

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 793

02/12/2015 Authored by Barrett; Scott; McNamara; Johnson, C.; Dill and others

The bill was read for the first time and referred to the Committee on Mining and Outdoor Recreation Policy

02/26/2015 Adoption of Report: Re-referred to the Committee on Civil Law and Data Practices

1.1 A bill for an act
1.2 relating to skier and ski area responsibilities; establishing safety and liability
1.3 standards; proposing coding for new law as Minnesota Statutes, chapter 184C.
1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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

1.6 This chapter shall be known and cited as the "Minnesota Skier Safety Act."

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

1.8 Subdivision 1. **Injury.** "Injury" means property loss or injury or death of a person.

1.9 Subd. 2. **Objects.** "Objects" are natural or man-made objects that are often or
1.10 sometimes present at a ski area including, but not limited to, trees, stumps, logs, rocks,
1.11 boulders, towers and tower components, lift shacks and buildings, decks, utility poles,
1.12 electrical lines, signs, posts, race poles, fencing, flagging, ropes, snowmaking machines,
1.13 hydrants, hoses and pipe, terrain park features, freestyle terrain, ski lifts, ski area vehicles
1.14 complying with section 184C.04, vehicles on roads or in parking areas, cliffs, ravines, and
1.15 water bodies with open water, thin ice, or strong currents.

1.16 Subd. 3. **Operator.** "Operator" is an entity or person operating a ski area and
1.17 includes its owners and employees. The term excludes cross-country or other non-alpine
1.18 ski trails or terrain that are part of an outdoor recreation system as defined in section
1.19 86A.04 or are defined as trails in section 85.018 or are part of any park and recreation area
1.20 as defined in section 466.03, subdivision 6e.

1.21 Subd. 4. **Ski area.** "Ski area" means all ski trails that are administered as a single
1.22 enterprise by an operator.

2.1 Subd. 5. **Ski area vehicle.** "Ski area vehicle" is a vehicle used for operation,
 2.2 maintenance, or transportation, or for competitions or events, at a ski area.

2.3 Subd. 6. **Ski lift; lift.** "Ski lift" or "lift" is a chairlift, gondola, rope or handle tow,
 2.4 conveyor, t-bar, or other surface or aerial lift used by skiers at a ski area.

2.5 Subd. 7. **Ski trail.** "Ski trail" means a slope, trail, run, freestyle terrain, competition
 2.6 terrain, tree skiing area, or other area at a ski area that is often or sometimes used for
 2.7 skiing, including edges, transition areas to other terrain, and areas between runs, and
 2.8 areas used for loading or unloading ski lifts. The term excludes cross-country or other
 2.9 non-alpine ski trails or terrain that are part of an outdoor recreation system as defined
 2.10 in section 86A.04 or are defined as trails in section 85.018 or are part of any park and
 2.11 recreation area as defined in section 466.03, subdivision 6e.

2.12 Subd. 8. **Skier.** A "skier" is a person of any age or physical or mental ability who is
 2.13 skiing or who is present on or near a ski trail or a passenger on a ski lift.

2.14 Subd. 9. **Skier arrival area.** A "skier arrival area" means an area at a ski area where
 2.15 skiers can purchase lift tickets and load a ski lift.

2.16 Subd. 10. **Skiing.** "Skiing" means using alpine, Telemark, or Nordic skis, a
 2.17 snowboard, a snow bike, a sled, or any comparable equipment, on a ski trail.

2.18 Subd. 11. **Treed area.** "Treed area" means any area at or near a ski area containing
 2.19 trees.

2.20 **Sec. 3. [184C.03] SKIER DUTIES.**

2.21 Subdivision 1. **Skier responsibility code.** A skier shall comply at all times with
 2.22 each element of the Skier Responsibility Code, as follows:

2.23 "(1) stay in control, and be able to stop or avoid other people or objects;

2.24 (2) people ahead of you have the right-of-way. It is your duty to avoid them;

2.25 (3) you must not stop where you obstruct a trail, or are not visible from above;

2.26 (4) whenever starting downhill or merging into a trail, look uphill and yield to others;

2.27 (5) use devices to help prevent runaway equipment;

2.28 (6) observe posted signs and warnings. Keep off closed trails and out of closed
 2.29 areas; and

2.30 (7) before using any lift, have the knowledge and ability to load, ride, and unload
 2.31 safely.

