EXHIBIT 3
DATE 1.10.05
SB 4

Statutes Exempted From Application of SB 4

23-2-651. Purpose. The legislature finds that **snowmobiling** is a major recreational sport and a major industry in this state and recognizes that among the attractions of the sport are risks, inherent and otherwise. The state has a legitimate interest in:
(1) maintaining the economic viability of the snowmobiling industry by discouraging claims based on damages resulting from risks inherent in the sport;
(2) clarifying what the inherent risks of snowmobiling are; and
(3) establishing the duties of snowmobilers and snowmobile area operators.

1. **History:** En. Sec. 1, Ch. 440, L. 1987; amd. Sec. 1, Ch. 145, L. 1999.

23-2-652. Definitions. As used in 23-2-651 through 23-2-655, the following definitions apply:
(1) "Snowmobile" means a vehicle defined in 23-2-601(10).
(2) "Snowmobile area" means those areas designated as snowmobile trails or areas open to the operation of snowmobiles.
(3) "Snowmobile area operators" means those persons responsible for the maintenance of snowmobile trails and for the designation of open areas or those persons providing rental snowmobile equipment. Operators may include but are not limited to the United States forest service, the Montana department of fish, wildlife, and parks, the Montana snowmobile association, individual snowmobile clubs, landowners or their tenants, persons who offer snowmobile equipment for rent, and private trail grooming contractors.
(4) "Snowmobiler" means any person operating or riding a snowmobile.

History: En. Sec. 2, Ch. 440, L. 1987; amd. Sec. 2, Ch. 145, L. 1999.

23-2-653. Snowmobile area operators -- duties. (1) Consistent with the duty of reasonable care owed by a snowmobile area operator to a snowmobiler, the person responsible for the maintenance of or operation of a snowmobile area shall mark all trail maintenance vehicles and furnish the vehicles with flashing or rotating lights that must be in operation whenever the vehicles are working or are in movement in the snowmobile area.
(2) The snowmobile area operator owes a duty of reasonable care, as required by 27-1-701, to a snowmobiler except for the risks inherent in the sport of snowmobiling.
(3) Except as provided in this section, a snowmobile area operator has no duty to eliminate, alter, control, or lessen the risks inherent in the sport of snowmobiling.

History: En. Sec. 3, Ch. 440, L. 1987; amd. Sec. 3, Ch. 145, L. 1999.

23-2-654. Snowmobiler's assumption of responsibility -- duties. (1) A snowmobiler shall operate a snowmobile at all times in a manner that avoids injury to self and others and must be aware of the inherent risks in the sport of snowmobiling.
(2) A snowmobiler shall:
(a) know the range of the snowmobiler's ability and snowmobile safely within the limits of that ability and the snowmobiler's equipment so as to negotiate any section of terrain or snowmobile trail safely and without injury or damage. A snowmobiler must be aware that the snowmobiler's ability may vary because of terrain or trail changes caused by weather, grooming changes, or snowmobile use.

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(b) maintain control of speed and course at all times while snowmobiling so as to prevent injury to self and others;
(c) heed all posted warnings; and
(d) refrain from acting in a manner that may cause or contribute to the injury of anyone.
(3) A snowmobiler shall accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of snowmobiling. **Risks inherent in the sport of snowmobiling are**:
(a) variations in terrain, including surface or subsurface snow or ice conditions naturally occurring or resulting from weather changes, snowmobile use, or grooming or snowmaking operations;
(b) bare spots or thin snow cover caused by limited snowfall, melting, wind erosion, snowmobile action, grooming, or unconsolidated base;
(c) rocks, trees, or other forms of forest growth or debris;
(d) clearly visible or plainly marked improvements or trail maintenance equipment; and
(e) avalanches.
(4) The provisions of this section do not affect a products liability cause of action based upon the design or manufacture of snowmobile equipment or products or safety equipment used incidental to the operation of a snowmobile.

1. **History:** En. Sec. 4, Ch. 440, L. 1987; amd. Sec. 11, Ch. 351, L. 1993; amd. Sec. 4, Ch. 145, L. 1999.

23-2-731. Purpose. The legislature finds that **skiing** is a major recreational sport and a major industry in the state and recognizes that among the attractions of the sport are risks, inherent and otherwise. The state has a legitimate interest in maintaining the economic viability of the ski industry by discouraging claims based on damages resulting from risks inherent in the sport, defining inherent risks, and establishing the duties of skiers and ski area operators.

