

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 334

Short Title: Revise NC Ski Safety Statutes. (Public)

Sponsors: Representatives Tarleton, Goforth, Frye, and Rapp (Primary Sponsors).

Referred to: Insurance, if favorable, Judiciary I.

March 2, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE SKIER SAFETY STATUTES TO SPECIFY THAT SKIERS
3 AND PASSENGERS ASSUME THE RISK OF KNOWN HAZARDS AND RISKS AND
4 TO MAKE OTHER RELATED CHANGES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 99C of the General Statutes reads as rewritten:

7 "Chapter 99C.

8 "Actions Relating to Skier

9 ~~Safety and Skiing Accidents.~~ Winter Sports Safety and Accidents.

10 "§ 99C-1. Definitions.

11 When used in this Chapter, unless the context otherwise requires:

- 12 (1) "~~Competitor~~" ~~means~~ Competitor. – ~~a~~ A skier actually engaged in competition
13 or in practice therefor with the permission of the ski area operator on any
14 slope or trail or portion thereof designated by the ski area operator for the
15 purpose of competition.
- 16 (2) "~~Passenger~~" ~~means~~ Passenger. – ~~any~~ Any person who is being transported or
17 is awaiting transportation, or being conveyed on a passenger tramway or is
18 moving from the disembarkation point of a passenger tramway or is in the
19 act of embarking upon or disembarking from a passenger tramway.
- 20 (3) "~~Passenger Tramway~~" ~~shall mean~~ Passenger tramway. – ~~any~~ Any device used
21 to transport passengers uphill on skis or other winter sports devices, or in
22 cars on tracks, or suspended in the air, by the use of steel cables, chains,
23 belts or ropes. Such definition shall include such devices as a chair lift, J
24 Bar, or platter pull, rope tow, and wire tow.
- 25 (4) "~~Ski Area~~" ~~means~~ Ski area. – ~~all the ski~~ All winter sports slopes, ski-alpine
26 and Nordic ski trails, freestyle terrain and passenger tramways, that are
27 administered or operated as a ski area enterprise within this State.
- 28 (5) "~~Ski Area Operator~~" ~~means~~ Ski area operator. – ~~a~~ A person, corporation, or
29 organization that is responsible for the safe operation and maintenance of the
30 ski area.
- 31 (6) "~~Skier~~" ~~means~~ Skier. – ~~any~~ Any person who is wearing skis or other winter
32 sports devices or any person who for the purpose of skiing or other winter
33 sports is on a designated and clearly marked ~~ski slope~~ winter sports slope, or
34 ~~ski~~ alpine or Nordic trail or freestyle terrain that is located at a ski area, or
35 any person who is a passenger or spectator at a ski area.
- 36 (7) Winter sports. – Any use of skis, snowboards, snowshoes, or any other
37 device for skiing, sliding, jumping, or traveling on snow or ice.



- 1 (8) Freestyle terrain. – Constructed and natural features in ski areas intended for
2 freestyle winter sports including, but not limited to, terrain parks and terrain
3 park features such as jumps, rails, fun boxes, half-pipes, quarter-pipes, and
4 freestyle-bump terrain.

5 **"§ 99C-2. Duties of ski area operators and skiers.**

6 (a) A ski area operator shall be responsible for the maintenance and safe operation of
7 any passenger tramway in his ski area and insure that such is in conformity with the rules and
8 regulations prescribed and adopted by the North Carolina Department of Labor pursuant to
9 G.S. 95-120(1) as such appear in the North Carolina Administrative Procedures Act. The
10 North Carolina Department of Labor shall conduct certifications and inspections of passenger
11 tramways.

12 A ski area operator's responsibility regarding passenger tramways shall include, but is not
13 limited to, insuring operating personnel are adequately trained and are adequate in number;
14 meeting all standards set forth for terminals, stations, line structures, and line equipment;
15 meeting all rules and regulations regarding the safe operation and maintenance of all passenger
16 lifts and tramways, including all necessary inspections and record keeping.

17 (b) A skier and/or a passenger shall have the following responsibilities:

- 18 (1) To know the range of his own abilities to negotiate any ski slope or trail and
19 to ski within the limits of such ability;
- 20 (2) To maintain control of his speed and course at all times when skiing and to
21 maintain a proper lookout so as to be able to avoid other skiers and visible
22 objects;
- 23 (3) To stay clear of snow grooming equipment, all vehicles, lift towers, signs,
24 and any other equipment on the ski slopes and trails;
- 25 (4) To heed all posted information and other warnings and to refrain from acting
26 in a manner which may cause or contribute to the injury of the skier or
27 others;
- 28 (5) To wear retention straps, ski brakes, or other devices to prevent runaway skis
29 or snowboards;
- 30 (6) Before beginning to ski from a stationary position or before entering a ski
31 slope or trail from the side, to avoid moving skiers already on the ski slope
32 or trail;
- 33 (7) To not move uphill on any passenger tramway or use any ski slope or trail
34 while such person's ability to do so is impaired by the consumption of
35 alcohol or by the use of any narcotic or other drug or while such person is
36 under the influence of alcohol or any narcotic or any drug;
- 37 (8) If involved in a collision with another skier or person, to not leave the
38 vicinity of the collision before giving his name and current address to an
39 employee of the ski area operator, a member of the ski patrol, or the other
40 skier or person with whom the skier collided, except in those cases when
41 medical treatment is required; in which case, said information shall be
42 provided as soon as practical after the medical treatment has been obtained.
43 If the other person involved in the collision is unknown, the skier shall leave
44 the personal identification required by this subsection with the ski area
45 operator;
- 46 (9) Not to embark upon or disembark from a passenger tramway except at an
47 area that is designated for such purpose;
- 48 (10) Not to throw or expel any object from a passenger tramway;
- 49 (11) Not to perform any action that interferes with the operation or running of a
50 passenger tramway;

