

AMENDED IN ASSEMBLY MAY 17, 2010

AMENDED IN ASSEMBLY MAY 6, 2010

AMENDED IN ASSEMBLY APRIL 12, 2010

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 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. 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; ~~or 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.

The bill would specify that nothing in those measures shall be construed to change the existing assumption of the risk doctrine as it applies to ski resorts.

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 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

1 is used to compute and state attendance figures over the course of
2 a ski and snowboard season.

3 115816. (a) The ski resort shall prepare an annual safety plan
4 that conforms with the requirements of federal regulations
5 applicable to ski resorts operating on federal property. In addition
6 to meeting federal requirements, the plan shall include the
7 following:

8 (1) A description of standardized signage and signage placement
9 marking ski area boundaries and both natural and manmade
10 hazards, and a description of how that signage and its placement
11 also facilitate the safe flow of skiers and snowboarders.

12 (2) A key to all signage to be included on all trail maps and
13 made available upon request at ticket sales locations and other
14 conspicuous ~~point-of-sale~~ *point-of-sale* locations.

15 (3) The types of manmade and natural hazards or obstacles that
16 will be marked by signage, be subject to protection, or both, and
17 if subject to protection by fencing, padding, or other impact
18 mitigation or diversion, the plan shall include the specific methods
19 and materials to be used.

20 (b) The ski resort shall post the annual safety plan at a location
21 in the ski resort where it can be viewed by the public, make the
22 plan available to any person who requests it at the ski resort, and
23 make the plan available on the ski resort's Internet Web site, if
24 one is maintained.

25 115817. (a) The ski resort shall create a monthly summary
26 report for each calendar month of operation stating the number of
27 deaths and injuries at the resort of which employees of the ski
28 resort are aware. Injuries shall be reported in the following
29 categories, if known:

30 (1) Evacuated to a medical care facility by air or ground
31 emergency medical transport vehicle.

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

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

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

36 (c) The ski resort shall provide the monthly summary report to
37 any person who requests it in person or in writing. The monthly
38 summary report shall be provided within three business days of a
39 request.

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

3 ~~(e) The monthly summary reports shall be generated using the~~
4 ~~source documentation information described in Section 115818.~~

5 ~~115818. (a) (1) The source documentation information~~
6 ~~described in subdivision (b) or (c) shall be made available to any~~
7 ~~person who requests it in person or in writing.~~

8 ~~(2) The resort may charge a reasonable fee, not to exceed~~
9 ~~twenty-five cents (\$0.25) per page, to provide copies and recover~~
10 ~~cost of postage, if applicable, of the documents to the requesting~~
11 ~~party.~~

12 ~~(3) The resort shall provide the requested documents within 14~~
13 ~~business days of any request.~~

14 ~~(b) A description of each injury or fatality that resulted from a~~
15 ~~recreational activity, such as skiing, snowboarding, or sledding,~~
16 ~~and that occurred on the ski resort's property or to a patron of~~
17 ~~whom the resort is aware who, by choice or inadvertently, went~~
18 ~~beyond the recreational boundary of the resort. The documents~~
19 ~~need only include those injuries for which the ski resort or ski~~
20 ~~operating personnel have generated a written report or of which~~
21 ~~the resort or those personnel are aware absent a report. The~~
22 ~~description of the injury shall contain all of the following~~
23 ~~information, if known:~~

24 ~~(1) Age and sex of the person who was injured or died.~~

25 ~~(2) Date and time of the injury or death.~~

26 ~~(3) Cause of injury or death.~~

27 ~~(4) Apparent nature and anatomical location of injury or injuries.~~

28 ~~(5) Apparent consciousness of injured person.~~

29 ~~(6) Type of recreational activity involved or equipment used~~
30 ~~(skiing, snowboarding, or sledding).~~

31 ~~(7) Equipment ownership (owned, rented, or borrowed).~~

32 ~~(8) Helmet use.~~

33 ~~(9) Self-reported ability (beginner, intermediate, or advanced).~~

34 ~~(10) Location at the resort where the injury or death occurred.~~

35 ~~(11) Trail rating at the location where the injury or death~~
36 ~~occurred (beginner, intermediate, expert, or terrain park).~~

37 ~~(12) Degree of fall (high, medium, or level surface).~~

38 ~~(13) Collision with person or object.~~

39 ~~(14) Whether a lift was involved.~~

40 ~~(15) Wind conditions (calm, breezy, or windy).~~

1 ~~(16) Visibility.~~

2 ~~(c) The documents shall indicate whether resort personnel~~
3 ~~recommended that the injured or deceased person seek medical~~
4 ~~treatment, transport to a hospital, or a visit to a medical doctor.~~

5 ~~(d) The documents shall have the name, address, social security~~
6 ~~number, or any other personally identifying information redacted~~
7 ~~prior to public viewing or duplication pursuant to a request as~~
8 ~~described in subdivision (a).~~

9 ~~115819.~~

10 ~~115818.~~ If a resort fails to comply with subdivision (c) of
11 ~~Section 115817 or Section 115818,~~ the requesting individual may
12 use that failure as the basis to initiate a civil cause of action to
13 compel the production of the requested items. If the individual
14 prevails in a civil action to compel the production of these reports
15 or documents, the resort shall also pay the cost of the individual's
16 attorney's fees and court costs.

17 ~~115820.~~

18 ~~115819.~~ (a) A person under 18 years of age shall not operate
19 snow skis or a snowboard unless that person is wearing a properly
20 fitted and fastened snow sport helmet that meets the standards of
21 the ASTM International or the Snell Memorial Foundation, or
22 standards subsequently established by those entities.

23 (b) A person employed by a ski resort shall not operate snow
24 skis or a snowboard unless that person is wearing a properly fitted
25 and fastened snow sport helmet that meets the standards of the
26 ASTM International or the Snell Memorial Foundation, or
27 standards subsequently established by those entities.

28 (c) Resorts shall inform all patrons at the time of ticket or pass
29 purchase of the helmet requirement described in subdivision (a).
30 If a resort during its usual and customary enforcement of resort
31 rules identifies a patron who violates the requirement in subdivision
32 (a), the resort shall revoke the ticket or pass of the patron.

33 ~~115821.~~

34 ~~115820.~~ Nothing in this article shall be construed to change
35 the existing assumption of the risk doctrine as it applies to ski
36 resorts.