2.32 KNOW THE CODE: IT'S YOUR RESPONSIBILITY.

2.33 BE SAFETY CONSCIOUS."

2.34 Subd. 2. **Other skier duties.** A skier shall (1) know the limits of the skier's ability
 2.35 and not ski on ski trails that exceed that ability; (2) not use lifts in a manner that may

3.1 contribute to an injury; (3) follow any written or verbal instructions regarding the use of
 3.2 a lift or the ski area; (4) remain at the vicinity of any collision the skier was involved
 3.3 in, except for the purpose of securing aid for an injured party, and provide the skier's
 3.4 name and address to the operator or a member of the ski patrol; and (5) use the care of an
 3.5 ordinarily prudent skier in complying with each skier duty under this chapter.

3.6 Subd. 3. **Skiers assume conditions and risks of skiing.** A skier assumes the risk
 3.7 of injury inherent in skiing, whether or not the operator notifies the skier of the inherent
 3.8 risks, which include, but are not limited to:

3.9 (1) changes in weather and visibility;

3.10 (2) surface or subsurface conditions or objects, including ice, ridges, moguls, dips,
 3.11 grooves, holes, bare ground, rocks, stumps, brush, forest debris and logs, terrain features,
 3.12 freestyle terrain, and snow or slush in any condition including freshly made man-made
 3.13 snow;

3.14 (3) potential for collision with objects or other skiers, including skiers not complying
 3.15 with their duties under this chapter;

3.16 (4) variations in the difficulty or configuration of ski trails, including trails with
 3.17 sharp corners or that have, or are directed or drop off toward, objects;

3.18 (5) the location, construction, design, layout, configuration, and condition of ski trails;

3.19 (6) skiing in or near a treed area significantly increases the risk of injury; and

3.20 (7) any similar or comparable object or condition.

3.21 An object or condition that is present through the reckless act or omission of the
 3.22 operator or another person is not a risk inherent in skiing. Whether an object or condition
 3.23 is a risk inherent in skiing shall be determined by a court as a matter of law. A skier
 3.24 may not recover against an operator for a claim involving a risk inherent in skiing or
 3.25 involving an object that could have been avoided by an ordinarily prudent skier complying
 3.26 with each skier duty under this chapter.

3.27 **Sec. 4. [184C.04] OPERATOR RESPONSIBILITIES.**

3.28 Subdivision 1. **Requirements for ski lifts.** An operator shall keep its ski lifts in
 3.29 compliance with each requirement of the American National Standard for Passenger
 3.30 Ropeways-Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors Safety
 3.31 Requirements, B77.1-2011, as published by the American National Standards Institute
 3.32 ("ANSI Ski Lift Code").

3.33 Subd. 2. **Required lift inspections.** An operator shall have its ski lifts inspected for
 3.34 compliance with the ANSI Ski Lift Code requirements at least every ski season between

4.1 November and March by a person who is knowledgeable of the requirements and is either
4.2 a professional engineer or an insurance company lift inspector.

4.3 Subd. 3. **Required notices of risks of skiing.** (a) An operator shall maintain a sign
4.4 at least six square feet in size at or near each of the ski area's ticket sales buildings that
4.5 contains, and shall print on each ticket and season pass, the following notice: "WARNING:
4.6 Under the Minnesota Skier Safety Act, each skier: (1) assumes the risk of injury resulting
4.7 from the inherent risks of skiing; (2) has duties to comply with while skiing including
4.8 the Skier Responsibility Code; and (3) may not be able to recover damages against a ski
4.9 area for injuries or death unless notice of a possible claim is provided to the operator
4.10 within 180 days of discovering an injury or within 1 year of the injury in the case of a
4.11 death. A complete copy of this act and the Skier Responsibility Code are available for
4.12 review at the ticket sales office."

