2011 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB495)

Received: **02/29/2012**

Received By: **phurley**

Wanted: **As time permits**

Companion to LRB: **s0368**

For: **Patricia Strachota (608) 264-8486**

By/Representing:

May Contact:

Drafter: **phurley**

Subject: **Buildings/Safety - misc.**
Courts - immunity liability

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Strachota@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Ski safety; additional requiremetns for ski operators

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	phurley 02/29/2012	kfollett 02/29/2012		_____ _____			
/1			rschluet 02/29/2012	_____ _____	sbasford 02/29/2012	sbasford 02/29/2012	

FE Sent For:

<END>

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/?	phurley	1 1 5 f 2/29	2/29/12	Km 2/29			

FE Sent For:

<END>

Hurley, Peggy

From: Moore, Heather
Sent: Wednesday, February 29, 2012 8:27 AM
To: Hurley, Peggy
Subject: FW: New Amendments to Wisconsin Ski Statute

Hi Peggy,

Below are the changes for the 2nd sub amendment. This one would be a combination of the 1st sub and these changes. Please note that there have been things inserted so there will a shift down on some of the changes.

Thanks,

Heather Moore
Office of Pat Strachota
Office (608) 264-8486
Toll-Free (888) 534-0058

From: David Byrd [mailto:dbyrd@nsaa.org]
Sent: Wednesday, February 29, 2012 8:04 AM
To: Moore, Heather
Subject: Fwd: New Amendments to Wisconsin Ski Statute

Below are the amendments we drafted that will be incorporated into the existing bill:

Ski Area Immunity Amendment

Amendment to LRBs0343/2

Page 5, lines 8 and 9, replace subsection (f) with the following:

(f) The risk of collision with other participants in snow sports, employees of a ski area operator, or ski area infrastructure.

Page 10, after line 2, insert the following language:

Ins 10.2

(i) *Ski Area Vehicles; signs required.* Each ski area operator shall post and maintain signs on various trails or lift towers throughout the ski area that are at least 4 square feet in size that state "Caution: Ski area vehicles may be in operation at any time."

Page 11, after line3, insert the following language:

Ins 11.3

(b) *Padding policies.* Each ski area shall adopt a written policy determining which man-made infrastructures at the ski area, based on that particular infrastructure's location and size at the ski area and its visibility to the public under conditions of normal visibility, as well as other considerations, shall be required to have protective padding installed, as well as the type, height, thickness, and color of the padding.

Page 11, after line 12, insert the following language:

Ins 11.12

3. If any grooming operations take place on a ski trail during hours in which a lift is being operated, the ski area shall close that trail to the public at the top entrance to the trail until the grooming operations are complete on that trail. If a groomer is traversing part of a ski area that is not part of a ski trail during hours in which a lift is being operated, the ski area shall provide an escort for the groomer to warn guests of the approaching groomer.

4. Ski areas shall comply with the following with regard to the operation of snowmobiles or ATVs within ski areas during the hours in which a lift is being operated:

(a) Ski areas shall have a written policy mandating the training required for anyone to operate a snowmobile or ATV at the ski area, and shall have a written policy addressing recommended routes for snowmobiles or ATVs to follow when used during the hours in which a lift is being operated;

(b) Ski areas shall not allow anyone under the age of 18 to operate a snowmobile or ATV;

(c) Any employee of a ski area operating a snowmobile or ATV shall possess a valid driver's license;

(d) Ski areas shall prohibit the use of privately owned snowmobiles or ATVs at the ski area during the hours in which a lift is being operated;

(e) Operators of snowmobiles or ATVs shall not operate the vehicle at a rate of speed not greater than is reasonable;

(f) Whenver possible, a snowmobile or ATV operated during the hours in which a lift is being operated shall give skiers the right-of-way.

