

## HOUSE BILL NO. 299

INTRODUCED BY MILBURN, O'HARA, BUTCHER, KLOCK, L. JONES, ARNTZEN, MCNUTT,  
MCGILLVRAY, THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATED TO SKI AREAS AND PASSENGER ROPEWAYS; PROVIDING DEFINITIONS; REVISING THE DEFINITIONS OF "PASSENGER ROPEWAY" AND "SKIER"; REQUIRING THE MARKING OF DESIGNATED FREESTYLE TERRAIN; AND AMENDING SECTIONS 23-2-702, 23-2-703, 23-2-704, 23-2-731, 23-2-733, 23-2-734, 23-2-735, AND 23-2-736, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 23-2-702, MCA, is amended to read:

**"23-2-702. Definitions.** As used in this part, the following definitions apply:

(1) "Freestyle terrain" means terrain parks and terrain features, including but not limited to jumps, rails, fun boxes, half-pipes, quarter-pipes, and freestyle bump terrain, and any other natural or constructed features.

(2) "Inherent dangers and risks of skiing" means those dangers or conditions that are part of the sport of skiing, including but not limited to:

(a) changing weather conditions;

(b) snow conditions as they exist or as they may change, including ice, hardpack, powder, packed powder, wind pack, corn snow, crust, slush, cut-up snow, and machine-made snow;

(c) avalanches, EXCEPT ON OPEN, DESIGNATED SKI TRAILS;

(d) collisions with natural surface or subsurface conditions, such as bare spots, forest growth, rocks, stumps, streambeds, cliffs, ~~extreme terrain~~, trees, and other natural objects;

(e) collisions with lift towers, signs, posts, fences, enclosures, hydrants, water pipes, or other artificial structures and their components;

(f) variations in steepness or terrain, whether natural or the result of slope design, snowmaking, or snow grooming operations, including but not limited to roads, freestyle terrain, ~~EXTREME TERRAIN~~, ski jumps, catwalks, and other terrain modifications;

(g) collisions with clearly visible or plainly marked improvements and equipment, including but not limited to lift equipment, snowmaking equipment, snow grooming equipment, trail maintenance equipment, and

snowmobiles, whether or not the ~~improvements and equipment are~~ IS moving;

(h) collisions with other skiers; and

(i) the failure of a skier to ski within that skier's ability;

(J) SKIING IN A CLOSED AREA OR SKIING OUTSIDE THE SKI AREA BOUNDARY AS DESIGNATED ON THE SKI AREA TRAIL MAP; AND

(K) RESTRICTED VISIBILITY CAUSED BY SNOW, WIND, FOG, SUN, OR DARKNESS.

(3) "Passenger" means any person who is being transported or conveyed by a passenger ropeway.

(1)(4) "Passenger tramway ropeway" means a device used to transport passengers by means of any of the following: an aerial tramway or lift, surface lift, surface conveyor, or surface tow.

~~(a) two-car aerial passenger tramway, a device used to transport passengers in two open or enclosed cars attached to and suspended from a moving wire rope or attached to a moving wire rope and supported on a standing wire rope or similar devices;~~

~~———— (b) multicar aerial passenger tramway, a device used to transport passengers in several open or enclosed cars or carrying device attached to and suspended from a moving wire rope or attached to a moving wire rope and supported on a standing wire rope or similar devices;~~

~~———— (c) skimobile, a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable or similar devices;~~

~~———— (d) chairlift, a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain, or link belt supported by trestles or towers with one or more spans or similar devices;~~

~~———— (e) a J-bar, T-bar, or platterpull, so-called, and similar types of devices or means of transportation that pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans;~~

~~———— (f) rope tow, a type of transportation that pulls the skier, riding on skis as the skier grasps the rope or wire rope manually, or similar devices.~~

(2)(5) "Ski area operator" or "operator" means a person, firm, or corporation and its agents and employees having operational and administrative responsibility for ski slopes and trails and improvements.

(3)(6) "Ski slopes and trails" means those areas designated by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing.

(4)(7) "Skier" means a person admitted to who is using a ANY ski area FACILITY or using the ski trails, areas, and other improvements within the ski area. The term does not include a person using an aerial passenger

~~tramway: for the purpose of skiing, including but not limited to sliding down hill or jumping on snow or ice on skis, a snowboard, or any other sliding device, or who is using any ski area facility, including but not limited to ski slopes and trails.~~

(8) "Sport of skiing" "SKIING" means any activity, including an organized event, that involves sliding or jumping on snow or ice while using skis, a snowboard, or any other sliding device."