1. **History:** En. Sec. 1, Ch. 509, L. 1979; amd. Sec. 1, Ch. 429, L. 1989.

23-2-733. Duties of operator regarding ski areas. Consistent with the duty of reasonable care owed by a ski area operator to a skier, a ski area operator shall:
(1) mark all trail grooming vehicles by furnishing the vehicles with flashing or rotating lights that must be in operation whenever the vehicles are working or are in movement in the ski area;
(2) mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski trails;
(3) maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and the relative degree of difficulty of the ski trails at that area;
(4) post a notice requiring the use of ski-retention devices;
(5) designate at the start of each day, by trail board or otherwise, which trails are open or closed and amend those designations as openings and closures occur during the day;
(6) post in a conspicuous location the current skier responsibility code that is published by the national ski areas association; and
(7) post a copy of 23-2-736 in a conspicuous location.

History: En. Sec. 3, Ch. 509, L. 1979; amd. Sec. 3, Ch. 429, L. 1989; amd. Sec. 1, Ch. 140, L. 1995.

23-2-736. Skier's conduct -- inherent risks. (1) A skier has the duty to ski at all times in a manner that avoids injury to the skier and others and to be aware of the inherent risks of the sport.
(2) A skier:
(a) must know the range of the skier's ability and safely ski within the limits of that ability and the skier's equipment so as to negotiate any section of terrain or ski trail safely and without injury or damage. A skier must know that the skier's ability may vary because of trail changes caused by weather, grooming changes, or skier use.
(b) shall maintain control of speed and course so as to prevent injury to the skier or others;
(c) shall abide by the requirements of the skier responsibility code that is published by the national ski areas association and that is posted as provided in 23-2-733; and
(d) shall obey all posted or other warnings and instructions of the ski area operator.
(3) A person may not:
(a) place an object in the ski area or on the uphill track of a passenger tramway that may cause a passenger or skier to fall;
(b) cross the track of a passenger tramway except at a designated and approved point; or
(c) if involved in a skiing accident, depart from the scene of the accident without:
(i) leaving personal identification; or
(ii) notifying the proper authorities and obtaining assistance when the person knows that a person involved in the accident is in need of medical or other assistance.
(4) A skier shall accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of skiing. **Risks inherent in the sport of skiing are**:
(a) variations in skiing terrain, including surface and subsurface snow or ice conditions naturally occurring or resulting from weather changes, skier use, or grooming or snowmaking operations;
(b) bare spots and thin snow cover caused by limited snowfall, melting, wind erosion, skier action, grooming, or unconsolidated base;
(c) forest growth on designated trails;
(d) skiing in an area not designated as a ski trail;
(e) clearly visible or plainly marked improvements or equipment;
(f) clearly visible or plainly marked mobile equipment and attachments, whether moving or stationary, used by the ski area operator; and
(g) avalanches, except on open, designated ski trails.

History: En. Sec. 6, Ch. 509, L. 1979; amd. Sec. 4, Ch. 429, L. 1989; amd. Sec. 126, Ch. 42, L. 1997.

23-2-822. Off-highway vehicle operator responsibilities. (1) An off-highway vehicle operator shall accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of off-highway vehicle use and shall regulate personal conduct at all times so that injury to self or other persons or property that results from the risks inherent in the sport of off-highway vehicle operation is avoided.
(2) **Risks inherent in the sport of off-highway operation include** variations in terrain, surface or subsurface conditions, crevices, ravines, streams, poor visibility, rocks, trees, other forms of forest growth or debris, and any other natural hazard.
(3) An off-highway vehicle operator is responsible for:

(a) knowing the range of the operator's ability to navigate any slope, trail, or area for off-highway vehicle use within the limits of the operator's ability, taking into consideration the conditions;
(b) maintaining control of speed and course at all times while operating the off-highway vehicle;
(c) heeding all posted warnings; and
(d) refraining from acting in a manner that may cause or contribute to the injury of anyone.
(4) The provisions of this section do not affect a products liability cause of action based upon the design or manufacture of off-highway equipment or products or safety equipment used incidental to the operation of an off-highway vehicle.

1. **History:** En. Sec. 2, Ch. 578, L. 1993.

