

Colorado Ski Safety Act

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Ski Safety Act of 1979

CRS §33-44-101. Short title.

This article shall be known and may be cited as the "**Ski Safety Act of 1979**".

Source: *L. 79: Entire article added, p. 1237, §1, effective July 1.*

ANNOTATION

Law reviews. For article, "Changes in Colorado Ski Law", see 13 Colo. Law. 407 (1984). For article, "The Development of the Standard of Care in Colorado Ski Cases", see 15 Colo. Law. 373 (1986).

CRS §33-44-102. Legislative declaration.

The general assembly hereby finds and declares that it is in the interest of the state of Colorado to establish reasonable safety standards for the operation of ski areas and for the skiers using them. Realizing the dangers that inhere in the sport of skiing, regardless of any and all reasonable safety measures which can be employed, the purpose of this article is to supplement the passenger tramway safety provisions of part 7 of article 5 of title 25, C.R.S.; to further define the legal responsibilities of ski area operators and their agents and employees; to define the responsibilities of skiers using such ski areas; and to define the rights and liabilities existing between the skier and the ski area operator and between skiers.

Source: *L. 79: Entire article added, p. 1237, §1, effective July 1.*

ANNOTATION

Purpose of Ski Safety Act is to establish reasonable safety standards and to define relative rights and responsibilities of ski area operators and skiers. Graven v. Vail Assocs., Inc., 909 P.2d 514 (Colo. 1995).

But, neither this act nor the statutory provisions concerning passenger tramway safety (part 7 of article 5 of title 25, C.R.S.) preempts or supersedes the common law standard of care applicable to ski lift operators, to use the highest degree of care commensurate with the practical operation of the lift, regardless of the season. The general assembly did not intend for the regulations adopted by the tramway board to preclude common law negligence actions against ski lift operators or the duty to exercise the highest degree of care. Bayer v. Crested Butte Mountain Resort, 960 P.2d 70 (Colo. 1998).

By excluding ski lift accidents from the definition of "inherent dangers and risks of skiing", the general

assembly clearly chose not to alter the common law standard of care applicable to ski lift safety: the highest degree of care commensurate with the practical operation of the lift, regardless of the season. Bayer v. Crested Butte Mountain Resort, 960 P.2d 70 (Colo. 1998).

CRS §33-44-103. Definitions.

As used in this article, unless the context otherwise requires:

- (1) "**Base area lift**" means any passenger tramway which skiers ordinarily use without first using some other passenger tramway.
- (2) "**Competitor**" means a skier actually engaged in competition, a special event, or training or practicing for competition or a special event on any portion of the area made available by the ski area operator.
- (3) "**Conditions of ordinary visibility**" means daylight and, where applicable, nighttime in nonprecipitating weather.
- (3.1) "**Extreme terrain**" means any place within the ski area boundary that contains cliffs with a minimum twenty-foot rise over a fifteen-foot run, and slopes with a minimum fifty-degree average pitch over a one-hundred-foot run.
- (3.3) "**Freestyle terrain**" includes, but is not limited to, terrain parks and terrain park features such as jumps, rails, fun boxes, and all other constructed and natural features, half-pipes, quarter-pipes, and freestyle-bump terrain.
- (3.5) "**Inherent dangers and risks of skiing**" means those dangers or conditions that are part of the sport of skiing, including changing weather conditions; snow conditions as they exist or may change, such as ice, hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface or subsurface conditions such as bare spots, forest growth, rocks, stumps, streambeds, cliffs, extreme terrain, and trees, or other natural objects, and collisions with such natural objects; impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes, or other man-made structures and their components; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to roads, freestyle terrain, jumps, and catwalks or other terrain modifications; collisions with other skiers; and the failure of skiers to ski within their own abilities. The term "inherent dangers and risks of skiing" does not include the negligence of a ski area operator as set forth in section 33-44-104 (2). Nothing in this section shall be construed to limit the liability of the ski area operator for injury caused by the use or operation of ski lifts.
- (4) "**Passenger**" means any person who is lawfully using any passenger tramway.
- (5) "**Passenger tramway**" means a device as defined in section 25-5-702 (4), C.R.S.
- (6) "**Ski area**" means all ski slopes or trails and all other places within the ski area boundary, marked in accordance with section 33-44-107 (6), under the control of a ski area operator and administered as a

single enterprise within this state.