- 1 (12) Not to use such tramway unless he has the ability to use it with reasonable
2 safety;
- 3 (13) Not to engage willfully or negligently in any type conduct that contributes to
4 or causes injury to another person or his properties;
- 5 (14) Not to embark upon a passenger tramway without the authority of the ski
6 area operator.
- 7 (c) A ski area operator shall have the following responsibilities:
- 8 (1) To mark all trails and maintenance vehicles and to furnish such vehicles with
9 flashing or rotating lights that shall be in operation whenever the vehicles are
10 working or moving in the ski area;
- 11 (2) To mark with a visible sign or other warning implement the location of any
12 hydrant or similar equipment that is used in snowmaking operations and
13 located anywhere in the ski area;
- 14 (3) To indicate the relative degree of difficulty of a slope or trail by appropriate
15 signs. Such signs are to be prominently displayed at the base of a slope
16 where skiers embark on a passenger tramway serving the slope or trail, or at
17 the top of a slope or trail. The signs must be of the type that have been
18 approved by the National Ski Areas Association and are in current use by the
19 industry;
- 20 (4) To post at or near the top of or entrance to, any designated slope or trail,
21 signs giving reasonable notice of unusual conditions on the slope or trail;
- 22 (5) To provide adequate ski patrols;
- 23 (6) ~~To mark clearly any hidden rock, hidden stump, or any other hidden hazard~~
24 ~~known by the ski area operator to exist;~~To inspect twice daily all winter
25 sports slopes, alpine and Nordic trails, and freestyle terrains that are open to
26 the public and maintain a log recording: (i) the time of the inspection and the
27 name of the inspector(s); and (ii) the general surface conditions, based on
28 industry standards, for the entire ski area at the time of the inspections;
- 29 (7) To mark clearly any hidden rock, hidden stump, or any other hidden hazard
30 known by the ski area operator to exist;
- 31 (8) To post, in a conspicuous manner, the general surface conditions for the
32 entire ski area twice daily. Such posting shall not relieve skiers of the
33 assumed risks as defined in G.S. 99C-6; and
- 34 (7)(9) Not to engage willfully or negligently in any type conduct that contributes to
35 or causes injury to another person or his properties.

36 **"§ 99C-3. Violation constitutes negligence.**

37 A violation of any responsibility placed on the skier, passenger or ski area operator as set
38 forth in G.S. 99C-2, to the extent such violation proximately causes injury to any person or
39 damage to any property, shall constitute negligence on the part of the person violating the
40 provisions of that section.

41 **"§ 99C-4. Competition.**

42 The ski area operator shall, prior to the beginning of a competition, allow each competitor a
43 reasonable visual inspection of the course or area where the competition is to be held. The
44 competitor shall be held to assume risk of all course conditions including, but not limited to,
45 weather and snow conditions, course construction or layout, and obstacles which a visual
46 inspection should have revealed. No liability shall attach to a ski area operator for injury or
47 death of any competitor proximately caused by such assumed risk.

48 **"§ 99C-5. Operation of passenger tramway.**

49 The operation of a passenger tramway shall not constitute the operation of a common
50 carrier.

51 **"§ 99C-6. Assumption of risk.**

1 (a) Skiers and passengers are deemed to have knowledge of and assume the inherent
2 risks of skiing and winter sports insofar as those risks are obvious and necessary. Those
3 obvious and necessary risks include injury, damage, or death resulting from any of the
4 following, when not otherwise attributable to the ski area operator's breach of the operator's
5 duties set forth by G.S. 99C-2(a) and (c):

6 (1) Variations in terrain, surface or subsurface snow, or ice conditions.

7 (2) Bare spots or rocks.

8 (3) Trees and other forms of forest growth or debris.

9 (4) Collisions with pole lines, lift towers, or any component thereof.

10 (5) Collisions with snowmaking equipment which is marked by a visible sign or
11 other warning implement in compliance with this Chapter.

12 (b) Skiers who choose to use freestyle terrain shall be held to assume the risk of all
13 terrain conditions including, but not limited to, weather and snow conditions, terrain
14 construction or layout, and man-made and natural obstacles which a visible inspection should
15 have revealed and which are not otherwise attributable to the ski area operator's breach of the
16 operator's duties set forth by G.S. 99C-2(a) and (c)."

17 **SECTION 2.** This act becomes effective October 1, 2009.