State of Wisconsin
2011 – 2012 LEGISLATURE

LRBs0343/2
MGG&PJH:kjf:rs

Now

stays

ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 2011 ASSEMBLY BILL 495

S0367/1
rmnr

d-note

February 27, 2012 – Offered by Representative STRACHOTA.

regen

AN ACT ***to amend*** 101.12 (1) (c), 101.19 (1) (b), 101.981 (1) (c) and 895.525 (2); and ***to create*** 101.19 (1) (bm), 167.33 and 895.526 of the statutes; **relating to:** duties of ski area operators and participants in snow sports, liability of ski area operators, and granting rule–making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 101.12 (1) (c) of the statutes is amended to read:

101.12 **(1)** (c) Elevators, escalators, ~~ski lift and towing devices~~ lifts, as defined in s. 167.33 (1) (f), and power dumbwaiters.

SECTION 2. 101.19 (1) (b) of the statutes is amended to read:

101.19 **(1)** (b) The required inspection of boilers, pressure vessels, refrigeration plants, liquefied petroleum gas vessels, anhydrous ammonia tanks and containers, ~~ski lift and towing devices,~~ escalators, dumbwaiters, and amusement or thrill rides but not of amusement attractions.

1 **SECTION 3.** 101.19 (1) (bm) of the statutes is created to read:

2 101.19 **(1)** (bm) The inspection by the department of lifts, as defined in s. 167.33
3 (1) (f).

4 **SECTION 4.** 101.981 (1) (c) of the statutes, as affected by 2011 Wisconsin Act 32,
5 is amended to read:

6 101.981 **(1)** (c) "Conveyance" means an elevator, an escalator, a dumbwaiter,
7 a belt manlift, a moving walkway, a platform lift, and a stairway chair lift, and any
8 other similar device, such as an automated people mover, used to elevate or move
9 people or things, as provided in the rules of the department. "Conveyance" does not
10 include a personnel hoist; a material hoist; a grain elevator; a lift ~~or towing device~~
11 as defined in s. 167.33 (1) (f); an amusement or thrill ride; or a vertical platform lift,
12 inclined platform lift, or a stairway chair lift that serves an individual residential
13 dwelling unit.

14 **SECTION 5.** 167.33 of the statutes is created to read:

15 **167.33 Snow sports. (1)** DEFINITIONS. In this section:

16 (a) "Affiliate" means:

17 1. With respect to a partnership, each partner thereof.

18 2. With respect to a limited liability company, each member thereof.

19 3. With respect to a corporation, each officer, director, principal stockholder,
20 and controlling member thereof.

21 (b) "Competition" means any event authorized by a ski area operator, or by an
22 agent of a ski area operator, that involves a comparison of skills used in one or more
23 snow sports. "Competition" includes training sessions for such an event.

1 (c) "Freestyle features" means man–made features that include boxes, jumps,
2 hits, jibs, tabletops, spikes, take–off ramps, landings, banks, half pipes, picnic tables,
3 logs, and pipes.
4 (d) "Freestyling" means mogul jumping, mogul skiing, ski jumping, aerial
5 skiing, ski cross, ski ballet, snowboarding, and any other similar snow sport.
6 (e) "Hazard" means any man–made or natural obstacle or hazard. "Hazard"
7 includes ridges, sharp corners, jumps, bumps, moguls, valleys, dips, cliffs, ravines,
8 and bodies of water.
9 (f) "Lift" means any aerial tramway or lift, a surface lift, a tow, or a conveyor
10 used by a ski area operator to transport participants in snow sports at a ski area.
11 (g) "Participant in a snow sport" means an individual who is engaged in a snow
12 sport or who is walking or otherwise traveling within a ski area for purposes of
13 engaging in the sport. "Participant in a snow sport" also means an individual who
14 is present at a ski area to observe others engaged in a snow sport or who is a
15 passenger on a lift. "Participant in a snow sport" includes an individual that is an
16 employee of a ski area operator when he or she is acting outside the scope of his or
17 her employment.
18 (h) "Ski area" means trails, terrains, and other outdoor areas that are used by
19 individuals engaged in snow sports and that is administered as a single enterprise
20 by a ski area operator.
21 (i) "Ski area infrastructure" means lifts and any associated components,
22 snowmaking equipment and any associated components, and utility structures,
23 buildings, huts, signs, lift mazes, fences, or other structures located within a ski area.