- (7) **"Ski area operator"** means an "area operator" as defined in section 25-5-702 (1), C.R.S., and any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision thereof.
- (8) **"Skier"** means any person using a ski area for the purpose of skiing, which includes, without limitation, sliding downhill or jumping on snow or ice on skis, a toboggan, a sled, a tube, a snowbike, a snowboard, or any other device; or for the purpose of using any of the facilities of the ski area, including but not limited to ski slopes and trails.
- (9) **"Ski slopes or trails"** means all ski slopes or trails and adjoining skiable terrain, including all their edges and features, and those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (8) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection (9) or in subsection (8) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (8) of this section.

Source: L. 79: Entire article added, p. 1238, §1, effective July 1.

L. 90: (3.5) added and (8) amended, p. 1540, §2, effective July 1.

L. 95: (7) amended, p. 1107, §51, effective May 31.

L. 2004: (2), (3.5), (6), (8), and (9) amended and (3.1) and (3.3) added, p. 1382, §1, effective May 28.

Editor's note: Subsection (3.5) was originally numbered as (10) in Senate Bill 90-80 but has been renumbered on revision for ease of location.

Cross references: For the legislative declaration contained in the 1990 act enacting subsection (3.5) and amending subsection (8), see section 1 of chapter 256, Session Laws of Colorado 1990.

ANNOTATION

The term "competitor" does not include a person glide testing skis at the request of his employer, a ski manufacturer. He was not practicing for any competition but was only testing skis for use by racers who would be competing. Rowan v. Vail Holdings, Inc., 31 F. Supp. 2d 889 (D. Colo. 1998).

A ski operator's negligence, which is established by a statutory violation of the Ski Safety Act that causes injury to a skier, is not an inherent danger or risk of skiing. Doering ex rel. Barrett v. Copper Mountain, Inc., 259 F.3d 1202 (10th Cir. 2001).

Variations in steepness or terrain under subsection (3.5) strongly suggests that definition of "inherent dangers and risks of skiing" cover those occurring within skiable areas and do not necessarily include those that might be encountered adjacent to the runs. Graven v. Vail Assocs., Inc., 909 P.2d 514 (Colo. 1995).

The term "ski area" does not include an area devoted to the parking of motor vehicles and the operation of shuttle buses. Therefore, none of the provisions of this act are applicable. McLean v. Winter Park Recreational Ass'n, 762 P.2d 751 (Colo. App. 1988).

*The term "ski area" includes a bobsled run operated by defendant and the term "skier" includes those riding the bobsled. **Cuny v. Vail Associates, Inc., 902 P.2d 881 (Colo. App. 1995).***

*The district court properly denied motion requesting it to find as a matter of law that a collision with snow-grooming equipment is not an inherent danger or risk of skiing. **Doering ex rel. Barrett v. Copper Mountain, Inc., 259 F.3d 1202 (10th Cir. 2001).***

CRS §33-44-104. Negligence - civil actions.

- (1) A violation of any requirement of this article shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of the person violating such requirement.
- (2) A violation by a ski area operator of any requirement of this article or any rule or regulation promulgated by the passenger tramway safety board pursuant to section 25-5-704 (1) (a), C.R.S., shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of such operator.
- (3) All rules adopted or amended by the passenger tramway safety board on or after July 1, 1979, shall be subject to sections 24-4-103 (8) (c) and (8) (d) and 24-34-104 (9) (b) (II), C.R.S.

Source: L. 79: Entire article added, p. 1238, §1, effective July 1.

L. 80: (3) amended, p. 789, §28, effective June 5.

L. 81: (3) amended, p. 1179, §10, effective July 1. L. 94: (2) amended, p. 1644, §74, effective May 31.

ANNOTATION

*This article applies to ski accident cases and not §13-21-115. **Calvert v. Aspen Skiing Co., 700 F. Supp. 520 (D. Colo. 1988).***

*This article would apply to ski accident cases which involve dangerous conditions that are ordinarily present at ski areas and §13-21-115 would protect skiers against those dangerous conditions that are not commonly present at ski areas. **Giebink v. Fischer, 709 F. Supp. 1012 (D. Colo. 1989).***

*A ski operator's negligence, which is established by a statutory violation of the Ski Safety Act that causes injury to a skier, is not an inherent danger or risk of skiing. **Doering ex rel. Barrett v. Copper Mountain, Inc., 259 F.3d 1202 (10th Cir. 2001).***

*Although the general assembly specifies in this section that any violation of statute or rule is negligence per se, in the absence of clear legislative intent to the contrary, this statutory remedy does not bar preexisting common law rights of action. The provisions of this section act to supplement, rather than bar, common law actions in ski lift accident cases. **Bayer v. Crested Butte Mountain Resort, 960 P.2d 70 (Colo. 1998).***

CRS §33-44-105. Duties of passengers.