27-1-725. Purpose. The purpose of 27-1-725 through 27-1-727 is to assist courts and juries in defining the circumstances under which persons responsible for **equines** may be found liable for damages to persons harmed in the course of equine activities. It is the policy of the state of Montana that a person is not liable for damages sustained by another solely as a result of risks inherent in equine activities if those risks are or should be reasonably obvious, expected, or necessary to persons engaged in equine activities. It is the policy of the state of Montana that an equine activity sponsor or equine professional who is negligent and causes foreseeable injury to a participant bears responsibility for that injury in accordance with other applicable law.

History: En. Sec. 1, Ch. 119, L. 1993.

27-1-726. Definitions. As used in

1. 27-1-725 through 27-1-727, the following definitions apply:
(1) "Engage in an equine activity" means to ride, train, drive, or be a passenger upon an equine, whether mounted or unmounted, or to assist a participant, equine activity sponsor, or equine professional. The phrase does not mean activity by a spectator at an equine activity, unless the spectator is improperly in an unauthorized area in immediate proximity to an equine activity.
(2) "Equine" means a horse, pony, mule, donkey, or hinny.
(3) "Equine activity" means:
(a) equine shows, fairs, competitions, performances, or parades that involve any breed of equines and any of the equine disciplines, including but not limited to dressage, hunter and jumper horse shows, grand prix jumping, 3-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, endurance trail riding and western games, and hunting;
(b) equine training or teaching activities;
(c) boarding equines;
(d) riding, inspecting, grooming, or evaluating an equine belonging to another, whether or not the owner has received monetary consideration or another thing of value for the use of the equine or permits a prospective purchaser of the equine to ride, inspect, groom, or evaluate the equine;
(e) rides, trips, hunts, pack trips, or other equine activities of any type, however informal, that are sponsored by an equine activity sponsor; and
(f) providing veterinarian or farrier services.
(4) "Equine activity sponsor" means an individual, group, club, partnership, corporation, or other entity, whether operating for profit or nonprofit, that sponsors, organizes, or provides the facilities for an equine activity. The phrase includes but is not limited to pony clubs; 4-H clubs;

hunt clubs; riding clubs; riding classes and programs; therapeutic riding programs; operators, instructors, and promoters of equine facilities; stables; clubhouses; pony ride strings; farms; ranches; and arenas.
(5) "Equine professional" means a person engaged for compensation in:
(a) instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine;
(b) selling or renting equipment or tack to a participant; or
(c) providing veterinary or farrier services.
(6) "Participant" means a person, whether amateur or professional, who directly engages in an equine activity, whether or not a fee is paid to participate in the equine activity.
(7) **"Risks inherent in equine activities" means dangers or conditions that are an integral part of equine activities, including** but not limited to:
(a) the propensity of an equine to behave in ways that may result in injury or harm to or the death of persons on or around the equine;
(b) the unpredictability of an equine's reaction to such things as medication; sounds; sudden movement; and unfamiliar objects, persons, or other animals;
(c) hazards, such as surface and subsurface ground conditions;
(d) collisions with other equines or objects; or
(e) the potential of another participant to not maintain control over the equine or to not act within the person's ability.

History: En. Sec. 2, Ch. 119, L. 1993.

27-1-727. Equine activity liability limitations. (1) Except as provided in subsections (2) and (3), an equine activity sponsor or an equine professional is not liable for an injury to or the death of a participant engaged in an equine activity resulting from risks inherent in equine activities.
(2) An equine participant shall act in a safe and responsible manner at all times to avoid injury to the participant and others and to be aware of risks inherent in equine activities.
(3) Subsection (1) does not apply:
(a) if the equine activity sponsor or the equine professional:
(i) provided the equipment or tack and the equipment or tack caused the injury because the equine activity sponsor or equine professional failed to reasonably and prudently inspect or maintain the equipment;
(ii) provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to safely engage in the equine activity and the participant's ability to safely manage the particular equine based on the participant's representations as to the participant's ability;
(iii) owned, leased, rented, or otherwise was in lawful possession and control of the land or facilities upon which the participant sustained injuries caused by a dangerous latent condition that was known or should have been known to the equine activity sponsor or the equine professional;
(iv) committed an act or omission that constituted willful or wanton disregard for the safety of the participant and the act or omission caused the injury; or
(v) intentionally injured the participant; or
(b) in a products liability action.

1. **History:** En. Sec. 3, Ch. 119, L. 1993.