4.13 (b) An operator shall make available a copy of the Skier Responsibility Code, and a
4.14 copy of this act, to any skier upon request at its ticket sales office.

4.15 (c) An operator shall maintain in a prominent location in each skier arrival area a sign
4.16 or poster reciting the Skier Responsibility Code that is at least 200 square inches in size.

4.17 Subd. 4. **Required trail maps.** An operator shall make available to skiers trail maps
4.18 of sufficient size to show the relative locations of each major ski trail, to be known as "a
4.19 designated ski trail," and its skill level designation using the standards in subdivision 5.

4.20 Subd. 5. **Required notices of ski trail difficulty levels.** (a) An operator shall
4.21 maintain at or near the beginning of each ski trail that is designated as a ski trail on its
4.22 trail map a sign at least three square feet in size that contains the name of the trail and
4.23 one of the following difficulty level words and emblems, as determined by the operator
4.24 to be applicable to the ski trail:

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

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

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

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

4.29 (5) "Freestyle Terrain," and include an orange oval emblem.

4.30 (b) For a ski lift that does not service ski trails that are designated as "easiest," the
4.31 operator shall place, near or en route to the lift loading area, a sign at least six square
4.32 feet in size stating: "WARNING: This lift does NOT service any trails that are "easiest"
4.33 (green circle emblem)."

4.34 Subd. 6. **Required freestyle terrain signage.** An operator shall maintain a
4.35 barricade, through fencing, flagging, or comparable means, designating the principal or
4.36 top entrance to any terrain containing terrain park features such as rails, boxes, jumps,

5.1 hits, jibs, tabletops, spines, banks, half-pipes, quarter-pipes, or snowcross features, with
 5.2 an opening not wider than 30 feet, and maintain at or en route to the principal or top
 5.3 entrance signage totaling at least three square feet in size that contains a stop sign emblem,
 5.4 an orange oval emblem denoting freestyle terrain, and the statements "Freestyle Skills
 5.5 Required," and "Helmets are Recommended."

5.6 Subd. 7. **Required ski area vehicle flashing lights and flags.** An operator shall
 5.7 ensure that all ski area vehicles present during ski lift operating hours on designated ski
 5.8 trails that are not closed have a flashing light located near the top of the vehicle that is
 5.9 on, and in addition for vehicles such as snowmobiles, all-terrain vehicles, and vehicles
 5.10 of comparable size, the operator shall ensure that the vehicles also have a red or orange
 5.11 flag that is at least 40 square inches in size and displayed at least five feet above the
 5.12 bottom of the vehicle's tracks or tires.

5.13 Subd. 8. **Accessibility.** The information required under this section must be
 5.14 provided upon request in an accessible format to persons with disabilities.

5.15 **Sec. 5. [184C.05] COMPARATIVE FAULT.**

5.16 In an action involving an injury while skiing or riding a ski lift, "fault" by an
 5.17 operator under section 604.01 includes the operator's failure to comply with its duties
 5.18 under section 184C.04 and fault by a skier under section 604.01 includes the skier's failure
 5.19 to comply with skier duties under section 184.03.

5.20 **Sec. 6. [184C.06] LIABILITY LIMITATIONS.**

5.21 Subdivision 1. **Notice of claims.** Claims against nonmunicipal operators are subject
 5.22 to notice requirements twice as long as those applicable to municipal operators under
 5.23 section 466.05, requiring notice within 180 days after an injury is discovered or within
 5.24 one year of the injury in the case of death.

5.25 Subd. 2. **Municipal ski area limitations unaffected.** This chapter does not impact
 5.26 limitations on the liability of municipal or nonprofit operators under chapter 466.

5.27 **Sec. 7. EFFECTIVE DATE.**

5.28 This act is effective August 1, 2015, and applies to all actions arising out of incidents
 5.29 occurring on or after that date.