

(SENATE AUTHORS: INGEBRIGTSEN, Bakk, Reinert, Thompson and Gerlach)

DATE	D-PG	OFFICIAL STATUS
01/24/2012	3633	Introduction and first reading Referred to Jobs and Economic Growth
02/08/2012	3765	Withdrawn and re-referred to Judiciary and Public Safety

1.1

A bill for an act

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relating to skier liability; establishing standards; limiting liability in certain

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circumstances; proposing coding for new law as Minnesota Statutes, chapter

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184C.

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

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Section 1. **[184C.01] TITLE.**

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This chapter constitutes the "Minnesota Ski Safety Act."

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Sec. 2. **[184C.02] DEFINITIONS.**

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Subdivision 1. **Application.** As used in this chapter, the terms defined in this section

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have the meanings given them.

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Subd. 2. **ANSI Ski Lift Code.** "ANSI Ski Lift Code" means the American National

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Standard for Passenger Ropeways-Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and

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Conveyors Safety Requirements, B77.1-2006, as published by the American National

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Standards Institute, including any revisions or replacement standards adopted by the

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institute after the effective date of this section.

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Subd. 3. **Competition.** "Competition" means any event operated by a ski area

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operator or any other party authorized by the ski area operator at a ski area involving

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comparison of skills, including a ski race, mogul contest, jumping event, freestyle event,

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snowcross contest, or other similar contest or event. Competition includes training

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sessions for a contest or event.

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Subd. 4. **Conditions and risks of skiing.** "Conditions and risks of skiing" means:

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(1) changes in weather and visibility;

(2) surface or subsurface conditions, including, but not limited to, snow in any condition, ice, crust, slush, soft spots, ridges, rollers, knobs, holes, grooves, tracks from ski area vehicles, bare spots, rocks, boulders, stumps, and logs, brush or other forest growth or debris or piles thereof;

(3) variations in difficulty of terrain and surface and subsurface conditions on a single trail or route or within a single trail difficulty designation category at a ski area or from one ski area to another;

(4) ski trails that have, fall away, or drop off toward natural or manmade obstacles or hazards including, but not limited to, sharp corners, ridges, jumps, bumps, rollers, moguls, valleys, dips, compressions, cliffs, ravines, drop-offs, streams, rivers, ponds, lakes, stream beds, open water or water with thin ice, holes, steep sections, flat sections, and uphill sections, and all variants and combinations thereof;

(5) the potential for collision with other skiers or persons, including ski area personnel, or with equipment such as ski area infrastructure, snowmaking equipment, buildings and posts, and stationary or moving ski area vehicles;

(6) the location, construction, design, layout, configuration, and condition of ski trails, freestyle terrain, competition terrain, and tree skiing areas;

(7) that use of ski trails, freestyle terrain, competition terrain, and tree skiing areas and participation in or being near races or other competitions or events, including but not limited to as a skier, worker, spectator or observer, involves the risk of serious injury to person or property or death; and

(8) any other equivalent, comparable, or similar conditions or risks not referenced in clauses (1) through (7).

**Subd. 5. Freestyle terrain.** "Freestyle terrain" means terrain that includes, but is not limited to, terrain parks and terrain park features such as rails, boxes, jumps, hits, jibs, tabletops, spines, ramps, banks, half-pipes, quarter-pipes, picnic tables, logs, pipes, snowcross terrain and features, and other constructed or natural features, but does not include moguls, bumps or rollers, or jumps not built by the ski area operator, unless they are within a designated terrain park area.

**Subd. 6. Qualified lift inspector.** "Qualified lift inspector" means a person knowledgeable with the requirements of the ANSI Ski Lift Code and the design and operation of ski lifts who is either a professional engineer registered in any state or territory of the United States or who has been or is engaged as a lift inspector for an insurance company that provides or has provided insurance coverage to any ski area.

**Subd. 7. Ski area.** "Ski area" means all ski trails or other areas of real property used by skiers that is administered as a single enterprise by a ski area operator.

Subd. 8. **Ski area infrastructure.** "Ski area infrastructure" means:

(1) ski lifts and any associated components including, but not limited to, lift towers, concrete tower foundations, tower bolts, tower ladders, lift terminals, chairs, t-bars, gondolas, conveyors, and other structures relating to ski lifts;

(2) snowmaking equipment;

(3) buildings, shacks, fixtures, furniture, and other structures, including utility infrastructure, located on the ski area property; and

(4) signs, fences, ropes, flags, posts, and any other materials or structures used for posting signs or to manage or direct skiers and spectators.