(j) "Ski area operator" means a person that owns or is responsible for operating a ski area or its affiliates. "Ski area operator" includes the employees and agents of a ski area operator.

(k) "Ski area vehicle" means a motorized vehicle used in the operation and maintenance of a ski area or used as transportation within a ski area.

(L) "Skiing" means downhill skiing, alpine skiing, nordic skiing, cross–country skiing, telemarking, snowshoeing, or snowboarding.

(m) "Sledding" means sliding down a prepared course on sleds, toboggans, ski bikes, or comparable devices. "Sledding" excludes tubing.

(n) "Snowmaking equipment" includes pipes, hoses, hydrants, snow guns, fans, wands, pumps, and any other equipment associated with making snow.

(o) "Snow sport" means skiing, sledding, tubing, or freestyling.

(p) "Tree skiing area" means an area open to skiing, that is not groomed for skiing, and that is forested.

(q) "Tubing" means sliding down a prepared course on inflatable tubes, minibobs, or comparable devices.

(2) CONDITIONS AND RISKS OF SNOW SPORTS. For purposes of this section, conditions and risks consist of all of the following:

(a) Changes in weather or visibility.

(b) The presence of surface or subsurface conditions, including any of the following:

1. Snow, ice, crust, slush, soft spots, holes, grooves, bare spots, cuts, rocks, boulders, or tracks from ski area vehicles.

2. Forest growth or debris, including stumps, logs, or brush.

(c) Ridges, sharp corners, bumps, moguls, valleys, rollers, dips, cliffs, ravines, and double fall lines.

(d) Variations in the difficulty of terrain, surface conditions, or subsurface conditions on a single trail or terrain or among trails or terrains that are designated the same level of difficulty at the ski area or at another ski area.

(e) The risk of injury or death on trails and terrains that fall away or drop off toward hazards.

(f) The risk of collision with other participants in snow sports, employees of a ski area operator, ski area infrastructure, or ski area vehicles.

(g) Variation in the location, construction, configuration, or steepness of trails or terrains.

(h) The greater risk of collision, injury, or death in treed areas, in areas where competitions are held, and in areas where freestyling is allowed.

(3) DUTIES OF SKI AREA OPERATORS; SIGNAGE; NOTICE. (a) *Notice on tickets required.* Each ski area operator shall print on each ticket or season pass that it issues to participants in snow sports the following warning:

"WARNING: Under Wisconsin law, each participant in a snow sport assumes the risk of injury or death to person or injury to property resulting from the conditions and risks that are considered to be inherent in a snow sport, has a number of duties that must be met while engaging in a snow sport, and is subject to limitations on the ability to recover damages from a ski area operator for injuries or death to a person or to property. A complete copy of this law is available for review at the main site where tickets to this ski area are sold."

(b) *Signs required; generally.* Each ski area operator shall post and maintain a sign that is at least 10 square feet in size at or near each of the sites where tickets

to the ski area are sold, at or near each of the entrances or lift loading areas for areas that are open to snow sports, and at or near each area open to sledding or tubing which is not served by a lift. The sign shall contain the following warning:

"WARNING — ASSUMPTION OF RISKS: Under Wisconsin law, each participant in a snow sport is considered to have accepted and to have knowledge of the risk of injury or death to person or injury to property that may result. Under Wisconsin law, each participant in a snow sport has the duty to take the precautions that are necessary to avoid injury or death to person or injury to property. Wisconsin law sets forth certain other limitations on the liability of ski area operators for injuries or death to person or injury to property. A complete copy of this law is available for review at the main site where tickets to this ski area are sold."

(c) *Copies of law.* Each ski area operator shall post and maintain a current copy of all of the provisions of this section at the main site where tickets to the ski area are sold and shall make a copy of it for any individual upon request.

