

House Bill 4077

Sponsored by Representatives JOHNSON, BARKER, BUEHLER, WHISNANT; Senator THOMSEN (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Revises provisions relating to liability arising out of skiing. Establishes duties for ski area operators.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to skiing; creating new provisions; amending ORS 30.970, 30.975, 30.985 and 30.990; and
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 30.970 is amended to read:

6 30.970. As used in ORS 30.970 to 30.990:

7 (1) **“Freestyle terrain” means terrain parks and terrain features including jumps, hits,**
8 **ramps, banks, funboxes, jibs, rails, half-pipes, quarter-pipes and other natural or constructed**
9 **features.**

10 [(1)] (2) “Inherent risks of skiing” includes, but is not limited to, those dangers or conditions
11 [which] **that** are an integral part of the sport, such as changing weather conditions, variations or
12 steepness in terrain, snow or ice conditions, surface or subsurface conditions, bare spots, creeks and
13 gullies, forest growth, rocks, stumps, **freestyle terrain, snow immersion, movement of snow,** lift
14 towers and other structures and their components, collisions with other skiers and a skier's failure
15 to ski within the skier's own ability.

16 [(2)] (3) “Injury” means [any] personal injury or property damage or loss.

17 (4) **“Movement of snow” means:**

18 (a) **Slides, sloughs or avalanches;**

19 (b) **Natural or constructed depressions in snow, including tree wells; or**

20 (c) **Natural or constructed accumulations of snow, including snowmaking mounds.**

21 [(3)] “Skier” means any person who is in a ski area for the purpose of engaging in the sport of
22 skiing or who rides as a passenger on any ski lift device.]

23 [(4)] (5) “Ski area” means [any] **an** area designated and maintained by a ski area operator for
24 skiing.

25 [(5)] (6) “Ski area operator” means those persons, and their agents, officers, employees or rep-
26 resentatives, who operate a ski area.

27 (7) **“Skier” means a person who is in a ski area for the purpose of engaging in the sport**
28 **of skiing or who rides as a passenger on an uphill conveyance.**

29 (8) **“Skiing” means sliding or jumping on any form of snow or ice on skis, a snowboard**
30 **or any other sliding device.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(9) “Uphill conveyance” means aerial tramways, aerial lifts, surface lifts, tows and con-**
 2 **veyors.**

3 **SECTION 2.** ORS 30.975 is amended to read:

4 30.975. (1) In accordance with ORS 31.600 and notwithstanding ORS 31.620 (2), an individual
 5 who engages in the sport of skiing, alpine or nordic, accepts and assumes the inherent risks of skiing
 6 [*insofar as they are reasonably obvious, expected or necessary*].

7 **(2) A skier may not bring an action against a ski area operator for any injury arising out**
 8 **of the inherent risks of skiing.**

9 **SECTION 3.** ORS 30.985 is amended to read:

10 30.985. (1) Skiers [*shall*] have duties [*which*] **that** include but are not limited to the following:

11 [*(a) Skiers who ski in any area not designated for skiing within the permit area assume the in-*
 12 *herent risks thereof.*]

13 [*(b) (a) Skiers [shall be] are* the sole judges of the limits of their skills and **of** their ability to
 14 meet and overcome the inherent risks of skiing [*and*].

15 **(b) Skiers** shall maintain reasonable control of speed, [*and*] course, **maneuvers and actions.**

16 (c) Skiers shall abide by the directions, [*and instructions of the ski area operator*] **instructions,**
 17 **signs, markings and warnings given or present at a ski area.**

18 (d) Skiers shall familiarize themselves with [*posted*] information on **the** location and degree of
 19 difficulty of [*trails and slopes to the extent reasonably possible*] **a run, slope, trail or terrain** before
 20 skiing on [*any slope or trail*] **the run, slope, trail or terrain.**

21 (e) Skiers [*shall*] **may** not cross the uphill track of any surface lift except at points clearly
 22 designated by the ski area operator.

23 (f) Skiers [*shall*] **may** not overtake [*any other*] **another** skier except in such a manner as to
 24 avoid contact and shall grant the right of way to the overtaken skier. **Any resulting contact or**
 25 **collision is the sole responsibility of the overtaking skier and not the ski area operator.**

26 (g) Skiers shall yield to other skiers when entering a trail or starting downhill.