- (1) No passenger shall board a passenger tramway if he does not have sufficient physical dexterity, ability, and knowledge to negotiate or use such facility safely or until such passenger has asked for and received information

sufficient to enable him to use the equipment safely. A passenger is required to follow any written or verbal instructions that are given to him regarding the use of the passenger tramway.

- (2) No passenger shall:
- (a) Embark upon or disembark from a passenger tramway except at a designated area except in the event of a stoppage of the passenger tramway (and then only under the supervision of the operator) or unless reasonably necessary in the event of an emergency to prevent injury to the passenger or others;
 - (b) Throw or expel any object from any passenger tramway while riding on such device, except as permitted by the operator;
 - (c) Act, while riding on a passenger tramway, in any manner that may interfere with proper or safe operation of such passenger tramway;
 - (d) Engage in any type of conduct that may contribute to or cause injury to any person;
 - (e) Place in an uphill track of a J-bar, T-bar, platter pull, rope tow, or any other surface lift any object that could cause another skier to fall;
 - (f) Embark upon a passenger tramway marked as closed;
 - (g) Disobey any instructions posted in accordance with this article or any verbal instructions by the ski area operator regarding the proper or safe use of a passenger tramway unless such verbal instructions are contrary to this article or the rules promulgated under it, or contrary to posted instructions.

Source: L. 79: Entire article added, p. 1239, §1, effective July 1.

ANNOTATION

Law reviews. For note, "Exculpatory Clauses and Public Policy: A Judicial Dilemma", see 53 U. Colo. L. Rev. 793 (1982).

CRS §33-44-106. Duties of operators - signs.

- (1) Each ski area operator shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers. Signs shall be prominently placed on each passenger tramway readable in conditions of ordinary visibility and, where applicable, adequately lighted for nighttime passengers. Signs shall be posted as follows:
- (a) At or near the loading point of each passenger tramway, regardless of the type, advising that any person not familiar with the operation of the device shall ask the operator of the device for assistance and instruction;
 - (b) At the interior of each two-car and multicar passenger tramway, showing:

- (I) The maximum capacity in pounds of the car and the maximum number of passengers allowed;
 - (II) Instructions for procedures in emergencies;
- (c) In a conspicuous place at each loading area of two-car and multicar passenger tramways, stating the maximum capacity in pounds of the car and the maximum number of passengers allowed;
- (d) At all chair lifts, stating the following:
- (I) "Prepare to Unload", which shall be located not less than fifty feet ahead of the unloading area;
 - (II) "Keep Ski Tips Up", which shall be located ahead of any point where the skis may come in contact with a platform or the snow surface;
 - (III) "Unload Here", which shall be located at the point designated for unloading;
 - (IV) "Safety Gate", which shall be located where applicable;
 - (V) "Remove Pole Straps from Wrists", which shall be located prominently at each loading area;
 - (VI) "Check for Loose Clothing and Equipment", which shall be located before the "Prepare to Unload" sign;
- (e) At all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, stating the following:
- (I) "Remove Pole Straps from Wrists", which shall be placed at or near the loading area;
 - (II) "Stay in Tracks", "Unload Here", and "Safety Gate", which shall be located where applicable;
 - (III) "Prepare to Unload", which shall be located not less than fifty feet ahead of each unloading area;
- (f) Near the boarding area of all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, advising passengers to check to be certain that clothing, scarves, and hair will not become entangled with the lift;
- (g) At or near the boarding area of all lifts, regarding the requirements of section 33-44-109 (6).
- (2) Other signs not specified by subsection (1) of this section may be posted at the discretion of the ski area operator.
- (3) The ski area operator, before opening the passenger tramway to the public each day, shall inspect such passenger tramway for the presence and visibility of the signs required by subsection (1) of this section.
- (4) The extent of the responsibility of the ski area operator under this section shall be to post and maintain such signs as are required by subsection (1) of this section in such condition that they may be viewed during conditions of ordinary visibility. Evidence that signs required by subsection (1) of this section were present, visible, and readable where required at the beginning of the passenger tramway operation on any given day

raises a presumption that all passengers using said devices have seen and understood said signs.