(d) *Signs required; skiing or sledding areas.* In addition to the sign required under par. (b), each ski area operator shall post and maintain a sign that is at least 10 square feet in size at or near each entrance to a loading area of a lift that serves areas open to skiing or sledding. The sign shall contain the following warning:

"WARNING — DUTIES OF INDIVIDUALS ENGAGED IN SKIING OR SLEDDING: Under Wisconsin law, each individual engaged in skiing or sledding has a duty to do all of the following:

1. Obey all posted warnings and signs.

2. Keep off of closed trails and out of closed areas.

3. Know the range of his or her ability and engage in skiing or sledding within that ability.

1 4. Assess the difficulty of the trails and terrains that are open to skiing or
2 sledding.
3 5. Maintain control of his or her speed and direction.
4 6. Be able to stop or avoid other individuals or objects.
5 7. Yield to other individuals engaged in skiing or sledding who are ahead or who
6 are down the slope.
7 8. Not stop at a point that will result in the individual obstructing a trail or not
8 being visible from above.
9 9. Yield to other individuals engaged in skiing or sledding who are uphill when
10 starting downhill or when merging onto a trail.
11 10. Be able to safely board, ride, and deboard any lift serving an area open to
12 skiing or sledding.
13 11. Board and deboard a lift only at designated sites."
14 (e) *Signs required; tubing areas.* In addition to the sign required under par. (b),
15 each ski area operator shall post and maintain a sign that is at least 10 square feet
16 in size at or near each entrance to a loading area of a lift that serves areas open to
17 tubing or at or near an entrance of an area open to tubing that is not served by a lift.
18 The sign shall contain the following warning:
19 "WARNING — DUTIES OF INDIVIDUALS ENGAGED IN TUBING: Under
20 Wisconsin law, each individual engaged in sledding has a duty to do all of the
21 following:
22 1. Obey all posted warnings and signs.
23 2. Keep out of closed areas.
24 3. Know the range of his or her ability and engage in tubing within that ability.
25 4. Assess the difficulty of the terrain that is open to tubing.

5. Maintain control of the speed and direction of the tube or other device that is being used.

6. Comply with any posted limits imposed on the number of passengers or on the amount of weight of the tube or other device while it is being ridden.

7. Be able to safely board, ride, and deboard any lift serving an area open to tubing.

8. Board and deboard a lift only at designated sites.

9. Yield to other individuals engaged in tubing who are ahead or who are down the the slope.

10. Look uphill and yield to oncoming tubes before leaving the bottom of the hill at the end of a run.

(f) *Signs required; trails and terrains.* Each ski area operator shall designate the trails that are open for skiing in its ski area and shall determine the difficulty level of each trail. The ski area operator shall post and maintain a sign at or near the beginning of each trail. The sign shall contain the name of the trail and all of the applicable wording and emblems specified in this paragraph to describe the difficulty level of the trail or terrain. The sign shall be at least 4 square feet in size. Each sign shall contain one or more of the following designations that are applicable:

1. The word "easier" with an emblem consisting of a green circle.

2. The words "difficult" or "more difficult" with an emblem consisting of a blue square.

3. The words "most difficult" with an emblem consisting of a black diamond.

4. The word "expert" or "extreme" with an emblem consisting of 2 black diamonds.

5. The words "freestyling area ahead" with an emblem consisting of an orange oval.

6. The words "tree skiing — caution." The sign shall have an orange background or orange lettering with a black or white background and shall contain the additional statement: "This back country trail is not groomed or patrolled — Never ski here alone."

(g) *Areas open to freestyling; signs and barricades required.* A ski area operator shall designate an area as an area for freestyling if it contains one or more freestyle features. A ski area operator shall construct and maintain a barricade with fencing, roping, or similar means at the entrance to such an area. The opening in the barricade may not be wider than 30 feet. The ski area operator shall post and maintain a sign at or near the entrance of the area that is at least 3 square feet in size and that shows the boundaries of the area open to freestyling. The sign shall contain emblems consisting of a stop sign and orange oval. The sign shall contain all of the following:

