
By Mr. Fitzpatrick, a petition (accompanied by bill, Senate, No. 872) of John H. Fitzpatrick for legislation relative to the liability of ski area operators. Public Safety.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-eight.

AN ACT RELATIVE TO THE LIABILITY OF SKI AREA OPERATORS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 143 of the General Laws is hereby amended by
2 striking out sections 71N and 71O, as inserted by chapter 565
3 of the acts of 1968, and inserting in place thereof the follow-
4 ing five sections: —

5 *Section 71N. Duties of the Skier.*

6 (1) It shall be the duty of each skier to conduct himself
7 within the limitation of his ability, and to do no act or thing
8 which can contribute to the injury of himself or others.

9 (2) No person shall:

10 (a) Embark or disembark upon a ski lift except at a desig-
11 nated area;

12 (b) Throw or expel any object from any tramway, ski lift,
13 skimobile, or other similar device while riding on the device;

14 (c) Act in any manner while riding on a rope tow, wire rope
15 tow, j-bar, t-bar, ski lift, or similar device that may interfere
16 with the proper or safe operation of the lift or tow;

17 (d) Wilfully engage in any type of conduct which may in-
18 jure any person, or place any object in the uphill ski track
19 which may cause another to fall, while traveling uphill on a
20 ski lift; or

21 (e) Cross the uphill track of a j-bar, t-bar, rope tow, wire
22 rope tow, or other similar device except at designated loca-
23 tions.

24 (3) Every person shall maintain control of his or her speed
25 and course at all times, and shall stay clear of any snow-
26 grooming equipment, any vehicle, any lift tower, and any

27 other equipment on the mountain.

28 (4) A person shall be the sole judge of his or her ability to
29 negotiate any uphill track, trail, or slope, and no action shall
30 be maintained against any operator by reason of the condi-
31 tion of the track, trail, or slope unless the condition results
32 from the gross negligence of the operator.

33 (5) Any person who boards a rope tow, wire rope tow, j-
34 bar, t-bar, ski lift, or other similar device shall be presumed
35 to have sufficient abilities to use the lift. No liability shall
36 attach to any operator or attendant for failure to instruct the
37 person on the use of the device, but a person shall follow any
38 written or verbal instructions that are given regarding the use.

39 (6) A person skiing downhill shall have the primary duty
40 to avoid any collision with any person or object and shall be
41 liable for damages incurred on the hill below him or her in
42 any collision unless the person skiing downhill is in authorized
43 training or competition.

44 (7) Subsection (6) of this section notwithstanding, any per-
45 son skiing on other than improved trails or slopes within the
46 area shall be responsible for any injuries resulting from his or
47 her action.

48 (8) Subsections (6) and (7) of this section notwithstand-
49 ing, any person on foot or on any type of sliding device shall
50 be responsible for any collision whether the collision is with
51 another person or with an object.

52 (9) A person embarking on a lift or tow without authority
53 shall be guilty of trespassing.

54 (10) The collision with any obstruction, man-made or other-
55 wise, including lift towers, buildings, trees, stumps, or buried
56 obstacles shall not be actionable by the skier but in an inherent
57 risk which is assumed by the skier.

58 (11) Any owner, manager or employee of any ski area, who
59 finds a person in violation of this section, may first issue a
60 verbal warning to that individual or suspend his lift use priv-
61 ileges. Any person who fails to heed the warning issued by the
62 ski area owner, manager or employee shall forfeit his ski lift
63 ticket and ski lift use privileges and be refused issuance of
64 another and shall be liable for any damages to the tramway
65 and its incidental equipment which have been caused by his

66 or her misconduct.

67 *Section 71 O.* Any person who is involved in a skiing acci-
68 dent and who departs from the scene of the accident without
69 leaving personal identification or otherwise clearly identifying
70 himself or herself before notifying the proper authorities or
71 obtaining assistance, knowing that any other person involved
72 in the accident is in need of medical or other assistance, shall
73 be guilty of a misdemeanor and subject to section seventy-one
74 Q.

75 *Section 71P. Limitations.*

76 (1) Unless an operator is in violation of this chapter or the
77 regulations of the board, which violation is causal of the in-
78 jury complained of, no action shall lie against any operator by
79 any skier or representative hereof; this prohibition shall not
80 however, prevent the maintenance of an action against an
81 operator for negligent construction or maintenance of the pas-
82 senger tramway itself or any building within the area. The
83 venue of any action by a skier against an operator shall be
84 the county wherein the passenger tramway base station is lo-
85 cated and not otherwise.

86 (2) No action shall be maintained against any operator for
87 injuries to any skier unless the same is commenced within one
88 year of the time of the injury provided, however, that as a
89 condition precedent thereof the operator shall be notified by
90 registered mail within sixty days of said injury as to the al-
91 leged violation of this chapter.

92 *Section 71Q.* Whoever violates any provision of section sev-
93 enty one K, seventy-one O, or any rule or regulation made un-
94 der the provisions of section-one J, shall be punished by a fine
95 of not more than one hundred dollars, except that any person
96 who operates a recreational tramway, after the license there-
97 for has been suspended or revoked, shall be punished by a
98 fine of fifty dollars for each day of such operation.

99 *Section 71R. Jurisdiction and control.*

100 Recreational tramways shall not be subject to the provisions
101 of chapter one hundred and fifty-nine, one hundred and sixty,
102 one hundred and sixty-one or one hundred and sixty-two, and
103 shall not be subject to the jurisdiction or control of the de-
104 partment of public utilities.

