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SENATE BILL 815

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MICHAEL S. SANCHEZ

AN ACT

RELATING TO SKIING; REVISING THE SKI SAFETY ACT; AMENDING  
SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-15-2 NMSA 1978 (being Laws 1969,  
Chapter 218, Section 2, as amended) is amended to read:

"24-15-2. PURPOSE OF ACT. --

A. In order to safeguard life, health, property and  
the welfare of this state, it is the policy of New Mexico to  
protect its citizens and visitors from unnecessary hazards in  
the operation of ski lifts and passenger aerial tramways and to  
require liability insurance to be carried by operators of ski  
lifts and tramways. The primary responsibility for the safety  
of operation, maintenance, repair and inspection of ski lifts  
and tramways rests with the operators of such devices. The

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1 primary responsibility for the safety of the individual skier  
2 while engaging in the sport of skiing rests with the skier  
3 himself. The state, through the Ski Safety Act, recognizes  
4 these responsibilities and duties on the part of the ski area  
5 operator and the skier.

6 B. It is recognized that there are inherent risks in  
7 the sport of skiing, which should be understood by each skier  
8 and which are essentially impossible to eliminate by the ski  
9 area operator. It is the purpose of the Ski Safety Act to  
10 define those areas of responsibility and affirmative acts for  
11 which ski area operators shall be liable for loss, damage or  
12 injury and those risks which the skier or passenger expressly  
13 assumes and for which there can be no recovery. "

14 Section 2. Section 24-15-3 NMSA 1978 (being Laws 1979,  
15 Chapter 279, Section 3) is amended to read:

16 "24-15-3. DEFINITIONS. --As used in the Ski Safety Act:

17 A. "ski lift" means any device operated by a ski  
18 area operator used to transport passengers by single or double  
19 reversible tramway, chair lift or gondola lift, T-bar lift, J-  
20 bar lift, platter lift or similar device or a fiber rope tow;

21 B. "passenger" means any person, at any time in the  
22 year, who is lawfully using a ski lift, ~~[or is waiting to embark~~  
23 ~~or has recently disembarked from a ski lift and is in its~~  
24 immediate vicinity] is actually being transported on a ski lift,  
25 is actually loading or unloading from a ski lift or is waiting

1 to load or has recently unloaded from a ski lift;

2 C. "ski area" means the property owned, permitted,  
3 leased or under the control of the ski area operator and  
4 administered as a single enterprise within the state;

5 D. "ski area operator" means any person,  
6 partnership, corporation or other commercial entity and its  
7 agents, officers, employees or representatives who has  
8 operational responsibility for any ski area or ski lift;

9 E. "skiing" means participating in the sport in  
10 which a person slides on snow, ice or a combination of snow and  
11 ice while using skis;

12 [~~E.-~~] F. "skiing area" means all slopes, [~~and~~]  
13 trails, terrain parks and competition areas, not including any  
14 ski lift;

15 [~~F.-~~] G. "skier" means any person, including a person  
16 enrolled in ski school or other class for instruction, who is on  
17 skis and present at a skiing area under the control of a ski  
18 area operator for the purpose of engaging in the sport of skiing  
19 by utilizing the ski slopes and trails and does not include [~~the~~  
20 ~~use of a ski lift~~] a passenger;

21 [~~G.-~~] H. "ski slopes and trails" means those areas  
22 designated by the ski area operator to be used by skiers for the  
23 purpose of participating in the sport of skiing; [~~and~~

24 [~~H.-~~] I. "ski retention device" means a device  
25 designed to help prevent runaway skis; and

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1                   J. "skis" means any device used for skiing,  
2 including alpine skis, telemark skis, cross-country skis, mono-  
3 skis, snowboards, bladerunners, adaptive devices used by  
4 disabled skiers, or tubes, sleds or any other device used to  
5 accomplish the same or a similar purpose to participate in the  
6 sport of skiing."