1. The words "freestyling skills required."

2. The words "helmets are recommended" or "consider wearing a helmet."

(h) *Lifts; signs required.* For each lift that is used by individuals engaged in skiing and that does not serve any trail that is described under par. (f) as "easier," the ski operator shall post and maintain, at or near the loading area for the lift a sign that is at least 10 square feet in size near or at the entrance of the loading area. The sign shall contain the following warning:

"WARNING: This lift does not serve any trails that are "easier" (marked with a green circle emblem). All of the trails served by this lift are "difficult" or "more difficult" (marked with a blue square emblem), "most difficult" (marked with a black

Insert 10.2

diamond emblem), "expert" or "extreme terrain" (marked with an emblem consisting of 2 black diamonds), or "freestyling terrain ahead" (marked with an orange oval)."

(i) *Variation of signs.* 1. In lieu of posting and maintaining each of the separate signs required under par. (b) and par. (d) or (e), a ski area operator may post and maintain a single sign that is at least 12 square feet in size and that contains all of the required warnings.

2. A ski area operator may, in a ski area with fewer than 100 acres in use for a snow sport vary from the specific wording, size, and location requirements for signs specified under this subsection, but any variation may not preclude a reasonably prudent participant in a snow sport from finding or understanding the contents of the sign.

(4) DUTIES OF SKI AREA OWNERS; OTHER DUTIES. (a) *Maps.* Each ski area operator shall post and maintain a map of the trails and terrains in the ski area that are designated for any snow sport at all of the sites where tickets to the ski area are sold if the ski area has more than 3 trails. The map shall contain the names of each trail or terrain and a description of the level of difficulty for each trail as determined by the ski area operator under sub. (3) (f). The sign shall be at least 32 square feet in size.

(ag) *Markings.* Each ski area operator shall mark hydrants, water pipes, and any other man–made structures on a ski area that are not readily visible to participants in a snow sport under conditions of ordinary visibility from a distance of at least 100 feet. A ski area operator may use any type of marker, including a wooden or bamboo pole, flag, or sign if the marker is visible from a distance of 100 feet and if the marker itself does not constitute a serious hazard to participants in a snow sport. Variations in steepness or terrain, whether natural or as a result of

Insert 11.3

slope design, snowmaking, or grooming operations, including roads, catwalks, or other terrain modifications, are not man–made structures for the purpose of this paragraph.

(b) *Ski area vehicles.* 1. Each ski area operator shall ensure that each ski area vehicle that is present on a trail during the hours in which a lift is being operated shall display all of the following:

a. ~~1.~~ A flashing light on or near the top of the ski area vehicle whenever the ski area vehicle's engine is on.

b. ~~2.~~ If the ski area vehicle is an all–terrain vehicle, a snowmobile, or a similarly sized motorized vehicle, in addition to the flashing light as specified in subd. 1., a red or orange flag that is at least 40 square inches in size and that is mounted at least 5 feet from the bottom of the tracks or tires.

Insert 11.12

(c) *Lift inspections.* Annually, a ski area operator shall have all of the lifts located in its ski area inspected by a qualified lift inspector to determine whether the lift is in compliance with the rules promulgated by the department of safety and professional services.

(d) *Lift inspectors.* In order to be a qualified lift inspector for purposes of par. (c), an individual shall be either or both of the following:

1. An individual authorized by the department of safety and professional services to make inspections of lifts pursuant to ch. 101.

2. An individual who has knowledge of the requirements of the rules specified in par. (c) and of the design and operation of lifts and who has one of the following:

a. A degree of engineering from a recognized university.

b. Experience as an inspector of lifts for an insurance company that has provided liability insurance coverage to any ski area.