Subd. 9. **Ski area operator.** "Ski area operator" means any entity or person that has responsibility for the operations of a ski area and the owners, partners and members, managers, employees, agents, and affiliates and assigns of the entity or person.

Subd. 10. **Ski area vehicles.** "Ski area vehicles" means vehicles used in the operation and maintenance of ski areas and competitions or used in the transportation of skiers or other persons within the ski area.

Subd. 11. **Skier.** "Skier" means a person of any age or physical or mental ability who is engaged in skiing or is present while any individuals are engaged in skiing.

Subd. 12. **Skiing.** "Skiing" means:

(1) using a ski trail or other terrain at or near a ski area for sliding, jumping, walking, or traveling for alpine, snowboarding, telemark, snowshoeing or nordic skiing, tobogganing, sledding, or tubing, or use of a minibob, tray, snowbike, or comparable device;

(2) being a spectator, observer, bystander, or pedestrian of or to any activity on a ski trail or other terrain at or near a ski area; or

(3) being a passenger on a ski lift.

Subd. 13. **Ski lift.** "Ski lift" means any chairlift, gondola, tramway, cable car, or other aerial lift and any rope tow, conveyor, t-bar, j-bar, handle tow, or other surface lift used by a ski area operator to transport skiers, tubing participants, spectators, or pedestrians at a ski area.

Subd. 14. **Ski trail; trail.** "Ski trail" or "trail" means any slope, trail, run, freestyle terrain, competition terrain, tree skiing areas, and tubing park areas or any other area at or near a ski area that is used by skiers for skiing. Ski trail includes edges and transition areas to other terrain.

Subd. 15. **Snowmaking equipment.** "Snowmaking equipment" means any snowmaking machine, snow gun, snow or water stick and any associated towers, components, pipe, hydrant, hose, or other structures.

Subd. 16. **Tubing park.** "Tubing park" means an area designated by a ski area operator for sliding on inflatable tubes, minibobs, sleds, toboggans, or any comparable devices down a prepared course or lanes at a ski area.

Sec. 3. **[184C.03] SKI AREA OPERATOR RESPONSIBILITIES.**

Subdivision 1. **Required signage; notice of risks.** (a) Each ski area shall post and maintain a sign at least six square feet in size at or near each of the ski area's ticket sales buildings that states:

"WARNING: ASSUMPTION OF RISKS AND LIABILITY FOR INJURY: Under the Minnesota Ski Safety Act, a skier is deemed to have accepted and to have knowledge of the risk of injury to person or property that may result. Under this act, every skier has the responsibility to take precautions necessary to avoid injury to person or property. The full terms of this act are available upon request.

The Minnesota Ski Safety Act sets forth certain other limitations on the liability of ski areas for injuries to person or property or death of skiers. A complete copy of this act is available for review in the ticket sales or customer service."

(b) Each ski area ticket sales building shall provide a copy of the skier responsibility code as published by the National Ski Areas Association, and a copy of this chapter in its entirety, to any skier upon request.

Subd. 2. **Required notice; tickets and season passes.** Every ski area shall print on each ticket or season pass issued by the ski area for skiing the following statement:

"WARNING: Under the Minnesota Ski Safety Act, each skier (1) assumes the risk of injury to person or property or death resulting from conditions and risks deemed to be inherent to this recreational activity, (2) has a number of responsibilities to adhere to while skiing, and (3) is subject to limitations on the ability to recover damages against a ski area operator for injuries to person or property or death of a skier. A complete copy of this act, and the skier responsibility code published by the National Ski Areas Association, is available for review in the ticket sales or customer service area of this ski area."

Subd. 3. **Required signage; difficulty levels.** (a) Every ski area operator shall install and maintain at or near the beginning of each designated ski trail a sign that contains the name of the trail and any of the applicable difficulty level words and emblems contained in this subdivision, as determined by the ski area operator. The sign must be at least six square feet in size if the ski area encompasses 150 acres or more, and at least three square feet in size if the ski area encompasses less than 150 acres. As applicable, the signs shall state:

(1) "Easiest," and include a green circle emblem;

(2) "Difficult" or "More Difficult," and include a blue square emblem;

(3) "Most Difficult," and include a black diamond emblem;

(4) "Expert" or "Extreme Terrain," and include a two black diamond emblem;

(5) "Freestyle Terrain," and include an orange oval emblem; or

(6) "Tree skiing - CAUTION," designed with an orange background color or orange lettering with black or white background, and the additional statement "This back country is not groomed or patrolled - Never ski alone."