7                   Section 3. Section 24-15-4 NMSA 1978 (being Laws 1969,  
8 Chapter 218, Section 4) is amended to read:

9                   "24-15-4. INSURANCE. --

10                   A. Every operator shall file with the state  
11 corporation commission and keep on file therewith proof of  
12 financial responsibility in the form of a current insurance  
13 policy in a form approved by the commission, issued by an  
14 insurance company authorized to do business in the state,  
15 conditioned to pay, within the limits of liability herein  
16 prescribed, all final judgments for personal injury or property  
17 damage proximately caused or resulting from negligence of the  
18 operator covered thereby, as such negligence is defined and  
19 limited by the Ski Safety Act. The minimum limits of liability  
20 insurance to be provided by operators shall be as follows:

21                   SKI SAFETY ACT

22                   LIABILITY INSURANCE

23                   LIMITS OF LIABILITY

24                   REQUIRED MINIMUM COVERAGES

25                   FOR INJURIES, DEATH OR DAMAGES

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LIMITS FOR BODILY INJURY TO OR DEATH			
LIMITS FOR BODILY INJURY TO OR DEATH		OF ALL PERSONS	
KIND AND NUMBER OF LIFTS OPERATED	INJURY TO OR DEATH OF ONE PERSON	INJURED OR KILLED IN ANY ONE ACCIDENT	PROPERTY DAMAGE
Not more than three surface lifts	\$ <del>[25,000]</del> <u>\$ 100,000</u>	\$ <del>[75,000]</del> <u>\$ 300,000</u>	\$ <del>[1,000]</del> <u>\$ 5,000</u>
Not more than three ski lifts, including one or more chair lifts	<del>[50,000]</del> <u>250,000</u>	<del>[150,000]</del> <u>500,000</u>	<del>[2,500]</del> <u>25,000</u>
More than three ski lifts or one or more tramways	<del>[100,000]</del> <u>500,000</u>	<del>[300,000]</del> <u>1,000,000</u>	<del>[5,000]</del> <u>50,000.</u>

B. No ski lift or tramway shall be operated in this state after the effective date of the Ski Safety Act unless a current insurance policy as required herein is in effect and properly filed with the state corporation commission. Each policy shall contain a provision that it cannot be ~~cancelled~~ canceled prior to its expiration date without thirty days' written notice of intent to cancel served by registered mail on the insured and on the commission. "

Section 4. Section 24-15-5 NMSA 1978 (being Laws 1969, Chapter 218, Section 5) is amended to read:

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1 "24-15-5. PENALTY. --Any operator convicted of operating a  
2 ski lift or aerial passenger tramway without having ~~filed~~  
3 obtained and kept in force an insurance policy as required by  
4 the Ski Safety Act is guilty of a misdemeanor punishable by a  
5 fine of not more than ~~one hundred dollars (\$100)]~~ five hundred  
6 dollars (\$500) for each day of illegal operation. The attorney  
7 general or the district attorney of the county where the ski  
8 area is located has the power to bring proceedings in the  
9 district court of the county in which the ski area is located to  
10 enjoin the operation of any ski lift or tramway being operated  
11 without a current insurance policy, in the amounts prescribed  
12 herein, being on file and covering the operator concerned."

13 Section 5. Section 24-15-7 NMSA 1978 (being Laws 1979,  
14 Chapter 279, Section 4) is amended to read:

15 "24-15-7. DUTIES OF SKI AREA OPERATORS WITH RESPECT TO  
16 SKIING AREAS. --Every ski area operator shall have the following  
17 duties with respect to the operation of a skiing area:

18 A. to mark all snow-maintenance vehicles and to  
19 furnish such vehicles with flashing or rotating lights, which  
20 shall be in operation whenever the vehicles are working or are  
21 in movement in the skiing area;

22 B. to mark with a visible sign or other warning  
23 implement the location of any hydrant or similar equipment used  
24 in snow-making operations and located on ski slopes and trails;