Source: L. 79: Entire article added, p. 1240, §1, effective July 1.

ANNOTATION

Issue of duty to warn is an issue of fact to be determined by a jury if the issue is alleged to be one of the factors that led to plaintiff's injuries. *Graven v. Vail Assocs., Inc.*, 909 P.2d 514 (Colo. 1995).

CRS §33-44-107. Duties of ski area operators - signs and notices required for skiers' information.

- (1) Each ski area operator shall maintain a sign and marking system as set forth in this section in addition to that required by section 33-44-106. All signs required by this section shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.
- (2) A sign shall be placed in such a position as to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift depicting and explaining signs and symbols which the skier may encounter at the ski area as follows:
 - (a) The ski area's least difficult trails and slopes, designated by a green circle and the word "easiest";
 - (b) The ski area's most difficult trails and slopes, designated by a black diamond and the words "most difficult";
 - (c) The ski area's trails and slopes which have a degree of difficulty that falls between the green circle and the black diamond designation, designated by a blue square and the words "more difficult";
 - (d) The ski area's extreme terrain shall be signed at the commonly used access designated with two black diamonds containing the letters "E" in one and "X" in the other in white and the words "extreme terrain". The ski area's specified freestyle terrain areas shall be designated with an orange oval.
 - (e) Closed trails or slopes, designated by an octagonal-shaped sign with a red border around a white interior containing a black figure in the shape of a skier with a black band running diagonally across the sign from the upper right-hand side to the lower left-hand side and with the word "Closed" printed beneath the emblem.
- (3) If applicable, a sign shall be placed at or near the loading point of each passenger tramway, as follows:

"WARNING: This lift services (most difficult) or (most difficult and more difficult) or (more difficult) slopes only."
- (4) If a particular trail or slope or portion of a trail or slope is closed to the public by a ski area operator, such operator shall place a sign notifying the public of that fact at each identified entrance of each portion of the trail or slope involved. Alternatively, such a trail or slope or portion thereof may be closed with ropes or fences.

- (5) The ski area operator shall place a sign at or near the beginning of each trail or slope, which sign shall contain the appropriate symbol of the relative degree of difficulty of that particular trail or slope as set forth by subsection (2) of this section. This requirement shall not apply to a slope or trail designated "easiest" which to a skier is substantially visible in its entirety under conditions of ordinary visibility prior to his beginning to ski the same.
- (6) The ski area operator shall mark its ski area boundaries in a fashion readily visible to skiers under conditions of ordinary visibility. Where the owner of land adjoining a ski area closes all or part of his land and so advises the ski area operator, such portions of the boundary shall be signed as required by paragraph (e) of subsection (2) of this section. This requirement shall not apply in heavily wooded areas or other nonskiable terrain.
- (7) The ski area operator shall mark hydrants, water pipes, and all other man-made structures on slopes and trails which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least one hundred feet and shall adequately and appropriately cover such obstructions with a shock-absorbent material that will lessen injuries. Any type of marker shall be sufficient, including but not limited to wooden poles, flags, or signs, if the marker is visible from a distance of one hundred feet and if the marker itself does not constitute a serious hazard to skiers. Variations in steepness or terrain, whether natural or as a result of slope design or snowmaking or grooming operations, including but not limited to roads and catwalks or other terrain modifications, are not man-made structures, as that term is used in this article.

(8)

- (a) Each ski area operator shall post and maintain signs which contain the warning notice specified in paragraph (c) of this subsection (8). Such signs shall be placed in a clearly visible location at the ski area where the lift tickets and ski school lessons are sold and in such a position to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift. Each sign shall be no smaller than three feet by three feet. Each sign shall be white with black and red letters as specified in this paragraph (a). The words "WARNING" shall appear on the sign in red letters. The warning notice specified in paragraph (c) of this subsection (8) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height.
- (b) Every ski lift ticket sold or made available for sale to skiers by any ski area operator shall contain in clearly readable print the warning notice specified in paragraph (c) of this subsection (8).
- (c) The signs described in paragraph (a) of this subsection (8) and the lift tickets described in paragraph (b) of this subsection (8) shall contain the following warning notice:

WARNING

Under Colorado law, a skier assumes the risk of any injury to person or property resulting from any of the inherent dangers and risks of skiing and may not recover from any ski area operator for any injury resulting from any of the inherent dangers and risks of skiing, including: Changing weather conditions; existing and changing snow conditions; bare spots; rocks; stumps; trees; collisions with natural objects, man-made objects, or other skiers; variations in terrain; and the failure of skiers to ski within their own abilities.

