 **Section 4.** Section 23-2-702, MCA, is amended to read:

22 "23-2-702. Definitions. As used in this part, the
23 following definitions apply:

24 (1) "Area" means the area, terrain, or ski slopes
25 served by a passenger tramway.

1 (2) "Board" means the board of passenger tramway
2 safety provided for in [section 1].

3 ~~(2)--"Department"--means--the--department--of--commerce~~
4 ~~provided-for-in-2-15-1801-~~

5 (3) "Industry" means the passenger tramway business
6 activities of all those persons in the state who own,
7 manage, or direct the operation of passenger tramways.

8 (4) "Operator" means a person, including any political
9 subdivision or instrumentality thereof, who owns, manages,
10 or directs the operation of a passenger tramway.

11 (5) "Passenger tramway" means a device used to
12 transport passengers by means of any of the following:

13 (a) two-car aerial passenger tramway, a device used to
14 transport passengers in two open or enclosed cars attached
15 to and suspended from a moving wire rope or attached to a
16 moving wire rope and supported on a standing wire rope or
17 similar devices;

18 (b) multicar aerial passenger tramway, a device used
19 to transport passengers in several open or enclosed cars or
20 carrying device attached to and suspended from a moving wire
21 rope or attached to a moving wire rope and supported on a
22 standing wire rope or similar devices;

23 (c) skimobile, a device in which a passenger car
24 running on steel or wooden tracks is attached to and pulled
25 by a steel cable or similar devices;

1 (d) chair lift, a type of transportation on which
2 passengers are carried on chairs suspended in the air and
3 attached to a moving cable, chain, or link belt supported by
4 trestles or towers with one or more spans or similar
5 devices;

6 (e) a J-bar, T-bar, or platterpull, so-called, and
7 similar types of devices or means of transportation which
8 pull skiers riding on skis by means of an attachment to a
9 main overhead cable supported by trestles or towers with one
10 or more spans;

11 (f) rope tow, a type of transportation which pulls the
12 skier, riding on skis as the skier grasps the rope or wire
13 rope manually, or similar devices."

14 **Section 5.** Section 23-2-711, MCA, is amended to read:

15 "23-2-711. Registration of tramways required. No
16 passenger tramway shall be operated in this state unless it
17 has been and continues to be registered with the department
18 board, provided that the initial application for the
19 registration of a passenger tramway shall permit the
20 operator to operate such passenger tramway until final
21 action on the application shall have been taken by the
22 department board. If an operator files an application with
23 the department board for the registration of a passenger
24 tramway, which at that time is registered, then the operator
25 may continue the operation of such passenger tramway under

1 the existing registration until the department board takes
2 final action on the pending application and shall have:

3 (1) issued a certificate to the operator; or

4 (2) given written notice to the operator that the
5 passenger tramway has not qualified for certification."

6 **Section 6.** Section 23-2-712, MCA, is amended to read:

7 "23-2-712. Application for registration. Each year on
8 or before October 1, every operator of a passenger tramway
9 shall apply to the department board, on forms prepared by
10 it, for registration of the passenger tramways owned,
11 operated, or managed by him. The application shall contain
12 such information as the department board may reasonably
13 require in order for it to determine whether the passenger
14 tramways sought to be registered comply with the intent of
15 this part as specified in 23-2-701 and the rules promulgated
16 by the department board pursuant to 23-2-721."

17 **Section 7.** Section 23-2-713, MCA, is amended to read:

18 "23-2-713. Issuance of certificates. (1) The
19 department board shall issue to the applying operator annual
20 registration certificates for each passenger tramway owned,
21 managed, or operated by such operator when it is satisfied:

22 (a) that the facts stated in the application are
23 sufficient to enable the department board to fulfill its
24 duties under this part; and

25 (b) that each such passenger tramway sought to be

1 registered complies with the rules of the department board
2 promulgated pursuant to 23-2-721.

3 (2) In order to satisfy itself that the conditions
4 described in subsections (1)(a) and (1)(b) of this section
5 have been fulfilled, the department board may cause to be
6 made such inspections described in 23-2-722 as it may
7 reasonably deem necessary.

8 (3) When an operator installs a passenger tramway
9 subsequent to October 1 of any year, such operator shall
10 file a supplemental application for registration of such
11 passenger tramway. Upon the receipt of such supplemental
12 application, the department board shall proceed immediately
13 to initiate proceedings leading to the registration or
14 rejection of registration of such passenger tramway pursuant
15 to the provisions of this part.

16 (4) Each annual registration shall expire on September
17 30 of the year next following the year of issuance.

18 (5) Each operator shall cause the registration
19 certificate for each passenger tramway registered to be
20 displayed conspicuously at the place where passengers load."

21 **Section 8.** Section 23-2-714, MCA, is amended to read:

22 "23-2-714. Fees. (1) The application for annual
23 registration or supplemental application shall be
24 accompanied by such annual fees as the department board may
25 by rule fix from year to year, not to exceed the following

1 annual fees:

2 (a) passenger tramways described in subsections (5)(e)
3 and (5)(f) of 23-2-702, \$25 each;

4 (b) passenger tramways described in subsections (5)(c)
5 and (5)(d) of 23-2-702, \$50 each;

6 (c) passenger tramways described in subsections (5)(a)
7 and (5)(b) of 23-2-702, \$100 each.