25 C. to mark ~~conspicuously]~~ in a plainly visible

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1 manner the top or entrance to each slope, trail or area with the  
2 appropriate symbol for its relative degree of difficulty, using  
3 the symbols established or approved by the national ski areas  
4 association; and those slopes, trails or areas which are closed,  
5 or portions of which present an unusual obstacle or hazard,  
6 shall be marked at the top or entrance or at the point of the  
7 obstacle or hazard with the appropriate symbols as are  
8 established or approved by the national ski areas association  
9 [~~as of the effective date of the Ski Safety Act and as shall be~~  
10 ~~modified by the association from time to time~~] or by the New  
11 Mexico ski area operators association;

12 D. to maintain one or more trail boards at prominent  
13 locations at each ski area displaying that area's network of ski  
14 trails and slopes with each trail and slope rated in accordance  
15 with the symbols and containing a key to the symbols;

16 E. to designate by trail board or otherwise at the  
17 top of or entrance to the subject trail or slope which trails or  
18 slopes are open or closed;

19 F. to place or cause to be placed, whenever snow-  
20 maintenance vehicles or snow-making operations are being  
21 undertaken upon any trail or slope while such trail or slope is  
22 open to the public, a conspicuous notice to that effect at or  
23 near the top or entrance of such trail or slope;

24 G. to provide ski patrol personnel trained in first  
25 aid, which training meets at least the requirements of the

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1 ~~[American red cross advanced first aid]~~ national ski patrol  
2 winter emergency care course, and also trained in winter rescue  
3 and toboggan handling to serve the anticipated number of injured  
4 skiers and to provide personnel trained for the evacuation of  
5 passengers from stalled aerial ski lifts. A first aid room or  
6 building shall be provided with adequate first aid supplies, and  
7 properly equipped rescue toboggans shall be made available at  
8 all reasonable times at the top of ski slopes and trails to  
9 transport injured skiers from the ski slopes and trails to the  
10 first aid room;

11 H. to post notice of the requirements of the Ski  
12 Safety Act concerning the use of ski retention devices; ~~[and]~~

13 I. to warn of or correct particular hazards or  
14 dangers known to the operator where feasible to do so; and

15 J. to warn of snowmobiles or all-terrain vehicles  
16 (ATV's) operated on the ski slopes or trails with at least one  
17 lighted headlamp, one lighted red tail lamp, a brake system and  
18 a fluorescent flag that is at least forty square inches and is  
19 mounted at least six feet above the bottom of the tracks or  
20 tires. "

21 Section 6. Section 24-15-10 NMSA 1978 (being Laws 1979,  
22 Chapter 279, Section 7) is amended to read:

23 "24-15-10. DUTIES OF THE SKIERS. --

24 A. It is recognized that skiing as a recreational  
25 sport is inherently hazardous to skiers, and it is the duty of

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1 each skier to conduct himself carefully.

2 B. A person who takes part in the sport of skiing  
3 accepts as a matter of law the dangers inherent in that sport  
4 insofar as they are obvious and necessary. Each skier expressly  
5 assumes the risk of and legal responsibility for any injury to  
6 person or property which results from participation in the sport  
7 of skiing, in the skiing area, including any injury caused by  
8 the following: variations in terrain; surface or subsurface  
9 snow or ice conditions; bare spots; rocks, trees or other forms  
10 of forest growth or debris; lift towers and components thereof,  
11 pole lines and snow-making equipment which are plainly visible  
12 or are plainly marked in accordance with the provisions of  
13 Section 24-15-7 NMSA 1978; except for any injuries to persons or  
14 property resulting from any breach of duty imposed upon ski area  
15 operators under the provisions of Sections 24-15-7 and 24-15-8  
16 NMSA 1978. Therefore, each skier shall have the sole individual  
17 responsibility for knowing the range of his own ability to  
18 negotiate any slope or trail, and it shall be the duty of each  
19 skier to ski within the limits of the skier's own ability, to  
20 maintain reasonable control of speed and course at all times  
21 while skiing, to heed all posted warnings, to ski only on a  
22 skiing area designated by the ski area operator and to refrain  
23 from acting in a manner which may cause or contribute to the  
24 injury of anyone. ~~[The responsibility for collisions by any~~  
25 ~~skier while actually skiing, with any person or object, shall be~~