(b) Directional arrows may be included on any sign, but must be included if the sign is located at such a distance or position relative to the beginning of a trail that it would not be understandable by a reasonably prudent skier without directional arrows.

Subd. 4. **Trail maps.** (a) Each ski area operator shall provide trail maps at least eight inches by 11 inches in unfolded size. The maps must be easily accessible to skiers.

(b) If the designated ski trails encompass more than 150 acres, the operator shall post at least one trail map board at least 32 square feet in size at, near, or en route to the principal chalet.

(c) All trail maps shall indicate the skill level designations for each respective trail consistent with the standards provided in subdivision 3.

Subd. 5. **Freestyle terrain.** A ski area operator must construct a barricade through fencing, flagging, or similar means at the entrance to any ski trail containing freestyle terrain. The barricade must contain an entrance opening not wider than 30 feet. The ski area operator shall post at or near the route to the entrance a sign at least three square feet in size that indicates the location of the freestyle terrain. These signs shall be denoted by an orange oval emblem, a stop sign emblem, the statement "Freestyle Skills Required," and either "Helmets are recommended" or "Consider wearing a helmet." The sign shall also include any freestyle language recommended by the National Ski Areas Association.

Subd. 6. **Tubing park.** (a) Each ski area operator that operates a tubing park shall install and maintain signs at least six square feet in size, as follows:

(1) at or near or on the route to the loading area of the tubing park ski lift or entrance to the tubing park, a sign that includes the statement:

"WARNING: Under the Minnesota Ski Safety Act, each participant and rider in a tubing park (1) assumes the risk of injury to person or property or death resulting from conditions and risks deemed to be inherent to this recreational activity, (2) has a number of responsibilities to adhere to while tubing, and (3) is subject to limitations on the ability to recover damages against the tubing operator area in the event of injury to person or property or death. A complete copy of this act is available for review in the ticket sales or customer service area for this tubing park"; and

(2) at or near the route to the loading area of the tubing park ski lift or the entrance to the tubing park, a sign that includes the statement:

"WARNING: TUBING PARTICIPANT RESPONSIBILITIES: Under the Minnesota Ski Safety Act, each tubing park participant or rider is responsible for:

(1) knowing the range of one's ability to negotiate and control one's speed down the tubing area and observing all posted information, signs, and other warnings;

(2) assessing the surface conditions, layout, steepness, and difficulty of the tubing trail by observing the trail and descent of other riders and participants;

(3) tubing within one's ability and maintaining control of speed and direction at all times by such steps as dragging one's feet and observing limits on weight and the number of other riders on the same tube; and

(4) attaining the knowledge and ability to safely load, ride, and unload the tubing park ski lift before boarding such lift and to not load or unload from such lift except at designated areas."

(b) A ski area operator may also comply with this subdivision by maintaining one sign of at least 12 square feet in size at or near the route to the loading area of the tubing park ski lift or entrance to the tubing park that contains both warnings provided in paragraph (a).

Subd. 7. **Lift signs.** (a) If any of the ski lifts at a ski area do not service ski trails that are designated by the ski area operator as "easier," the ski area operator shall place at, near, or on the route to the loading area of the lift a sign at least six square feet in size that states the following statement:

"WARNING: This lift does not service any trails that are "easier" (green circle emblem); all of the trails serviced by this lift are "more difficult" (blue square emblem), "most difficult" (black square emblem), "expert" (two black diamond emblem), or "freestyle terrain" (orange emblem) as applicable."

(b) The provisions of this subdivision do not apply to tubing areas.

Subd. 8. **Ski area vehicles.** (a) All ski area vehicles present on designated ski trails during operating hours of the ski lifts at a ski area must have a flashing light on or near the top of the vehicle whenever the vehicle's engine is on and the vehicle is moving. All snowmobiles, all-terrain vehicles, and any other similarly sized vehicles present on designated ski trails during operating hours of the ski lifts at a ski area must, in addition, have a red or orange flag that is at least 40 square inches in size and mounted at least five feet from the bottom of the tracks or tires while the vehicle is moving.

(b) Ski area operators are not liable for injury to person or property or death resulting from a collision with a stationary ski area vehicle, with a nonstationary ski area vehicle

when a ski lift is closed, or with a nonstationary ski area vehicle during ski lift operating hours if the vehicle is equipped as required by paragraph (a).

