

# House Bill 3512

Sponsored by Representatives JOHNSON, BUEHLER

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Revises provisions relating to liability arising out of skiing.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to skiing; creating new provisions; amending ORS 30.970, 30.975, 30.985 and 30.990; and  
3 declaring an emergency.

4 Whereas the sport of skiing is practiced by a large number of residents of Oregon and attracts  
5 a large number of nonresidents, significantly contributing to the economy of this state; and

6 Whereas there are inherent risks in the sport of skiing that should be understood by each skier  
7 and that are essentially impossible to eliminate by the ski area operation; and

8 Whereas, absent legislation, ski areas would be required to expend significant amounts of mon-  
9 eys to defend personal injury claims, thereby reducing the economic viability of ski area operators,  
10 with a corresponding reduction in the opportunity to participate in the sport of skiing; and

11 Whereas it is necessary to clarify the law in relation to skiing injuries and the risks inherent  
12 in skiing, to establish as a matter of law that certain risks are inherent in skiing and to provide  
13 that, as a matter of public policy, no person engaged in skiing may recover from a ski operator for  
14 injuries resulting from those inherent risks; and

15 Whereas ski area operators should be permitted to enter into release agreements with patrons  
16 as long as the agreement does not release the ski area operator from conduct more egregious than  
17 ordinary negligence; now, therefore,

18 **Be It Enacted by the People of the State of Oregon:**

19 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 30.970 to 30.990.**

20 **SECTION 2. (1) Except as provided in subsection (2) of this section, a ski area operator**  
21 **may require skiers to release the operator from claims for liability, including, but not limited**  
22 **to, claims arising out of the negligence of the operator and claims for unreasonable condi-**  
23 **tions created by the operator that are not inherent to the activity, before participating in**  
24 **skiing at the ski area. A release described in this subsection is not unconscionable or con-**  
25 **trary to public policy.**

26 **(2) A ski area operator may not require a skier to release the operator from claims for**  
27 **liability for intentional acts or for gross negligence.**

28 **SECTION 3. ORS 30.970 is amended to read:**

29 30.970. As used in ORS 30.970 to 30.990:

30 **(1) "Freestyle terrain" means terrain parks and terrain features including jumps, hits,**  
31 **ramps, banks, funboxes, jibs, rails, half-pipes, quarter-pipes and any other natural or con-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 **structed features.**

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

8 [(2)] (3) “Injury” means any personal injury or property damage or loss.

9 (4) “**Movement of snow**” means:

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

11 (b) **Any natural or constructed depressions in snow, including tree wells; or**

12 (c) **Any natural or constructed accumulations of snow, including snowmaking mounds.**

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

15 [(4)] (5) “Ski area” means any area designated and maintained by a ski area operator for skiing.

16 [(5)] (6) “Ski area operator” means those persons, and their agents, officers, employees or rep-  
 17 resentatives, who operate a ski area.

18 (7) “**Skier**” means any person who is in a ski area for the purpose of engaging in the  
 19 sport of skiing or who rides as a passenger on any uphill conveyance.

20 (8) “**Skiing**” means sliding or jumping on any form of snow or ice, or skimming over  
 21 water, on snow skis, a snowboard or any other sliding device.

22 (9) “**Uphill conveyance**” means aerial tramways, aerial lifts, surface lifts, tows and con-  
 23 veyors.

24 **SECTION 4.** ORS 30.975 is amended to read:

25 30.975. (1) In accordance with ORS 31.600 and notwithstanding ORS 31.620 (2), an individual  
 26 who engages in the sport of skiing, alpine or nordic, accepts and assumes the inherent risks of skiing  
 27 [*insofar as they are reasonably obvious, expected or necessary*].

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

30 **SECTION 5.** ORS 30.985 is amended to read:

31 30.985. (1) Skiers shall have duties which include but are not limited to the following:

32 [(a) Skiers who ski in any area not designated for skiing within the permit area assume the in-  
 33 herent risks thereof.]

34 [(b)] (a) Skiers [*shall be*] **are** the sole judges of the limits of their skills and **of** their ability to  
 35 meet and overcome the inherent risks of skiing [*and*].

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

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

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

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

44 (f) Skiers shall not overtake [*any other*] **another** skier except in such a manner as to avoid  
 45 contact and shall grant the right of way to the overtaken skier. **Any resulting contact or collision**

1 **is the sole responsibility of the overtaking skier and not the ski area operator.**

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

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

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

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

12 [(j) Skiers, when involved in a skiing accident, shall not depart from the ski area without leaving  
 13 their names and addresses if reasonably possible.]

14 (k) **Skiers involved in an accident at a ski area shall leave contact information with the**  
 15 **ski area operator before departing the ski area.** A skier who is injured [should, if reasonably  
 16 possible,] **shall** give notice of the injury to the ski area operator before leaving the ski area **unless**  
 17 **the ski area operator already has notice of the injury.**

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

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

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

23 **(3) A skier is the sole judge of the skier's ability to use an uphill conveyance.**

24 [(2)] (4) Violation of any of the duties of skiers set forth in subsection (1) of this section **con-**  
 25 **stitutes negligence per se and** entitles the ski area operator to withdraw the violator's privilege  
 26 of skiing.

27 **SECTION 6.** ORS 30.990 is amended to read:

28 30.990. Ski area operators shall give notice to skiers of their duties under ORS 30.985 in a  
 29 manner reasonably calculated to inform skiers of those duties, **but skiers are presumed to know**  
 30 **their duties under ORS 30.985.**

31 **SECTION 7.** The amendments to 30.970, 30.975, 30.985 and 30.990 by sections 3 to 6 of this  
 32 **2015 Act apply only to skiing occurring on or after the effective date of this 2015 Act.**

33 **SECTION 8.** This 2015 Act being necessary for the immediate preservation of the public  
 34 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
 35 **on its passage.**

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