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1 ~~solely that of the individual or individuals involved in such~~  
2 ~~collision, except where the ski area operator is involved in~~  
3 ~~such collision or where such collision resulted from any breach~~  
4 ~~of duty imposed upon the ski area operator under the provisions~~  
5 ~~of Sections 24-15-7 and 24-15-8 NMSA 1978.]~~

6 C. Responsibility for collisions by any skier while  
7 actually skiing, with any person or object, shall be solely that  
8 of each individual involved in the collision, except where an  
9 employee, agent or officer of the ski area operator is  
10 personally involved in a collision while in the course and scope  
11 of his employment or where a collision resulted from any breach  
12 of duty imposed upon a ski area operator under the provisions of  
13 Sections 24-15-7 or 24-15-8 NMSA 1978. Each skier has the duty  
14 to stay clear of and avoid collisions with snow-grooming  
15 equipment, all-terrain vehicles and snowmobiles marked in  
16 compliance with the provisions of Subsections A and J of Section  
17 24-15-7 NMSA 1978, all other vehicles, lift towers, signs and  
18 any other structures, amenities or equipment on the ski slopes  
19 and trails or in the skiing area.

20 [~~C.~~] D. No person shall:

21 (1) place any object in the skiing area or on  
22 the uphill track of any ski lift which may cause a passenger or  
23 skier to fall;

24 (2) cross the track of any T-bar lift, J-bar  
25 lift, platter lift or similar device or a fiber rope tow, except

1 at a designated location;

2 (3) when injured while skiing or using a ski  
3 lift or, while skiing, when involved in a collision with any  
4 skier or object in which an injury results, leave the ski area  
5 before giving his name and current address to the ski area  
6 operator, or representative or employee of the ski area  
7 operator, and the location where the injury or collision  
8 occurred and the circumstances thereof; provided, however, in  
9 the event a skier fails to give the notice required by this  
10 paragraph, a court, in determining whether or not such failure  
11 constitutes a violation of the Ski Safety Act, may consider the  
12 reasonableness or feasibility of giving such notice; or

13 (4) use a ski lift, skiing area, slopes or  
14 trails while intoxicated or under the influence of any  
15 controlled substance.

16 [~~D.~~] E. No skier shall fail to wear retention straps  
17 or other ski retention devices to help prevent runaway skis.

18 [~~E.~~] F. Any skier upon being injured shall indicate,  
19 to the ski patrol personnel offering first aid treatment or  
20 emergency removal to a first aid room, his acceptance or  
21 rejection of such services as provided by the ski area operator.  
22 If such service is not refused or if the skier is unable to  
23 indicate his acceptance or rejection of such service, the  
24 acceptance of the service is presumed to have been accepted by  
25 the skier. Such acceptance shall not constitute a waiver of any

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1 action for negligent provision of the service by the ski patrol  
2 personnel. "

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1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

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6 February 26, 1997

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8 Mr. President:

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10 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to  
11 whom has been referred

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13 SENATE BILL 815

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 JUDICIARY COMMITTEE.

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20 Respectfully submitted,

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25 Roman M. Maes, III, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Fidel, Robinson

Absent: None

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**State of New Mexico**  
**House of Representatives**

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**FORTY-THIRD LEGISLATURE**  
**FIRST SESSION, 1997**

**March 19, 1997**

**Mr. Speaker:**

**Your JUDICIARY COMMITTEE, to whom has been referred**

**SENATE BILL 815, as amended**

**has had it under consideration and reports same with  
recommendation that it DO PASS.**

**Respectfully submitted,**

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**Thomas P. Foy, Chairman**

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Alwin, M P. Garcia, King, Mallory, Rios

Absent: None

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Underscored material = new  
[bracketed material] = delete