

AMENDED IN ASSEMBLY FEBRUARY 25, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1652

Introduced by Assembly Member Jones

January 14, 2010

~~An act to add Part 8.2 (commencing with Section 7935) to Division 5 of the Labor Code, relating to employment. An act to add Article 4 (commencing with Section 115815) to Chapter 4 of Part 10 of Division 104 of the Health and Safety Code, relating to public safety.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1652, as amended, Jones. ~~Safety in employment.~~ *Public safety:* ski resorts.

Existing law requires a person under 18 years of age to wear a properly fitted and fastened bicycle helmet while operating a bicycle or riding upon a bicycle as a passenger upon the streets or any other public bicycle path. Existing law also regulates certain behavior related to recreational activities and public safety, including among other activities, skateboarding and recreational water use.

This bill would require a person under 18 years of age or a person employed by a ski resort, as defined, to wear a properly fitted and fastened snow sport helmet while operating snow skis or a snowboard. The bill would require resorts to inform all patrons at the time of ticket or pass purchase of the helmet requirement. The bill would require a resort to revoke the ticket or pass of a patron who violates the helmet requirement if during the resort's usual and customary enforcement of resort rules the resort identifies a patron who has violated the requirement.

The bill would also require a ski resort to prepare an annual safety plan, as specified, that conforms with the requirements of federal regulations applicable to ski resorts operating on federal property, as well as other specified requirements. The bill would also require a ski resort to create a monthly summary report for each calendar month of operation stating the number of deaths and injuries at the resort of which mountain operational personnel are aware. The bill would specify the type of information that would be included in the report as well as the types of documents that would be used to compile the report.

The bill would also require a ski resort to provide the annual safety plan, the monthly summary report, or the source documentation information used to compile those materials to any person upon request, within 14 days, charging no more than \$0.25 per page. The bill would also provide that if a ski resort fails to comply with those provisions, the requesting individual is authorized to use that failure as the basis to initiate a civil cause of action to compel the production of the requested items. The bill would allow a prevailing plaintiff in that action to obtain costs and fees.

~~Existing law specifies the requirements for obtaining a license for, and operating, a passenger aerial tramway. Existing law also requires the Division of Occupational Safety and Health within the Department of Industrial Relations to conduct inspections of aerial tramways at specified intervals.~~

~~This bill, in addition, would require the division to utilize the most current safety standards when inspecting aerial passenger tramways operated at ski resorts.~~

~~The bill would also impose certain requirements on each ski resort, including (1) filing an annual safety plan with the division and providing that plan to the public and the division, as specified, (2) reporting to the division, on an annual basis, regarding each injury to a patron resulting from a recreational activity, (3) reporting to the division, within 24 hours, each patron fatality resulting from a recreational activity, (4) standardizing safety signage and safety equipment in use at the resort, (5) requiring each employee to wear a ski helmet when skiing or snowboarding on the job, and (6) adopting and enforcing a rule requiring each patron of the ski resort who is under 18 years of age to wear a ski helmet when skiing or snowboarding within the resort. Repeated violation of these provisions relating to employees would constitute a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

1 SECTION 1. Article 4 (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 4. Ski Resorts

6

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

9 (a) "Ski resort" means any ski resort that operates in California.

10 (b) "Skier day" refers to a ski industry term used to denote one
11 visit to a ski resort by a guest who skis or snowboards. The term
12 is used to compute and state attendance figures over the course
13 of a ski and snowboard season.

14 115816. (a) The ski resort shall prepare an annual safety plan
15 that conforms with the requirements of federal regulations
16 applicable to ski resorts operating on federal property. In addition
17 to meeting federal requirements, the plan shall include the
18 following:

19 (1) A description of standardized signage and signage placement
20 marking ski area boundaries and both natural and manmade
21 hazards, and a description of how that signage and its placement
22 also facilitate the safe flow of skiers and snowboarders.

23 (2) A key to all signage to be included on all trail maps and
24 posted in conspicuous locations at each lift entrance and exit.

25 (3) The types of manmade and natural hazards or obstacles that
26 will be marked by signage, be subject to protection, or both, and
27 if subject to protection by fencing, padding or other impact
28 mitigation or diversion, the plan shall include the specific methods
29 and materials to be used.

