

AMENDED IN SENATE APRIL 4, 2013

**SENATE BILL**

**No. 564**

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**Introduced by Senator Monning**

February 22, 2013

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An act to add Article 3 (commencing with Section 115815) to Chapter 4 of Part 10 of Division 104 of the Health and Safety Code, relating to recreational activities.

LEGISLATIVE COUNSEL'S DIGEST

SB 564, as amended, Monning. Ski resorts: safety plans: accident reports.

Existing law regulates certain behavior related to recreational activities and public safety, including, among other things, playgrounds and wooden playground equipment.

This bill would require ski resorts, as defined, to prepare an annual safety plan, *as defined*, that includes ~~the specification and detailed description of any and all of the resort's safety and accident prevention related management and operational standards, practices, methods and materials, policies, and procedures in specified categories, including the category of natural and manmade hazard warnings, markers, and shielding,~~ *at a minimum, a detailed description of any and only those policies, procedures, standards, methods, and materials consistently employed to reduce patron deaths and injuries on the resort, as provided, among other things.* The bill would require the safety plan to be posted on the ski resorts Internet Web site, if any, and at a location in the ski resort. The bill would require the ski resort to create monthly and annual reports that include information, *of all known deaths and injuries of patrons of the resort, as provided.* The bill would require the ski resort to make copies of the safety plan and reports available upon

request. ~~The bill would protect the documentation and testimony used to prepare the reports from all civil discovery, subpoena, or other demand relating to civil procedure. The bill would authorize a requesting individual to initiate a civil cause of action to compel the production of the safety plan or reports if a resort fails to make them available upon request.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 3 (commencing with Section 115815) is  
2 added to Chapter 4 of Part 10 of Division 104 of the Health and  
3 Safety Code, to read:

4  
5 Article 3. Ski Resorts

6  
7 115815. For the purposes of this article, the following  
8 definitions shall apply:

9 (a) *“Safety plan” or “plan” refers to a document describing a*  
10 *plan or program to prevent accidents and reduce the number of*  
11 *deaths as well as the frequency and severity of injuries that*  
12 *generally conforms to the structure and content of model safety*  
13 *plans and programs recommended by property and casualty*  
14 *insurance companies in the United States.*

15 (b) *“Season” refers to the entire period of snow sport operations*  
16 *from a resort’s opening in the fall or early winter of one calendar*  
17 *year to its closure in the spring or early summer of the subsequent*  
18 *calendar year.*

19 ~~(a)~~  
20 (c) *“Ski resort” or “resort” means any ski and other snow sport*  
21 *facility or resort that operates in California.*

22 ~~(b)~~  
23 (d) *“Skier day” refers to a ski industry term used to denote*  
24 *utilization of a snow sport resort by a guest who skis or engages*  
25 *in other snow sports during a single calendar day of resort*  
26 *operations. The number of skier days are used to track utilization*  
27 *as well as to normalize other patron volume related statistics over*  
28 *a defined period of resort operations.*

1 (e) “Signage key” means a summary, written or graphic, or both,  
2 document that describes the intended meaning or instruction of  
3 specific signage shapes, colors, symbols, and language.

4 (e) “Terrain park” refers to a designated area within a resort  
5 specifically groomed for jumping and other acrobatics.

6 115816. A ski resort shall prepare an annual safety plan that  
7 conforms with the requirements of federal regulations applicable  
8 to ski resorts operating on federal property. In addition to meeting  
9 federal requirements, the plan shall include the specification and  
10 detailed description of any and all of the resort’s safety and accident  
11 prevention related management and operational standards,  
12 practices, methods and materials, policies, and procedures in, at a  
13 minimum the following categories:

- 14 (a) Signage and signage key design, content, and placement.
- 15 (b) Padding, fencing, and other impact protection.
- 16 (c) Trail intersection design and management, speed and  
17 congestion controls, and other collision prevention safeguards.
- 18 (d) Natural and manmade hazard warnings, markers, and  
19 shielding.
- 20 (e) Lift chair design and operation.
- 21 (f) Boundary markings, barriers, and exit management.
- 22 (g) Terrain park design and operation.
- 23 (h) Reckless behavior management.
- 24 (i) Accident reporting, tracking, and analysis.
- 25 (j) Mountain personnel qualifications, staffing, and management.
- 26 (k) Officer or manager, or both, assignments and accountability  
27 for safety and accident prevention.
- 28 (l) Avalanche prevention and management.
- 29 (m) Rescue procedures and performance management.
- 30 (n) Alcohol availability and use limitations.
- 31 (o) Patron and staff helmet use.
- 32 (p) Partial and complete closure policies, criteria, and  
33 procedures.
- 34 (q) Child accompaniment and supervision requirements.
- 35 (r) Rental equipment quality standards and maintenance.
- 36 (s) Mountain medical facility, if any, staffing, quality of care,  
37 oversight, and certification. *plan. The safety plan shall, at a*  
38 *minimum, include the following:*  
39 (a) *A detailed description of any and only those policies,*  
40 *procedures, practices, standards, methods, and materials*

1 *consistently employed to reduce patron deaths and injuries on the*  
 2 *resort lifts, slopes, trails, and terrain parks.*

3 *(b) A detailed explanation of all criteria used for designating*  
 4 *terrain or trail difficulty.*

5 115817. (a) The ski resort shall post its annual safety plan on  
 6 its Internet Web site, if one is maintained, and at a location in the  
 7 ski resort where it can be viewed by the public.