1 **(5)** DUTIES OF INDIVIDUALS ENGAGED IN SNOW SPORTS. (a) *Safety rules; skiing and*
2 *sledding.* Each individual engaged in skiing or sledding at a ski area has a duty to
3 do all the following:
4 1. Obey all posted warnings and signs.
5 2. Keep off of closed trails and out of closed areas.
6 3. Know the range of his or her ability and engage in skiing or sledding within
7 that ability.
8 4. Assess the difficulty of the trails and terrains that are open to skiing or
9 sledding.
10 5. Maintain control of his or her speed and direction.
11 6. Comply with any posted limits that are imposed on the number of passengers
12 or on the amount of weight of the sled or other sledding device while it is being ridden.
13 7. Be able to stop or avoid other individuals or objects.
14 8. Yield to other individuals engaged in skiing or sledding who are ahead or who
15 are down the slope.
16 9. Not stop at a point that will result in the individual obstructing a trail or not
17 being visible from above.
18 10. Yield to other individuals engaged in skiing or sledding who are uphill when
19 starting downhill or merging onto a trail.
20 11. Be able to safely board, ride, and deboard any lift serving an area open to
21 skiing or sledding.
22 12. Board and deboard a lift only at designated sites.
23 13. If involved in a collision with another participant in a snow sport that
24 results in injury or death, not leave the vicinity of the collision before giving his or
25 her name and current address to an employee of the ski area operator or a member

of the ski patrol, except for the purpose of securing aid for a person injured in the collision. A person who leaves the scene of the collision for the purpose of securing aid shall give his or her name and current address after securing the aid.

(b) *Safety rules; tubing.* Each individual engaged in tubing at a ski area has a duty to do all of the following:

1. Obey all posted signs and warnings.

2. Keep out of closed areas.

3. Know the range of his or her ability and engage in tubing within that ability.

4. Assess the difficulty of terrain that is open to tubing.

5. Maintain control of his or her speed and direction.

6. Comply with any posted limits that are imposed on the number of passengers or on the amount of weight of the tube or other tubing device while it is being ridden.

7. Be able to safely board, ride, and deboard a lift serving an area open to tubing.

8. Board and deboard a lift only at designated sites.

9. Yield to other individuals engaged in tubing who are ahead or who are down the slope.

10. Look uphill and yield to oncoming tubes before leaving the bottom of the hill at the end of a run.

11. If involved in a collision with another participant in a snow sport that results in injury or death, not leave the vicinity of the collision before giving his or her name and current address to an employee of the ski area operator or a member of the ski patrol, except for the purpose of securing aid for a person injured in the collision. A person who leaves the scene of the collision for the purpose of securing aid shall give his or her name and current address after securing the aid.

SECTION 6. 895.525 (2) of the statutes is amended to read:

895.525 **(2)** DEFINITION. In this section, "recreational activity" means any activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" does not include participating in a snow sport at a ski area, as those terms are defined in s. 167.33, but includes hunting, fishing, trapping, camping, bowling, billiards, picnicking, exploring caves, nature study, dancing, bicycling, horseback riding, horseshoe–pitching, bird–watching, motorcycling, operating an all–terrain vehicle, ballooning, curling, throwing darts, hang gliding, hiking, ~~tobogganing, sledding,~~ sleigh riding, snowmobiling, ~~skiing,~~ skating, participation in water sports, weight and fitness training, sight–seeing, rock–climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting, and participating in a snow sport outside a ski area, as those terms are defined in s. 167.33, and any other sport, game or educational activity.

SECTION 7. 895.526 of the statutes is created to read:

895.526 Participation in a snow sport; restrictions on civil liability, assumption of risk. (1) DEFINITIONS. All definitions in s. 167.33 apply to this section unless the context otherwise requires.

(2) APPRECIATION OF CONDITIONS AND RISK OF PARTICIPATION IN A SNOW SPORT. (a) Every participant in a snow sport at a ski area accepts the conditions and risks of the snow sport as set forth in s. 167.33 (2).

(b) Every participant in a snow sport at a ski area is presumed to have seen and understood signage provided by the ski area operator pursuant to s. 167.33 (3).

(c) Every participant in a snow sport at a ski area accepts that failure to wear a helmet or wearing a helmet that is improperly sized, fitted, or secured increases the risk of injury or death or the risk of a more severe injury. Every participant in

a snow sport at a ski area accepts that a helmet may not be available for purchase or for rent at a ski area.