Source: L. 79: Entire article added, pp. 1242, 1245, §§1, 1, effective July 1. L. 90: (2)(d) and (7) amended and (8) added, p. 1541, §3, effective July 1. L. 2004: (2)(d) amended, p. 1383, §2, effective May 28.

Cross references: For the legislative declaration contained in the 1990 act amending subsections (2) (d) and (7) and enacting subsection (8), see section 1 of chapter 256, Session Laws of Colorado 1990.

ANNOTATION

Issue of whether ski area had a duty to warn its patrons is a question of law to be resolved by the court, which can be resolved on appeal through an interpretation of the Ski Safety Act. Graven v. Vail Assocs., Inc., 888 P.2d 310 (Colo. App. 1994).

Duties imposed on ski area operators by this act concern a very limited number of specifically identified activities and conditions that relate only to the posting of certain specified signs and to providing lighting and other conspicuous markings for snow-grooming vehicles and snowmobiles. Graven v. Vail Assocs., Inc., 888 P.2d 310 (Colo. App. 1994).

Nothing in this section suggests that a ski area operator has a duty to provide any additional warnings regarding the defined "inherent dangers and risks of skiing". Graven v. Vail Assocs., Inc., 888 P.2d 310 (Colo. App. 1994).

Ski area not liable for failing to post a warning sign since an area presenting variations in steepness or terrain, such as a drop-off or ravine is an area presenting inherent dangers and risks of skiing and is not a "danger area" requiring a particular type of warning sign. Graven v. Vail Assocs., Inc. 888 P.2d 310 (Colo. App. 1994).

The phrase "such obstructions" in subsection (7) clearly refers to the obstructions referred to earlier in the sentence, namely, "man-made structures which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least 100 feet". Rowan v. Vail Holdings, Inc., 31 F. Supp. 2d 889 (D. Colo. 1998).

Applied in Rimkus v. Northwest Colo. Ski Corp., 706 F.2d 1060 (10th Cir. 1983).

CRS §33-44-108. Ski area operators - additional duties.

- (1) Any motorized snow-grooming vehicle shall be equipped with a light visible at any time the vehicle is moving on or in the vicinity of a ski slope or trail.
- (2) Whenever maintenance equipment is being employed to maintain or groom any ski slope or trail while such ski slope or trail is open to the public, the ski area operator shall place or cause to be placed a conspicuous notice to that effect at or near the top of that ski slope or trail. This requirement shall not apply to maintenance equipment transiting to or from a grooming project.
- (3) All snowmobiles operated on the ski slopes or trails of a ski area shall be equipped with at least the following: One lighted headlamp, one lighted red tail lamp, a brake system maintained in operable condition, and a fluorescent flag at least forty square inches mounted at least six feet above the bottom of the tracks.

- (4) The ski area operator shall have no duty arising out of its status as a ski area operator to any skier skiing beyond the area boundaries marked as required by section 33-44-107 (6).
- (5) The ski area operator, upon finding a person skiing in a careless and reckless manner, may revoke that person's skiing privileges. This subsection (5) shall not be construed to create an affirmative duty on the part of the ski area operator to protect skiers from their own or from another skier's carelessness or recklessness.

**Source: L. 79: Entire article added, p. 1242, §1, effective July 1.
L. 90: (5) amended, p. 1542, §4, effective July 1.
L. 2004: (2) amended, p. 1384, §3, effective May 28.**

Cross references: For the legislative declaration contained in the 1990 act amending subsection (5), see section 1 of chapter 256, Session Laws of Colorado 1990.

ANNOTATION

Warning sign must be posted when maintenance equipment is present on slopes for purposes of "grooming and maintaining" a slope, but is not actively "grooming" in that particular location. Phillips v. Monarch Recreation Corp., 668 P.2d 982 (Colo. App. 1983).