27 **(h) Skiers may not stop in a place that creates a hazard or where the skier is not visible**
 28 **from above.**

29 [*(h) (i) Skiers [must wear retention straps or other] shall use* devices to prevent runaway skis.

30 [*(i) (j) Skiers [shall not board rope tows, wire rope tows, j-bars, t-bars, ski lifts or other similar*
 31 *devices] may not use an uphill conveyance* unless they have sufficient ability to use the [*devices,*
 32 *and*] **conveyance, including, but not limited to, sufficient ability to embark and disembark**
 33 **from the conveyance.** Skiers shall follow [*any written or verbal*] instructions, **signs, markings or**
 34 **warnings** that are given **or present** regarding the [*devices*] **uphill conveyance.**

35 [*(j) Skiers, when involved in a skiing accident, shall not depart from the ski area without leaving*
 36 *their names and addresses if reasonably possible.*]

37 **(k) Skiers involved in an accident at a ski area shall leave contact information with the**
 38 **ski area operator before departing the ski area.** A skier who is injured [*should, if reasonably*
 39 *possible,*] **shall** give notice of the injury to the ski area operator before leaving the ski area **unless**
 40 **the ski area operator already has notice of the injury.**

41 (L) Skiers [*shall*] **may** not embark or disembark from [*a ski lift*] **an uphill conveyance** except
 42 at designated areas or by the authority of the ski area operator.

43 **(m) Skiers shall inspect freestyle terrain before use.**

44 **(2) Ski area operators have no duty to judge the limits of a skier’s skills or to judge a**
 45 **skier’s ability to meet and overcome the inherent risks of skiing.**

1 **(3) Ski area operators have no duty to judge a skier's ability to use an uphill conveyance.**

2 [(2)] **(4) Violation of any of the duties of skiers set forth in subsection (1) of this section entitles**
3 **the ski area operator to withdraw the violator's privilege of skiing.**

4 **SECTION 4.** ORS 30.990 is amended to read:

5 30.990. **(1) A ski area operator has the following duties:**

6 **(a) A ski area [operators] operator shall give notice to skiers of their duties under ORS 30.985**
7 **in a manner reasonably calculated to inform skiers of those duties, but skiers are presumed to**
8 **know their duties under ORS 30.985.**

9 **(b) A ski area operator shall construct, operate, maintain and repair uphill conveyances**
10 **in accordance with nationally recognized safety standards for uphill conveyances.**

11 **(c) A ski area operator shall post a sign at the bottom of each uphill conveyance that**
12 **advises passengers to seek advice if the passenger is not familiar with using the conveyance.**

13 **(d) A ski area operator shall maintain at least one trail board at a prominent location**
14 **at each ski area displaying that area's network of ski trails and slopes with each trail and**
15 **slope rated by its degree of difficulty.**

16 **(e) A ski area operator shall place a sign at or near the beginning of a named trail or**
17 **slope containing the appropriate symbol of the degree of difficulty of the trail or slope.**

18 **(f) A ski area operator shall mark designated freestyle terrain with a symbol recognized**
19 **by the National Ski Areas Association.**

20 **(g) A ski area operator shall provide notice of which trails and slopes are open and**
21 **closed.**

22 **(h) A ski area operator shall provide notice when snow grooming or snowmaking oper-**
23 **ations are occurring in an area open to the public.**

24 **(i) A ski area operator shall post a notice requiring the use of devices to prevent runaway**
25 **skis.**

26 **(j) A ski area operator shall post a sign marking the location of hydrants and other**
27 **equipment used in snowmaking operations in the ski area.**

28 **(k) A ski area operator shall provide a qualified ski patrol meeting the standards of the**
29 **National Ski Patrol system.**

30 **(2) This section does not create any duty owed by a ski area operator to a trespasser in**
31 **the ski area or an unauthorized user of the ski area.**

32 **SECTION 5.** The amendments to ORS 30.970, 30.975, 30.985 and 30.990 by sections 1 to 4
33 **of this 2016 Act apply only to skiing occurring on or after the effective date of this 2016 Act.**

34 **SECTION 6.** This 2016 Act being necessary for the immediate preservation of the public
35 **peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect**
36 **on its passage.**

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