

## **CHAPTER 53-09 SKIING RESPONSIBILITY ACT**

### **53-09-01. Legislative purpose.**

The legislative assembly finds that the sport of skiing is practiced in this state by a growing number of North Dakota citizens and nonresidents. Since it is recognized that there are inherent risks in the sport of skiing which should be understood by each skier and which are essentially impossible to eliminate by the ski area operator, it is the purpose of this chapter to define those areas of responsibility and affirmative acts for which ski area operators shall be liable for loss, damage, or injury and those risks which the skier expressly assumes and for which there can be no recovery.

### **53-09-02. Definitions.**

The following words and phrases when used in this chapter have, unless the context clearly indicates otherwise, the meaning given to them in this section:

1. "Aerial passenger tramway" means any device operated by a ski area operator used to transport passengers, by single or double reversible tramway; chairlift or gondola lift; t-bar lift, j-bar lift, platter lift, or similar device; or a fiber rope tow.
2. "Passenger" means any person who is lawfully using an aerial passenger tramway or is waiting to embark or has recently disembarked from an aerial passenger tramway and is in its immediate vicinity.
3. "Ski area" means property owned or leased and under the control of the ski area operator and administered as a single enterprise within the state of North Dakota.
4. "Ski area operator" means any person, partnership, corporation, limited liability company, or other commercial entity and their agents, officers, managers, employees, or representatives, who has operational responsibility for any ski area or aerial passenger tramway.
5. "Ski slopes and trails" means those areas designed by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing.
6. "Skier" means any person present at a skiing area under the control of the ski operator for the purpose of engaging in the sport of skiing by utilizing the ski slopes and trails and does not include the use of an aerial passenger tramway.
7. "Skiing area" means all slopes and trails not including any aerial passenger tramway.

### **53-09-03. Duties of ski operators with respect to ski areas.**

Every ski operator shall have the following duties with respect to its operation of a skiing area:

1. To mark all trail maintenance vehicles and to furnish such vehicles with flashing or rotating lights which must be in operation whenever the vehicles are working or are in movement in the skiing area.
2. To mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski slopes and trails.
3. To mark conspicuously the top or entrance to each slope, trail, or area with the appropriate symbol for its relative degree of difficulty and those slopes, trails, or areas which are closed, or portions of which present an unusual obstacle, must be marked at the top or entrance with appropriate symbols.
4. To maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon in accordance with the symbols provided for in subsection 3.
5. To designate by trail board or other means which trails or slopes are open or closed.
6. To place, or cause to be placed, whenever snow grooming or snowmaking operations are being undertaken upon any trail or slope while such trail or slope is open to the public, a conspicuous notice to that effect at or near the top of such trail or slope.
7. To post notice, at or near the boarding area for each aerial passenger tramway designed to transport passengers with skis attached to boots, of the requirements of

this chapter concerning the use of ski retention devices. This obligation is the sole requirement imposed upon the ski area operator regarding the requirement for or use of ski retention devices.

**53-09-04. Duties of ski area operators with respect to aerial passenger tramways.**

Every ski area operator shall have the duty to construct, operate, maintain, and repair any aerial passenger tramway in a safe and responsible manner.

**53-09-05. Duties of passengers.**

Every passenger shall have the duty not to:

1. Board or embark upon or disembark from an aerial passenger tramway except at an area designated for such purpose.
2. Intentionally drop, throw, or expel any object from an aerial passenger tramway.
3. Do any act which interferes with the running or operation of an aerial passenger tramway.
4. Use any aerial passenger tramway unless the passenger has the ability to use it safely without any instruction on its use by the ski area operator or requests and receives instructions before entering the boarding area of the aerial passenger tramway.
5. Engage in any harmful conduct or willfully or negligently engage in any type of conduct which contributes to or causes injury to another person.
6. Embark on an aerial passenger tramway without the authority of the ski area operator.
7. Use any aerial passenger tramway without engaging such safety or restraining devices as may be provided.
8. Wear skis without properly securing ski retention straps.

**53-09-06. Duties of skiers.**

It is recognized that skiing as a recreational sport is hazardous to skiers, regardless of all feasible safety measures which can be taken. Each skier expressly assumes the risk of and legal responsibility for any injury to person or property which results from participation in the sport of skiing including any injury caused by the following: variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, or other forms of forest growth or debris, lift towers and components thereof; pole lines; and snowmaking equipment which are plainly visible or are plainly marked in accordance with the provisions of section 53-09-03. Therefore, each skier shall have the sole individual responsibility for knowing the range of that skier's own ability to negotiate any slope, trail, or aerial passenger tramway, and it is the duty of each skier to ski within the limits of the skier's own ability, to make reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator, and to refrain from acting in a manner which may cause or contribute to the injury of anyone. The responsibility for collisions by any skier while actually skiing, with any person or object, is solely that of the individual or individuals involved in such collision and not that of the ski area operator. No person may:

1. Unless authorized by the ski area operator, place any object in the skiing area or on the uphill track of any aerial passenger tramway which may cause a passenger or skier to fall.
2. Cross the track of a t-bar lift, j-bar lift, platter lift or similar device, or a fiber rope tow except at a designated location.
3. Fail to wear retention straps or other devices to help prevent runaway skis.

**53-09-07. Liability of ski area operators.**

Any ski area operator is liable for loss or damages caused by its failure to follow the duties set forth in sections 53-09-03 and 53-09-04 when the violation of duty is causally related to loss or damage suffered. A ski area operator is not liable to any passenger or skier acting in violation of the passenger's or skier's duties as set forth in sections 53-09-05 and 53-09-06, when the violation of duty by the passenger or skier is causally related to the loss or damage suffered; nor

is a ski area operator liable for any loss or damage caused by any object dropped, thrown, or expelled by a passenger from an aerial passenger tramway.

**53-09-08. Liability of passengers.**

Any passenger is liable for loss or damages resulting from violation of the duties set forth in section 53-09-05 and shall not be able to recover from the ski area operator for any losses or damages when a violation of the duties set forth in section 53-09-05 is causally related to the loss or damage suffered by the passenger.

**53-09-09. Liability of skiers.**

Any skier is liable for loss or damages resulting from violation of the duties set forth in section 53-09-06 and shall not be able to recover from the ski area operator for losses or damages when the violation of the skier's duty is causally related to the loss or damage suffered by the skier.

**53-09-10. Effect of modified comparative fault.**

Notwithstanding section 32-03.2-02, any person is, consistent with the provisions of this chapter, barred from recovery for loss or damage resulting from a risk inherent in the sport of skiing and likewise is so barred when it is established that a person has knowingly exposed oneself to the real or potential hazards of a situation.

**53-09-11. Warning to users.**

Before any owner or operator may claim any provision of this chapter as a defense to any claim or action brought against the owner or operator, the owner or operator shall establish that the owner or operator has conspicuously placed on the premises a warning as follows: WARNING TO USERS North Dakota law severely limits your right to compensation for injuries caused by the negligence of the owner or operator.