1 ***(b) The ski resort shall post the annual safety plan at a location***
2 *in the ski resort where it can be viewed by the public, make the*
3 *plan available to any person who requests it at the ski resort, and*
4 *make the plan available on the ski resort's Internet Web site, if*
5 *one is maintained.*

6 ***115817. (a) The ski resort shall create a monthly summary***
7 *report for each calendar month of operation stating the number*
8 *of deaths and injuries at the resort of which employees of the ski*
9 *resort are aware. Injuries shall be reported, with respect to*
10 *treatment outcomes for the injured person, in the following*
11 *categories:*

12 ***(1) Evacuated to a medical care facility by air or ground***
13 *emergency medical transport vehicle.*

14 ***(2) Treated and released at a mountain medical care facility.***

15 ***(3) Not treated but advised to seek followup medical care.***

16 ***(b) The monthly summary report shall also include the total***
17 *number of skier days for that month.*

18 ***(c) The ski resort shall provide the monthly summary report to***
19 *any person who requests it in person or in writing. The monthly*
20 *summary report shall be provided within three business days of a*
21 *request.*

22 ***(d) The monthly summary report for any month shall be made***
23 *available by no later than the 15th day of following month.*

24 ***(e) The monthly summary reports shall be generated using the***
25 *source documentation information described in Section 115818.*

26 ***115818. (a) (1) The source documentation information***
27 *described in subdivision (b) or (c) shall be made available to any*
28 *person who requests it in person or in writing.*

29 ***(2) The resort may charge a reasonable fee, not to exceed***
30 *twenty-five cents (\$0.25) per page, to provide copies and recover*
31 *cost of postage, if applicable, of the documents to the requesting*
32 *party.*

33 ***(3) The resort shall provide the requested documents within 14***
34 *business days of any request.*

35 ***(b) A description of each injury or fatality that resulted from a***
36 *recreational activity, such as skiing, snowboarding, or sledding,*
37 *and that occurred on the ski resort's property or to a patron of*
38 *whom the resort is aware who, by choice or inadvertently, went*
39 *beyond the recreational boundary of the resort. The documents*
40 *need only include those injuries for which the ski resort or ski*

1 *operating personnel have generated a written report or of which*
2 *the resort or those personnel are aware absent a report. The*
3 *description of the injury shall contain all of the following*
4 *information, if known:*

- 5 (1) *Age and sex of the person who was injured or died.*
- 6 (2) *Date and time of the injury or death.*
- 7 (3) *Cause of injury or death.*
- 8 (4) *Apparent nature and anatomical location of injury or*
9 *injuries.*
- 10 (5) *Apparent consciousness of injured person.*
- 11 (6) *Type of recreational activity involved or equipment used*
12 *(skiing, snowboarding, or sledding).*
- 13 (7) *Equipment ownership (owned, rented, or borrowed).*
- 14 (8) *Helmet use.*
- 15 (9) *Self-reported ability (beginner, intermediate, or advanced).*
- 16 (10) *Location at the resort where the injury or death occurred.*
- 17 (11) *Trail rating at the location where the injury or death*
18 *occurred (beginner, intermediate, expert, or terrain park).*
- 19 (12) *Degree of fall (high, medium, or level surface).*
- 20 (13) *Collision with person or object.*
- 21 (14) *Whether a lift was involved.*
- 22 (15) *Wind conditions (calm, breezy, or windy).*
- 23 (16) *Visibility.*

24 (c) *The documents shall indicate whether resort personnel*
25 *recommended that the injured or deceased person seek medical*
26 *treatment, transport to a hospital, or a visit to a medical doctor.*

27 (d) *The documents shall have the name, address, social security*
28 *number, or any other personally identifying information redacted*
29 *prior to public viewing or duplication pursuant to a request as*
30 *described in subdivision (a).*

31 *115819. If a resort fails to comply with subdivision (c) or*
32 *Section 115817 or Section 115818, the requesting individual may*
33 *use that failure as the basis to initiate a civil cause of action to*
34 *compel the production of the requested items. If the individual*
35 *prevails in a civil action to compel the production of these reports*
36 *or documents, the resort shall also pay the cost of the individual's*
37 *attorney's fees and court costs.*

38 *115820. (a) A person under 18 years of age shall not operate*
39 *snow skis or a snowboard unless that person is wearing a properly*

1 fitted and fastened snow sport helmet that meets the standards of
2 the ASTM International or the Snell Memorial Foundation.

3 (b) A person employed by a ski resort shall not operate snow
4 skis or a snowboard unless that person is wearing a properly fitted
5 and fastened snow sport helmet that meets the standards of the
6 ASTM International or the Snell Memorial Foundation.

7 (c) Resorts shall inform all patrons at the time of ticket or pass
8 purchase of the helmet requirement described in subdivision (a).
9 If a resort during its usual and customary enforcement of resort
10 rules identifies a patron who violates the requirement in
11 subdivision (a), the resort shall revoke the ticket or pass of the
12 patron.