Issue of duty to warn is an issue of fact to be determined by a jury if the issue is alleged to be one of the factors that led to plaintiff's injuries. Graven v. Vail Assocs., Inc., 909 P.2d 514 (Colo. 1995).

CRS §33-44-109. Duties of skiers - penalties.

- (1) Each skier solely has the responsibility for knowing the range of his own ability to negotiate any ski slope or trail and to ski within the limits of such ability. Each skier expressly accepts and assumes the risk of and all legal responsibility for any injury to person or property resulting from any of the inherent dangers and risks of skiing; except that a skier is not precluded under this article from suing another skier for any injury to person or property resulting from such other skier's acts or omissions. Notwithstanding any provision of law or statute to the contrary, the risk of a skier/skier collision is neither an inherent risk nor a risk assumed by a skier in an action by one skier against another.
- (2) Each skier has the duty to maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below him.
- (3) No skier shall ski on a ski slope or trail that has been posted as "Closed" pursuant to section 33-44-107 (2) (e) and (4).
- (4) Each skier shall stay clear of snow-grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails.
- (5) Each skier has the duty to heed all posted information and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others. Each skier shall be presumed to have seen and understood all information posted in accordance with this article near base area lifts, on the passenger

tramways, and on such ski slopes or trails as he is skiing. Under conditions of decreased visibility, the duty is on the skier to locate and ascertain the meaning of all signs posted in accordance with sections 33-44-106 and 33-44-107.

- (6) Each ski or snowboard used by a skier while skiing shall be equipped with a strap or other device capable of stopping the ski or snowboard should the ski or snowboard become unattached from the skier. This requirement shall not apply to cross country skis.
- (7) No skier shall cross the uphill track of a J-bar, T-bar, platter pull, or rope tow except at locations designated by the operator; nor shall a skier place any object in such an uphill track.
- (8) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, the skier shall have the duty of avoiding moving skiers already on the ski slope or trail.
- (9) No person shall move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any controlled substance, as defined in section 12-22-303 (7), C.R.S., or other drug or while such person is under the influence of alcohol or any controlled substance, as defined in section 12-22-303 (7), C.R.S., or other drug.
- (10) No skier involved in a collision with another skier or person in which an injury results shall leave the vicinity of the collision before giving his or her name and current address to an employee of the ski area operator or a member of the ski patrol, except for the purpose of securing aid for a person injured in the collision; in which event the person so leaving the scene of the collision shall give his or her name and current address as required by this subsection (10) after securing such aid.
- (11) No person shall knowingly enter upon public or private lands from an adjoining ski area when such land has been closed by its owner and so posted by the owner or by the ski area operator pursuant to section 33-44-107 (6).
- (12) Any person who violates any of the provisions of subsection (3), (9), (10), or (11) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars.

Source: *L. 79: Entire article added, p. 1243, §1, effective July 1.
L. 82: (9) amended, p. 255, §17, effective May 3.
L. 90: (1) and (2) amended, p. 1542, §5, effective July 1.
L. 2004: (6) and (10) amended, p. 1384, §4, effective May 28.
L. 2006: (12) amended, p. 130, §1, effective July 1.*

Editor's note: *Section 2 of chapter 41, Session Laws of Colorado 2006, provides that the act amending subsection (12) applies to offenses committed on or after July 1, 2006.*

Cross references: *For the legislative declaration contained in the 1990 act amending subsections (1) and (2), see section 1 of chapter 256, Session Laws of Colorado 1990.*

ANNOTATION

The term "responsibility" encompasses the legal concept of "fault". In effect, the statute creates a rebuttable presumption that the skier is at fault whenever he collides with other skiers and objects, and "fault" may be defined as the equivalent of negligence. Pizza v. Wolf Creek Ski Dev. Corp., 711 P.2d 671 (Colo. 1985).

Given the connection between "responsibility" and "negligence", in the context of a skiing accident case, the term "responsibility" may be equated with the concept of "negligence" for purposes of applying the presumption contained within this section. Pizza v. Wolf Creek Ski Dev. Corp., 711 P.2d 671 (Colo. 1985).

The phrase "natural object" is not unconstitutionally vague. Pizza v. Wolf Creek Ski Dev. Corp., 711 P.2d 671 (Colo. 1985).

