



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2015 Assembly Bill 596**

**Assembly Amendment 1**

*Memo published:* January 28, 2016

*Contact:* Rachel E. Snyder, Staff Attorney (266-0922)

### **BACKGROUND**

Under current law, liability for an injury or death resulting from participation in a “recreational activity,” including riding a bicycle, on a premises that is open to the public for such purposes is determined differently than liability for an injury or death resulting from participation in a “snow sport” within a ski area.

An individual who participates in a recreational activity assumes the “risks inherent in the recreational activity of which the ordinary prudent person is or should be aware” and must satisfy certain behavioral duties. [s. 895.525, Stats.] If a participant is injured or killed, the owner of the premises may be liable, but the damages that may be collected from the owner are reduced in proportion to the amount of negligence attributable to the participant.

An individual who participates in a snow sport within a ski area assumes certain risks and must satisfy certain duties. Likewise, ski area operators must satisfy certain duties related to safety and to notice of assumed risks. A ski area operator that satisfies all of the required duties owes no further duty of care to a participant and is immune from liability for an injury or death sustained by a participant that results from the assumed risks of participation in a snow sport.

### **2015 ASSEMBLY BILL 596**

2015 Assembly Bill 596 (AB 596) changes the term “snow sport” to “alpine sport” and adds “biking,” defined as “riding a bicycle within a ski area,” to the list of activities included in the term. AB 596 removes biking from the definition of “recreational activity,” defines the risks assumed by individuals who participate in biking, and establishes the duties participants must satisfy. AB 596 also establishes the duties of ski area operators related to biking. Under AB 596,

a ski area operator that satisfies all of the required duties owes no further duty of care to a participant who engages in biking and is immune from liability for an injury or death sustained by a participant that results from the assumed risks of participation in an alpine sport.

### **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 (AA 1) narrows the definition of “biking” created under AB 596 to specify that it means “riding a bicycle within a ski area **after purchasing or receiving a ticket, pass, or license from the ski area operator.**” Under AA 1, the potential immunity shield created by AB 596 would apply only to an injury or death sustained by an individual who has paid for or otherwise received a ticket, pass, or license from a ski area operator for the opportunity to ride a bicycle within a ski area. Bicycling within a ski area without purchasing or receiving a ticket, pass, or license from a ski area operator would be considered a “recreational activity,” and any associated liability would be determined according to Wisconsin law related to the recreational use of property.

### **BILL HISTORY**

Assembly Amendment 1 was offered by Representative Jarchow. On January 27, 2016, the Assembly Committee on Tourism recommended adoption of Assembly Amendment 1 on a vote of Ayes, 9; Noes, 5, and passage of Assembly Bill 596, as amended, on a vote of Ayes, 9; Noes, 5.

RES:jal