8 (b) The ski resort shall make copies of its annual safety plan  
 9 ~~immediately~~ *available in a prompt and timely manner* to any person  
 10 who requests it at the ski resort during its regular hours of  
 11 operation, and, *if the resort does not have an Internet Web site,*  
 12 mail or e-mail copies of the plan within three business days of a  
 13 request by ~~phone~~ *telephone*, Internet, or mail. The resort may  
 14 charge for any postage and a per-page copying fee, not to exceed  
 15 the usual and customary charge of public libraries in the area of  
 16 the resort.

17 ~~115818. (a) (1) By the 15th calendar day after the end of each~~  
 18 ~~full or partial calendar month of operation, the ski resort shall~~  
 19 ~~create a report of all known deaths and injuries of patrons of the~~  
 20 ~~resort that occur either on site or off site if the off site injury or~~  
 21 ~~death involved voluntarily or involuntarily egress out of the resort~~  
 22 ~~boundaries. The report shall not include a victims identity. The~~  
 23 ~~report shall include all the following information for each death~~  
 24 ~~or injury if available:~~

25 ~~(A) Age and sex of the victim.~~

26 ~~(B) Type of recreational activity and equipment.~~

27 ~~(C) Date, time, and location.~~

28 ~~(D) Ambient and surface conditions.~~

29 ~~(E) Apparent mechanism of injury.~~

30 ~~(F) Apparent location of injuries.~~

31 ~~(G) Apparent nature of injuries.~~

32 ~~(H) Consciousness and alertness of the victim.~~

33 ~~(I) Injury severity score.~~

34 ~~(J) Mode of transportation used to move the person from the~~  
 35 ~~resort.~~

36 ~~(2) The monthly report shall include the number of skier days~~  
 37 ~~for the month.~~

38 ~~(b) Within 60 calendar days of the end of its operation for a~~  
 39 ~~season, the resort shall prepare a summary annual report that, at a~~

1 minimum, includes for the most recent past season a summary of  
2 all of the following:

3 (1) ~~The total number of deaths and injuries, as described in~~  
4 ~~paragraph (1) of subdivision (a), that occurred.~~

5 (2) ~~The total number of ambulance, ground, and air transports~~  
6 ~~from the resort.~~

7 (3) ~~The total number of skier days for the season.~~

8 (e) ~~The ski resort shall make copies of the monthly and annual~~  
9 ~~reports immediately available to any person who requests them at~~  
10 ~~the ski resort during its regular hours of operation and mail or~~  
11 ~~e-mail copies of the reports within three business days of a request~~  
12 ~~by phone, Internet, or mail. The resort may charge for any postage~~  
13 ~~and a per-page copying fee, not to exceed the usual and customary~~  
14 ~~charge of public libraries in the area of the resort.~~

15 ~~115819. Any documentation or testimony used by the ski resort~~  
16 ~~to create the reports prepared pursuant to Section 115818 shall be~~  
17 ~~protected from all civil discovery, subpoena, or other demand~~  
18 ~~relating to civil procedure.~~

19 ~~115820. This article does not change existing state, local, and~~  
20 ~~case law with respect to the application of the assumption of risk~~  
21 ~~doctrine to participants in recreational activities at ski resorts in~~  
22 ~~the state.~~

23 *115818. (a) (1) By the 15th calendar day after the end of each*  
24 *full or partial calendar month of snow sport operations, the resort*  
25 *shall create a summary monthly report of the number of all deaths*  
26 *that occur onsite, or subsequent to an accident that occurred onsite*  
27 *or after voluntary or unintended egress from the resort boundaries,*  
28 *and all injuries to any person that occurred onsite about which*  
29 *the resort is aware, unless the injury does not require medical*  
30 *service other than ordinary first aid onsite. The summary report*  
31 *shall specify the number of injured patrons using air or ground*  
32 *ambulance transportation from the resort to a medical facility.*  
33 *The summary report shall include, individual incident reports of*  
34 *deaths and injuries, including all the accident and injury-related*  
35 *information collected by the resort, with the identity of the victim*  
36 *redacted.*

37 (2) *The summary monthly report shall also include the number*  
38 *of skier days for the month, the number of days of operation, and*  
39 *the approximate relative percentage of open slopes and trails by*

1 *the terrain difficulty designations used by the resort as well as the*  
2 *criteria for those designations.*

3 *(b) Within 60 calendar days of the end of the calendar year or*  
4 *of its operation for a season, whichever day is later, the resort*  
5 *shall annually prepare a summary seasonal report consolidating*  
6 *and including all of the information from the reports required*  
7 *pursuant to subdivision (a).*

8 *(c) (1) The resort shall make copies of the reports required*  
9 *pursuant to subdivisions (a) and (b) available in a prompt and*  
10 *timely manner to any person who requests them at the resort during*  
11 *its regular hours of operation and mail or e-mail copies of the*  
12 *reports within three business days of a request by telephone,*  
13 *Internet, or mail. The resort may charge for any postage and a*  
14 *per page copying fee not to exceed the usual and customary charge*  
15 *of public libraries in the area of the resort.*

16 *(2) This subdivision does not require a resort to publicly post*  
17 *the reports required pursuant to subdivisions (a) or (b) on its*  
18 *Internet Web site or anywhere on its premise.*

19 *115819. If a resort fails to comply with a request made pursuant*  
20 *to subdivision (b) of Section 115817 or subdivision (c) of Section*  
21 *115818, the requesting individual may use that failure as the basis*  
22 *to initiate a civil cause of action to compel the production of the*  
23 *requested information. If the individual prevails in a civil action*  
24 *to compel the production of these reports or documents, the resort*  
25 *shall pay the cost of the individual’s attorney’s fees and court*  
26 *costs.*

27 *115820. This article does not change the existing assumption*  
28 *of risk doctrine as it applies to ski resorts.*