Skiers as a group do not constitute a suspect class, and being free from a legislatively imposed rebuttable presumption of negligence is not a fundamental right. Pizza v. Wolf Creek Ski Dev. Corp., 711 P.2d 671 (Colo. 1985).

Evidentiary presumption places upon skier the burden of rebutting the presumption by presenting evidence of the ski area operator's negligence which outweighs the presumption of the skier's sole negligence. Pizza v. Wolf Creek Ski Dev. Corp., 711 P.2d 671 (Colo. 1985).

Presumption is not unconstitutionally vague in describing rebuttal burden. Pizza v. Wolf Creek Dev. Corp., 711 P.2d 671 (Colo. 1985).

CRS §33-44-110. Competition and freestyle terrain.

- (1) The ski area operator shall, prior to use of any portion of the area made available by the ski area operator, allow each competitor an opportunity to reasonably visually inspect the course, venue, or area.
- (2) The competitor shall be held to assume the risk of all course, venue, or area conditions, including, but not limited to, weather and snow conditions; obstacles; course or feature location, construction, or layout; freestyle terrain configuration and conditions; and other courses, layouts, or configurations of the area to be used. No liability shall attach to a ski area operator for injury or death to any competitor caused by course, venue, or area conditions that a visual inspection should have revealed or by collisions with other competitors.

Source: *L. 79: Entire article added, p. 1243, §1, effective July 1. L. 2004: Entire section amended, p. 1384, §5, effective May 28.*

CRS §33-44-111. Statute of limitation.

All actions against any ski area operator or its employees brought to recover damages for injury to person or property caused by the maintenance, supervision, or operation of a passenger tramway or a ski area shall be brought within two years after the claim for relief arises and not thereafter.

Source: *L. 79: Entire article added, p. 1243, §1, effective July 1.
L. 90: Entire section amended, p. 1543, §6, effective July 1.*

Cross references: *For the legislative declaration contained in the 1990 act amending this section, see*

section 1 of chapter 256, Session Laws of Colorado 1990.

ANNOTATION

This section and not former §13-80-110 is the applicable statute of limitations for actions to recover damages for an injury in a ski area. Schafer v. Aspen Skiing Corp., 742 F.2d 580 (10th Cir. 1984).

Three-year statute of limitations in this section does not violate equal protection or constitutional provisions governing special legislation, grant of special privileges or immunities, or access to courts. Schafer v. Aspen Skiing Corp., 742 F.2d 580 (10th Cir. 1984).

Neither §2-4-107 nor §2-4-108 applicable in determining the computation of the statute of limitations in this section. Schafer v. Aspen Skiing Corp., 742 F.2d 580 (10th Cir. 1984).

Statute not applicable to action resulting from injury occurring in a parking lot. Since the term "ski area" does not include an area devoted to the parking of motor vehicles and the operation of shuttle buses, none of the provisions of this act, including the statute of limitations in this section, are applicable. McLean v. Winter Park Recreational Ass'n, 762 P.2d 751 (Colo. App. 1988).

CRS §33-44-112. Limitation on actions for injury resulting from inherent dangers and risks of skiing.

Notwithstanding any judicial decision or any other law or statute to the contrary, including but not limited to sections 13-21-111 and 13-21-111.7, C.R.S., no skier may make any claim against or recover from any ski area operator for injury resulting from any of the inherent dangers and risks of skiing.

Source: *L. 90: Entire section added, p. 1543, §7, effective July 1.*

Cross references: *For the legislative declaration contained in the 1990 act enacting this section, see section 1 of chapter 256, Session Laws of Colorado 1990.*

ANNOTATION

A ski operator's negligence, which is established by a statutory violation of the Ski Safety Act that causes injury to a skier, is not an inherent danger or risk of skiing. Doering ex rel. Barrett v. Copper Mountain, Inc., 259 F.3d 1202 (10th Cir. 2001).

Slush, trees, ravine, or precipice outside the ski trail and not as a matter of law within the "inherent dangers and risks of skiing" as causation of plaintiff's injuries is an issue for the jury to determine. Plaintiff must prove defendant's conduct was a substantial contributing cause of the accident. Graven v. Vail Assocs., Inc., 909 P.2d 514 (Colo. 1995).

The term "skiing" includes bobsledding. Cuny v. Vail Assocs., Inc., 902 P.2d 881 (Colo. App. 1995).

CRS §33-44-113. Limitation of liability.