8 (2) All fees collected by the department board shall
9 be deposited in the state special revenue fund."

10 **Section 9.** Section 23-2-715, MCA, is amended to read:

11 "23-2-715. Assessment on passenger tramway receipts.

12 (1) The department board is hereby authorized to impose an
13 assessment of up to 1/4 of 1% on the gross receipts of all
14 passenger tramways operated in the state of Montana. A
15 minimum of \$100 shall be collected annually from the owner
16 of a passenger tramway facility. The assessment shall be
17 calculated upon gross receipts received during the period
18 July 1 of any year to July 1 of the following year. The
19 assessments shall be collected by the department of revenue
20 and remitted to the state special revenue fund by December
21 31 of each year.

22 (2) All proceeds of the gross receipts assessment and
23 the fees collected under 23-2-714 shall be used only to
24 support the duties of the department board set forth in this
25 part."

Section 10. Section 23-2-721, MCA, is amended to read:

"23-2-721. Additional powers and duties of department board. In addition to all other powers and duties conferred and imposed upon the department board by this part, the department board shall:

(1) adopt reasonable rules relating to public safety in the design, construction, and operation of passenger tramways but which may not relate or pertain to an area served by a passenger tramway. In adopting such rules the department board shall:

(a) use as a guideline the standards contained in "The American National Standards Institute--Safety--Requirements for Aerial Passenger Tramways--Aerial Tramways and Lifts, Surface Lifts, and Tows--Safety Requirements", ANSI B 77.1--1970 1982, as amended from time to time, or equivalent and as amended or supplemented from time to time by the department board;

(b) hold hearings and take in all evidence relating to the adoption of these rules;

(2)(c) supply to each operator a copy of its rules and each amendment thereto or revision thereof;

(3)(d) avoid discrimination in application of the rules to operators of passenger tramways;

(2) The board may:

(4)(a) hold hearings and take evidence in all matters

relating to the exercise and performance of the powers and duties vested in the department board, subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers, and records relevant to any inquiry;

(5)(b) approve, deny, revoke, and renew the registrations provided for in this part;

(6)(c) cause the prosecution and enjoinder of all persons violating the provisions of this part and incur the necessary expenses thereof;

(7)(d) employ,--within--the---funds---available,---and prescribe the duties of such personnel as the department board considers necessary."

Section 11. Section 23-2-722, MCA, is amended to read:

"23-2-722. Inspection of tramways. The department board may cause to be made such inspection of the design, construction, operation, and maintenance of passenger tramways as the department board may reasonably require. The department board may employ qualified engineers to make such inspections for reasonable fees plus expenses. If, as the result of an inspection, it is found that a violation of the department's board's rules exists or a condition in passenger tramway design, construction, operation, or maintenance exists endangering the safety of the public, an immediate report shall be made to the operator whose

passenger tramway has received such inspection and to the department board for appropriate investigation and order."

Section 12. Section 23-2-723, MCA, is amended to read:

"23-2-723. Order for corrective action and compliance.

If, after investigation, the department board finds that a violation of this part or any of its rules exists or that there is a condition in passenger tramway design, construction, operation, or maintenance endangering the safety of the public, it shall forthwith issue its written order setting forth its findings, and the corrective action to be taken, and fixing a reasonable time for compliance therewith. Such order shall be served upon the operator involved in such violation personally or by registered--or certified mail ~~at--the--department's--election; and--return shall--be--made--as--provided--in--the--Montana--Rules--of--Civil Procedure.~~"

Section 13. Section 23-2-724, MCA, is amended to read:

"23-2-724. Remedies to enforce compliance. If any operator fails to comply with a legal order or rule of the department board, the department board, at its election, may:

(1) suspend the registration of the affected passenger tramway until the operator complies therewith; or

(2) bring injunctive proceedings in the district court of the judicial district in which the affected passenger

tramway is located to compel compliance therewith. In such proceedings the department board shall not be required to post bond."

Section 14. Section 23-2-725, MCA, is amended to read:

"23-2-725. Judicial review. Any order of the department board adverse to an operator may be appealed by the operator to the district court of the district wherein is located his passenger tramway which is the subject of such order, and said district court shall conduct a proceeding, de novo, and the decision of the district court shall be subject to appeal to the supreme court of Montana, as in civil cases."

Section 15. Section 23-2-734, MCA, is amended to read:

"23-2-734. Duties of operator with respect to passenger tramways. A ski area operator shall construct, operate, maintain, and repair any passenger tramway in accordance with the rules of the department board. 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."

NEW SECTION. Section 16. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

1 NEW SECTION. **Section 17.** Codification instruction.

2 (1) [Section 1] is intended to be codified as an integral
3 part of Title 2, chapter 15, part 18, and the provisions of
4 Title 2, chapter 15, part 18, apply to [section 1].

5 (2) [Section 2] is intended to be codified as an
6 integral part of Title 23, chapter 2, part 7, and the
7 provisions of Title 23, chapter 2, part 7, apply to [section
8 2].

9 NEW SECTION. **Section 18.** Coordination instruction. If
10 __Bill No. __ [LC 0522] is passed and approved, __Bill No. __
11 [LC 0521] is void.

12 NEW SECTION. **Section 19.** Effective date. [This act]
13 is effective January 1, 1990.

-End-