**Section 2.** Section 23-2-703, MCA, is amended to read:

**"23-2-703. Tramways Ropeways not common carriers or public utilities.** Passenger tramways shall ~~ropeways may~~ not be construed to be common carriers or public utilities for the purposes of regulation within the meaning of the laws of the state of Montana."

**Section 3.** Section 23-2-704, MCA, is amended to read:

**"23-2-704. Unlawful to endanger life or cause damage.** (1) It ~~shall be~~ is unlawful for ~~any person a passenger~~ riding or using a passenger ~~tramway ropeway~~ to ~~do so in such manner as to~~ endanger the life and safety of other persons or cause damage to passenger ~~tramway ropeway~~ equipment.

(2) ~~Any~~ A person who purposely or knowingly violates this section ~~shall be~~ is guilty of a misdemeanor."

**Section 4.** Section 23-2-731, MCA, is amended to read:

**"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 the inherent dangers and risks, inherent and otherwise of skiing. The state has a legitimate interest in maintaining the economic viability of the ski industry by discouraging claims based on damages resulting from the inherent dangers and risks inherent in the sport of skiing, defining the inherent dangers and risks of skiing, and establishing the duties of skiers and ski area operators."

**Section 5.** Section 23-2-733, MCA, is amended to read:

**"23-2-733. Duties of operator regarding ski areas.** (1) Consistent with the duty of reasonable care owed by a ski area operator to a skier, a ski area operator shall:

(~~+~~)(A) 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~~)(B) 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 slopes and trails;

~~(3)~~(C) maintain one or more trail boards at prominent locations at each ski area displaying A MAP OF that area's network of ski slopes and trails, THE BOUNDARIES OF THE SKI AREA, and the relative degree of difficulty of the ski slopes and trails at that area;

~~(4)~~(D) post a notice requiring the use of ski-retention devices;

~~(5)~~(E) designate at the start of each day, by trail board or otherwise, which ski slopes and trails are open or closed and amend those designations as openings and closures occur during the day;

~~(6)~~(F) post in a conspicuous location the current skier responsibility code that is published by the national ski areas association; ~~and~~

~~(7)~~(G) post a copy of 23-2-736 in a conspicuous location; ~~and~~

~~(8)~~(H) mark designated freestyle terrain with an orange oval A SYMBOL RECOGNIZED BY THE NATIONAL SKI AREAS ASSOCIATION.

(2) NOTHING IN THIS PART MAY BE CONSTRUED TO IMPOSE ANY DUTY OWED BY A SKI AREA OPERATOR TO A TRESPASSER OR AN UNAUTHORIZED USER OF A SKI AREA."

**Section 6.** Section 23-2-734, MCA, is amended to read:

**"23-2-734. Duties of operator with respect to passenger tramways ropeways.** A ski area operator shall construct, operate, maintain, and repair any passenger tramway ropeway. An operator has the duty of taking whatever responsible actions are necessary to properly construct, operate, maintain, and repair a passenger tramway ropeway in accordance with current standards."

**Section 7.** Section 23-2-735, MCA, is amended to read:

**"23-2-735. Duties of passenger.** ~~No~~ A passenger may not:

(1) board or disembark from a passenger tramway ropeway except at an area designated for ~~such~~ those purposes;

(2) throw or expel any object from a passenger tramway ropeway;

(3) ~~commit an act that interferes~~ interfere with the running or operation of a passenger tramway ropeway;

(4) use a passenger tramway ropeway unless the passenger has the ability to use it safely without any instruction on its use by the operator or requests and receives instruction before boarding;

(5) embark on a passenger tramway ropeway without the authority of the operator."

**Section 8.** Section 23-2-736, MCA, is amended to read:

**"23-2-736. ~~Skier's conduct -- inherent risks~~ Duties of skier.** (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 dangers and risks of the ~~sport~~ skiing.

(2) A skier:

(a) ~~must~~ shall 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 slope and trail safely and without injury or damage. A skier ~~must~~ shall know that the skier's ability may vary because of ski slope and 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-; AND

(E) SHALL READ THE SKI AREA TRAIL MAP AND MUST BE AWARE OF ITS CONTENTS.

(3) A person may not:

(a) place an object in the ski area or on the uphill track of a passenger ~~tramway~~ ropeway that may cause a passenger or skier to fall;

(b) cross the track of a passenger ~~tramway~~ ropeway 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~~ dangers and risks in the ~~sport~~ of skiing. NOTHING IN THIS PART MAY BE CONSTRUED TO LIMIT A SKIER'S RIGHT TO HOLD ANOTHER SKIER LEGALLY ACCOUNTABLE FOR DAMAGES CAUSED BY THE OTHER SKIER. ~~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."~~

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