(d) Every participant in a snow sport at a ski area accepts that natural or man–made items or obstacles within a ski area, including ski area infrastructure and ski area vehicles, may be unpadded or not heavily padded and accepts that there may be a higher risk of injury or death or of a more severe injury associated with a collision with an item or obstacle that is unpadded or not heavily padded.

(3) RESPONSIBILITIES OF A PARTICIPANT IN A SNOW SPORT. Every participant in a snow sport is responsible to do all of the following:

(a) Fulfill his or her duties set forth in s. 167.33 (5).

(b) Choose whether to wear a helmet while participating in the snow sport. If the participant chooses to wear a helmet, he or she has the responsibility to ensure the helmet is of the correct size and fit and to ensure that it is properly secured while he or she participates in the snow sport.

(4) LIMITS ON LIABILITY FOR A SKI AREA OPERATOR; RELEASE AND LIABILITY OF A PARTICIPANT. (a) A ski operator who fulfills all of his or her duties under s. 167.33 (3) and (4) owes no further duty of care to a participant in a snow sport and is not liable for an injury or death that occurs as a result of any condition or risk accepted by the participant under sub. (2).

(b) A participant involved in a collision with any other participant or with a nonparticipant may be liable for an injury or death that occurs as a result of the collision.

(c) This subsection shall be construed broadly.

1 **(5)** EFFECT ON RELATED PROVISION. Nothing in this section affects the limitation
2 of a property owner's liability under s. 895.52.

3 **(END)**

D-Note

INSERT 10.2:

(i) *Ski area vehicles; signs required.* A ski area operator shall post and maintain signs on various trails or lift towers throughout the ski area that are at least 4 square feet in size that contain the following statement: "Caution: Ski area vehicles may be in operation at any time."

INSERT 11.3:

(ar) *Padding policies.* A ski area operator shall adopt a written policy determining which man–made infrastructures at the ski area require protective padding and determining the type, height, thickness, and color of the padding. The policy shall take into consideration factors including the infrastructure's size and location and at the ski area its visibility to the public under conditions of normal visibility.

INSERT 11.12

2. ~~3.~~ If any grooming operations take place on a ski trail during hours in which a lift is being operated, the ski area operator shall close that trail to the public at the top entrance to the trail until the grooming operations are complete on that trail. If a groomer is traversing part of a ski area that is not part of a ski trail during hours in which a lift is being operated, the ski area operator shall provide an escort for the groomer to warn guests of the approaching groomer.

3. ~~4.~~ A ski area operator ~~shall ensure all of the following:~~

no ¶ ~~(a)~~ A ~~ski area operator~~ shall have a written policy that specifies the training required for anyone to operate a snowmobile or an all–terrain vehicle within the ski area, and shall have a written policy addressing recommended routes for

snowmobiles or all–terrain vehicles to follow when used during the hours in which a lift is being operated.

4 b. No ski area operator area may allow anyone under the age of 18 to operate a snowmobile or an all–terrain vehicle within the ski area.

5 c. Any employee of a ski area operating a snowmobile or an all–terrain vehicle shall possess a valid driver's license.

6 d. A ski area operator shall prohibit the use of privately owned snowmobiles or all–terrain vehicles within the ski area during the hours in which a lift is being operated.

7 e. The operator of a snowmobile or an all–terrain vehicle may not operate the vehicle at a rate of speed greater than is reasonable.

8 f. Whenever possible, the person operating a snowmobile or an all–terrain vehicle within a ski area during the hours in which a lift is being operated shall give skiers the right–of–way.

LRBs0367/?dn

PJH:lgf

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

Date

Heather,

Please read the new language carefully to ensure that it reflects your intent. I made a few changes to the language you forwarded to me in the interest of complying with drafting standards. If any of the changes do not reflect your intent, please let me know.

Peggy Hurley
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0367/1dn
PJH:kjf:rs

February 29, 2012

Heather,

Please read the new language carefully to ensure that it reflects your intent. I made a few changes to the language you forwarded to me in the interest of complying with drafting standards. If any of the changes do not reflect your intent, please let me know.

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