Subd. 9. **Variations of signs.** Any ski area operator shall be permitted to vary from the specific requirements set forth in this section related to posting of signs, provided that a reasonably prudent skier abiding by all of the skier's responsibilities would be able to find and understand the sign.

Subd. 10. **Exclusivity of duties.** The duties enumerated in this section shall be the complete list of duties for ski area operators under Minnesota law. If a particular circumstance or circumstances is found by a court to not be included in such enumeration of conditions and risks or other such assumed risks by skiers under this act, and such circumstance or circumstances are or should be known to the ski area operator, the duty of such operator shall be to provide such additional warnings or take such additional measures, if any, necessary to provide a reasonably prudent skier with reasonable warnings of such circumstance or circumstances.

Subd. 11. **Ski lift inspections.** (a) During or prior to each ski season, each ski area operator shall have all ski lifts in the operator's ski area inspected by a qualified lift inspector for compliance with the requirements of the ANSI Ski Lift Code.

(b) Ski area operators shall not be considered common carriers under Minnesota law, but shall be responsible for any injury to person or property, or death of a skier sustained in a ski lift accident, if such incident is caused by the operator's failure to comply with any mandatory provision of the ANSI Ski Lift Code.

Sec. 4. **[184C.04] SKIER RESPONSIBILITIES; LIMITED OPERATOR LIABILITY.**

Subdivision 1. **Duties of skiers.** (a) A skier at all times has a duty to comply with each element of the skier responsibility code published by the National Ski Areas Association and posted at the ski area, and a duty to exercise reasonable care in skiing. A skier shall be presumed to have seen and understood all postings, signs, and other warnings provided by the ski area operator consistent with the requirements of this chapter.

(b) A skier who is not authorized by the ski area operator to use or be present at the ski area is a trespasser and the duty of the ski area operator to that skier is only the duty owed under law to trespassers.

Subd. 2. **Helmets.** It shall be the responsibility of each skier to determine whether to wear a helmet and to properly size, fit, and secure the helmet. Each skier is presumed as a matter of law to know and assume the risk that failure to wear a helmet that is properly

8.1 sized, fit, and secured increases the risk of injury or death or the risk of a more severe  
8.2 injury, and that helmets may not always be available for purchase or rental at ski areas.

8.3 Subd. 3. **Release of liability.** Notwithstanding any other law, in any action brought  
8.4 by a skier against a ski area operator, if the skier has signed a valid release of liability,  
8.5 such release shall be effective so long as it is not ambiguous. Nothing in this section shall  
8.6 be construed as releasing a ski area operator for damages caused by gross negligence or  
8.7 reckless or intentional acts.

8.8 Subd. 4. **Assumption of risks.** (a) A skier assumes knowledge of all conditions and  
8.9 risks of skiing, even if a particular risk or condition was not specifically presented or stated  
8.10 by the ski area operator to the skier. A ski area operator who substantially adheres to the  
8.11 requirements of this chapter is not subject to liability for injury to or death of a person, or  
8.12 injury to property occurring as a result of a condition or risk of skiing.

8.13 (b) A court shall interpret this subdivision, and the definitions provided in section  
8.14 184C.02, broadly. Whether a particular circumstance or set of circumstances constitutes a  
8.15 condition or risk of skiing shall be determined as a question of law.

8.16 **Sec. 5. [184C.05] STATUTE OF LIMITATIONS; NOTICE OF CLAIM.**

8.17 An action for any injury to person or property or death against a ski area operator  
8.18 shall be commenced within two years after the incident or earliest of incidents giving rise  
8.19 to the actions and shall be preceded by a notice of intent to file a claim, sent via certified or  
8.20 registered mail, return receipt requested, that is received by the ski area operator within  
8.21 180 days of such incident. The notice shall include:

8.22 (1) the name and address of the injured party;

8.23 (2) a brief description of the incident; and

8.24 (3) the location, alleged cause, others involved, and witnesses, if any.

8.25 Failure to provide notice of intent to file within the 180-day period or to commence  
8.26 the action within the two-year period is a complete bar to recovery by the skier and by any  
8.27 other person for loss of consortium or any similar claims.

8.28 **Sec. 6. EFFECTIVE DATE.**

8.29 This act is effective August 1, 2011, and applies to all actions arising out of incidents  
8.30 occurring on or after that date.