

**SKI RESORT LIABILITY ACT**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel Hemmert**

House Sponsor: Brady Brammer

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**LONG TITLE**

**General Description:**

This bill enacts and repeals provisions related to ski resort liability.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that a ski resort is liable for claims arising from intentional or malicious conduct by the ski resort;
- ▶ allows for individuals and ski resorts to enter into agreements regarding liability;
- ▶ bars an individual from bringing a claim against a ski resort for certain claims;
- ▶ provides for a limitation on damages for noneconomic losses for certain claims; and
- ▶ repeals statutory provisions on liability for the inherent risks of skiing.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**78B-4-701**, Utah Code Annotated 1953

**78B-4-702**, Utah Code Annotated 1953

**78B-4-703**, Utah Code Annotated 1953



28 **78B-4-704**, Utah Code Annotated 1953

29 REPEALS:

30 **78B-4-401**, as renumbered and amended by Laws of Utah 2008, Chapter 3

31 **78B-4-402**, as renumbered and amended by Laws of Utah 2008, Chapter 3

32 **78B-4-403**, as renumbered and amended by Laws of Utah 2008, Chapter 3

33 **78B-4-404**, as renumbered and amended by Laws of Utah 2008, Chapter 3



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **78B-4-701** is enacted to read:

37 **Part 7. Ski Resort Liability Act**

38 **78B-4-701. Definitions.**

39 As used in this part:

40 (1) "Minor" means an individual who is under 18 years old.

41 (2) (a) "Recreational activity" means an outdoor activity provided by a ski resort.

42 (b) "Recreational activity" includes alpine skiing, nordic skiing, freestyle skiing, ski  
43 jumping, snowboarding, snowbiking, pondskiing, split-boarding, mountain biking,  
44 monoskiing, sledding, and tubing.

45 (3) "Ski area" means any area designated by a ski resort to be used for a recreational  
46 activity.

47 (4) (a) "Ski resort" means a person that operates a ski area.

48 (b) "Ski resort" includes any agent, officer, employee, or representative of the person  
49 that operates a ski area.

50 (5) "Skier" means any individual present in a ski area for the purpose of participating in  
51 a recreational activity.

52 Section 2. Section **78B-4-702** is enacted to read:

53 **78B-4-702. Liability of a ski resort -- Liability agreements.**

54 (1) A skier, or a person authorized by law to bring a claim on behalf of the skier, may  
55 bring a claim against a ski resort for:

56 (a) an intentional or malicious failure to protect or warn the skier against a dangerous  
57 use of a ski area, or a dangerous condition, structure, or activity in a ski area; or

58 (b) intentional or malicious conduct that results in an injury to the skier or damage to

59 the skier's property.

60 (2) (a) A skier and a ski resort may enter into an agreement to:

61 (i) modify, eliminate, or expand a right or protection allowed under this part for the  
62 skier or the ski resort; or

63 (ii) limit, extinguish, or expand any right or liability for the skier or the ski resort  
64 related to a tort claim.

65 (b) If a skier is a minor, the skier's parent or guardian may enter into the agreement  
66 described in Subsection (2)(a) on behalf of the skier.

67 Section 3. Section **78B-4-703** is enacted to read:

68 **78B-4-703. Bar against recovery.**

69 (1) Except for a claim allowed under Section [78B-4-702](#), a skier, or a person  
70 authorized by law to bring a claim on behalf of the skier, may not bring a claim against a ski  
71 resort for a personal injury to the skier, the skier's death, or damage to the skier's property that  
72 results from:

73 (a) a change in weather conditions in the ski area;

74 (b) any snow, ice, or surface condition that exists or changes in the ski area, including  
75 hard pack, powder, packed powder, wind pack, stumps, streambeds, cliffs, trees, or other  
76 natural objects;

77 (c) a variation or steepness in terrain in the ski area, whether the variation or steepness  
78 is natural or is a result of slope design, snowmaking or grooming operations, or other terrain  
79 modifications, including a terrain park, a competition venue, a jump, a rail, a fun box, a half  
80 pipe, a quarter pipe, a freestyle-bump terrain, or any other constructed or natural terrain feature  
81 of the ski area;

82 (d) impact with a tree, a lift tower, or another manmade structure, including a sign, a  
83 post, a fence, an enclosure, a hydrant, or a water pipe;

84 (e) a collision with another individual;

85 (f) any injury, death, or property damage arising from participating in, practicing for, or  
86 training for a competition or a special event; or

87 (g) a failure to properly load or unload a ski lift or another passenger tramway.

88 (2) (a) Notwithstanding Subsection [78A-4-702\(1\)](#), if a ski resort provides a visible sign  
89 or warning to a skier of any risk or hazard that may occur when participating in a recreational

90 activity and the skier participates in the recreational activity, the skier shall:

91 (i) assume any risk of injury or damage to the skier or the skier's property that occurs  
92 with participating in the recreational activity; and

93 (ii) waive any right to recovery for an alleged tort that arises from participating in the  
94 recreational activity.

95 (b) If a visible sign or warning under this Subsection (2) conflicts with an agreement  
96 under Subsection 78A-4-702(2), the liability provisions of the agreement shall prevail over this  
97 Subsection (2).

98 Section 4. Section 78B-4-704 is enacted to read:

99 **78B-4-704. Limitations on damages.**

100 (1) In an action arising on or after May 12, 2020, against a ski resort for an injury to a  
101 skier or damage to a skier's property for a claim not prohibited under this part, in which the  
102 skier, or a person authorized to bring a claim on behalf of a skier, is awarded noneconomic  
103 losses, the amount of the award for noneconomic losses may not exceed \$450,000.

104 (2) The limit on an award for noneconomic losses described in Subsection (1) does not  
105 apply to an award:

106 (a) of punitive damages; or

107 (b) for any liability described in Subsection 78B-4-702(1).

108 Section 5. **Repealer.**

109 This bill repeals:

110 Section 78B-4-401, **Public policy.**

111 Section 78B-4-402, **Definitions.**

112 Section 78B-4-403, **Bar against claim or recovery from operator for injury from**  
113 **risks inherent in sport.**

114 Section 78B-4-404, **Trail boards listing inherent risks and limitations on liability.**