13 SECTION 1. ~~Part 8.2 (commencing with Section 7935) is~~
14 ~~added to Division 5 of the Labor Code, to read:~~

15
16 PART 8.2. ~~SKI RESORT SAFETY~~

17
18 ~~7935. (a) A ski resort that operates in California shall do all~~
19 ~~of the following:~~

20 ~~(1) Prepare an annual safety plan that conforms with the~~
21 ~~requirements of federal regulations applicable to ski resorts~~
22 ~~operating on federal property.~~

23 ~~(2) File a copy of the annual safety plan with the division, in~~
24 ~~addition to any safety plan that is required to be filed with the~~
25 ~~United States Forest Service. Neither the division nor division~~
26 ~~inspectors have any responsibility to evaluate an annual safety~~
27 ~~plan submitted to the division.~~

28 ~~(3) Post the annual safety plan at a location in the ski resort~~
29 ~~where it can be viewed by the public.~~

30 ~~(4) Make the annual safety plan available to anyone who~~
31 ~~requests it at the ski resort.~~

32 ~~(5) Make the annual safety plan available on the ski resort's~~
33 ~~Internet Web site, if one is maintained.~~

34 ~~(6) Make the annual safety plan available to a division inspector,~~
35 ~~upon demand.~~

36 ~~(7) (A) Submit to the division an annual report containing the~~
37 ~~following information, if known:~~

38 ~~(i) A description of each injury that resulted from a recreational~~
39 ~~activity, such as skiing, snowboarding, or sledding, that the resort~~
40 ~~is designed to provide, and that occurred on the ski resort property.~~

1 The report need only include those injuries that the ski patrol or
2 ski resort operating personnel are aware of, and that required
3 transport to a hospital, a hospital visit, admission to a hospital,
4 surgery, or a visit to a medical doctor for further evaluation or
5 care.

6 ~~(ii) The age of each person injured in an incident identified in~~
7 ~~clause (i), the type of recreational activity involved, the cause of~~
8 ~~the injury, the location at the resort where the injury occurred, and~~
9 ~~the name of any facility where medical treatment was provided.~~

10 The report shall not identify an injured person by name.

11 ~~(B) The annual report shall be submitted to the division no later~~
12 ~~than August 1 of each calendar year, and shall reflect injuries, if~~
13 ~~known, that occurred at the ski resort during the previous one-year~~
14 ~~period preceding the August 1 report.~~

15 ~~(C) The division shall have no responsibility to evaluate or~~
16 ~~summarize the information provided pursuant to this paragraph.~~

17 ~~(8) (A) Submit to the division, within 24 hours, the following~~
18 ~~information, if known:~~

19 ~~(i) A description of each incident resulting in a fatality that~~
20 ~~resulted from a recreational activity, such as skiing, snowboarding,~~
21 ~~or sledding, that the resort is designed to provide, and that occurred~~
22 ~~on the ski resort property.~~

23 ~~(ii) The age of each person killed in an incident identified in~~
24 ~~clause (i), the type of recreational activity involved, the cause of~~
25 ~~the fatality, the location at the resort where the incident occurred,~~
26 ~~and the name of any facility where medical treatment was provided.~~

27 The report shall not identify a deceased person by name or address.

28 ~~(B) The division shall have no responsibility to evaluate or~~
29 ~~summarize the information provided pursuant to this paragraph.~~

30 ~~(C) The reporting requirements for injuries and fatalities~~
31 ~~contained in this paragraph and in paragraph (7) do not apply to~~
32 ~~injuries or fatalities to employees or contractors of the ski resort~~
33 ~~and are not intended to modify or abridge any reporting~~
34 ~~requirement regarding an injury or fatality to an employee or~~
35 ~~contractor.~~

36 ~~(9) Establish standardized signage used to indicate a ski area~~
37 ~~boundary or hazard, or provide other safety information. Safety~~
38 ~~signs shall be posted to facilitate the safe flow of skiers and to~~
39 ~~warn of hazardous terrain. A sign and key to the marking symbols~~
40 ~~shall be included in all trail maps and shall be posted in~~

1 conspicuous locations at each lift entrance and exit. Division
2 inspectors may note the presence or absence of signage required
3 under this paragraph on their inspection forms as part of their
4 inspections of the aerial tramways.

5 (10) Establish a policy for standardized safety padding for use
6 at lift towers and fixed snow-making equipment in close proximity
7 to ski runs or to the anticipated path of skiers, snowboarders, or
8 sledders.

9 (11) Require each employee to wear a ski helmet meeting the
10 specifications of the American Society of Testing Materials or the
11 Snell Memorial Foundation when skiing or snowboarding on the
12 job.

13 (12) Adopt and enforce a rule requiring each patron of the ski
14 resort who is under 18 years of age to wear a ski helmet meeting
15 the specifications of the American Society of Testing Materials or
16 the Snell Memorial Foundation when skiing or snowboarding
17 within the resort.

18 (b) When inspecting ski resort tramways, the division shall use
19 the most current aerial tramway safety standards.

20 SEC. 2. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.