

# D R A F T

## SUMMARY

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

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

### Be It Enacted by the People of the State of Oregon:

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

30.970. As used in ORS 30.970 to 30.990:

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

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

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

(4) **“Movement of snow” means:**

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

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

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

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

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

[(5)] (6) “Ski area operator” means those persons, and their agents, offi-  
cers, employees or representatives, who operate a ski area.

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

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

(9) “Uphill conveyance” means aerial tramways, aerial lifts, surface  
lifts, tows and conveyors.

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

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

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

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

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

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

*[(b)]* (a) Skiers *[shall be]* **are** the sole judges of the limits of their skills

and **of** their ability to meet and overcome the inherent risks of skiing  
[and].

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

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

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

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

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

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

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

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

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

[(j) Skiers, when involved in a skiing accident, shall not depart from the

*ski area without leaving their names and addresses if reasonably possible.]*

**(k) Skiers involved in an accident at a ski area shall leave contact information with the ski area operator before departing the ski area.**

A skier who is injured [*should, if reasonably possible,*] **shall** give notice of the injury to the ski area operator before leaving the ski area **unless the ski area operator already has notice of the injury.**

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

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

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

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

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

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

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

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

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

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

**(d) A ski area operator shall maintain at least one trail board at a**

1 prominent location at each ski area displaying that area's network of  
2 ski trails and slopes with each trail and slope rated by its degree of  
3 difficulty.

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

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

9 (g) A ski area operator shall provide notice of which trails and  
10 slopes are open and closed.

11 (h) A ski area operator shall provide notice when snow grooming  
12 or snowmaking operations are occurring in an area open to the public.

13 (i) A ski area operator shall post a notice requiring the use of de-  
14 vices to prevent runaway skis.

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

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

20 (2) This section does not create any duty owed by a ski area oper-  
21 ator to a trespasser in the ski area or an unauthorized user of the ski  
22 area.

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

26 SECTION 6. This 2016 Act being necessary for the immediate pres-  
27 ervation of the public peace, health and safety, an emergency is de-  
28 clared to exist, and this 2016 Act takes effect on its passage.