The total amount of damages which may be recovered from a ski area operator by a skier who uses a ski area for the

purpose of skiing or for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, a snowboard, or any other device and who is injured, excluding those associated with an injury occurring to a passenger while riding on a passenger tramway, shall not exceed one million dollars, present value, including any derivative claim by any other claimant, which shall not exceed two hundred fifty thousand dollars, present value, and including any claim attributable to noneconomic loss or injury, as defined in sections 13-21-102.5 (2), C.R.S., whether past damages, future damages, or a combination of both, which shall not exceed two hundred fifty thousand dollars. If, upon good cause shown, the court determines that the present value of the amount of lost past earnings and the present value of lost future earnings, or the present value of past medical and other health care costs and the present value of the amount of future medical and other health care costs, or both, when added to the present value of other past damages and the present value of other future damages, would exceed such limitation and that the application of such limitation would be unfair, the court may award damages in excess of the limitation equal to the present value of additional future damages, but only for the loss of such excess future earnings, or such excess future medical and other health care costs, or both. For purposes of this section, "present value" has the same meaning as that set forth in section 13-64-202 (7), C.R.S., and "past damages" has the same meaning as that set forth in section 13-64-202 (6), C.R.S. The existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.

Source: *L. 90: Entire section added, p. 1543, §7, effective July 1.*

Cross references: *For the legislative declaration contained in the 1990 act enacting this section, see section 1 of chapter 256, Session Laws of Colorado 1990.*

ANNOTATION

By excluding injuries occurring to passengers on tramways from the liability provisions of this section, the general assembly clearly chose not to alter the common law standard of care applicable to ski lift safety: the highest degree of care commensurate with the practical operation of the lift, regardless of the season. Bayer v. Crested Butte Mountain Resort, 960 P.2d 70 (Colo. 1998).

CRS §33-44-114. Inconsistent law or statute.

Insofar as any provision of law or statute is inconsistent with the provisions of this article, this article controls.

Source: *L. 90: Entire section added, p. 1543, §7, effective July 1.*

Cross references: *For the legislative declaration contained in the 1990 act enacting this section, see section 1 of chapter 256, Session Laws of Colorado 1990.*

ANNOTATION

This provision expresses the general assembly's clear intent to abrogate the common law when it conflicts with the Ski Safety Act. Doering ex rel. Barrett v. Copper Mountain, Inc., 259 F.3d 1202 (10th Cir. 2001).

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Roadway Signs

CRS §42-4-1203. Ski areas to install signs.

- (1) Colorado ski areas shall install traffic control signs as provided in this section on both sides of that segment of every highway which is within one mile of and which leads to the recognized entrances to the ski area parking lots if it is found that:
 - (a) The ski area has insufficient parking capacity as evidenced by the practice of parking by motor vehicles on such highways; and
 - (b) Such parking constitutes a hazard to traffic or an obstacle to snow removal or the movement or passage of emergency equipment.
- (2) The findings required by subsection (1) of this section shall be made by the department of transportation for the state highway system, by the chairman of the board of county commissioners for county roads, and by the chief executive officer of a municipality for a municipal street system. Such findings shall be based upon a traffic investigation.
- (3) Such signs shall conform to any and all specifications of the department of transportation adopted pursuant to section 42-4-601. All such signs shall contain a statement that there is no parking allowed on a highway right-of-way so as to obstruct traffic or highway maintenance and that offending vehicles will be towed away.

Source: L. 94: Entire title amended with relocations, p. 2370, §1, effective January 1, 1995.

Editor's note: This section was formerly numbered as 42-4-1103.1 and the former section 42-4-1203 was relocated to section 42-4-1401.

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Lift Ticket Theft

CRS §18-4-416. Theft by resale of a lift ticket or coupon.

Any unauthorized person who, with the intent to profit therefrom, resells or offers to resell any ticket, pass, badge, pin, coupon, or other device which then entitles the bearer to the use, benefit, or enjoyment of any skiing service or skiing facility commits a class 2 petty offense. The penalty of a violation of this section shall be a fine in an amount not to exceed three hundred dollars. Under no circumstances shall a person being charged with this class 2 petty offense be arrested by any peace officer, and a summons to the appropriate court of jurisdiction shall be issued to the accused person.

Source: L. 90: Entire section added, p. 986, §10, effective April 24.

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