

Part 4 Inherent Risks of Skiing

78B-4-401 Public policy.

- (1) The Legislature finds that:
 - (a) the sport of skiing is practiced by a large number of residents of Utah and attracts a large number of nonresidents, significantly contributing to the economy of this state;
 - (b) few insurance carriers are willing to provide liability insurance protection to ski area operators; and
 - (c) the premiums charged by insurance carriers have risen sharply in recent years due to confusion as to whether a skier assumes the risks inherent in the sport of skiing.
- (2) It is the purpose of this act:
 - (a) to clarify the law in relation to skiing injuries and the risks inherent in the sport of skiing;
 - (b) to establish as a matter of law that certain risks are inherent in the sport of skiing; and
 - (c) to provide that, as a matter of public policy, an individual engaged in the sport of skiing may not recover from a ski operator for injuries resulting from the risks that are inherent in the sport of skiing.

Amended by Chapter 295, 2020 General Session

78B-4-402 Definitions.

As used in this part:

- (1) "Inherent risks of skiing" means the dangers or conditions that are an integral part of the sport of recreational, competitive, or professional skiing, including:
 - (a) changing weather conditions;
 - (b) snow or ice conditions as the snow or ice conditions exist or may change, including hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, or machine-made snow;
 - (c) surface or subsurface conditions, including bare spots, forest growth, rocks, stumps, streambeds, cliffs, trees, or other natural objects;
 - (d) variations or steepness in terrain, whether natural or as a result of slope design, snowmaking or grooming operations, or other terrain modifications, including:
 - (i) terrain parks;
 - (ii) terrain features, including jumps, rails, or fun boxes; or
 - (iii) all other constructed and natural features, including half pipes, quarter pipes, or freestyle-bump terrain;
 - (e) impact with lift towers, other structures, or their components, including signs, posts, fences or enclosures, hydrants, or water pipes;
 - (f) collisions with other skiers;
 - (g) participation in, or practicing or training for, competitions or special events; and
 - (h) the failure of a skier to ski within the skier's own ability.
- (2) "Injury" means any personal injury or property damage or loss.
- (3) "Minor" means an individual who is under 18 years old.
- (4) "Skier" means an individual present in a ski area for the purpose of engaging in the sport of skiing, nordic, freestyle, or other types of ski jumping, or using skis, a sled, a tube, a snowboard, or any other device.

- (5) "Ski area" means any area designated by a ski area operator to be used for skiing, nordic, freestyle or other type of ski jumping, or snowboarding.
- (6)
 - (a) "Ski area operator" means a person that operates a ski area.
 - (b) "Ski area operator" includes an agent, an officer, an employee, or a representative of the person that operates a ski area.

Amended by Chapter 295, 2020 General Session

78B-4-403 Bar against claim or recovery from operator for injury from risks inherent in sport.

Notwithstanding Sections 78B-5-817 through 78B-5-823, a skier may not make any claim against, or recover from, a ski area operator for injury resulting from inherent risks of skiing.

Amended by Chapter 295, 2020 General Session

78B-4-404 Trail boards listing inherent risks and limitations on liability.

A ski area operator shall:

- (1) post trail boards at one or more prominent locations within each ski area; and
- (2) include a list of the inherent risks of skiing and the limitations on liability of ski area operators on the trail board.

Amended by Chapter 295, 2020 General Session

78B-4-405 Liability agreements.

- (1) A skier may enter into an agreement with a ski area operator before an injury to:
 - (a) waive a claim that the skier is permitted to bring against a ski area operator; or
 - (b) release the ski area operator from a claim that the skier is permitted to bring under this part.
- (2) If the skier is a minor, the skier, or the skier's parent or guardian on behalf of the minor, may not enter into an agreement described in Subsection (1)(a).

Enacted by Chapter 295, 2020 General Session

78B-4-406 Limitation on damages.

- (1) In an action arising on or after May 12, 2020, against a ski area operator for a claim not prohibited under this part, in which the skier, or a person authorized to bring a claim on behalf of the skier, recovers for an injury and is awarded noneconomic losses, the amount of the award for noneconomic losses may not exceed \$1,000,000.
- (2) The limit on an award for noneconomic losses described in Subsection (1) does not apply to an award:
 - (a) of punitive damages; or
 - (b) for a wrongful death action.

Enacted by Chapter 295, 2020 General Session