



January 23, 2024

**Testimony in SUPPORT of LD 2149 An Act to Exempt Seasonal Volunteer Ski Patrollers and Seasonal Volunteer Ski Ambassadors and Hosts at Ski Areas from the Minimum Wage Laws**

Senator Tipping, Representative Roeder and members of the Labor and Housing Committee, my name is Dirk Gouwens and I am the Executive Director of the Ski Maine Association. I live in New Portland, ME.

86 years ago today, January 23, 2038, skiers began descending the slopes of Pleasant Mountain in Bridgeton, Maine. Every day since then, skiers have had the benefit of knowing that if they were injured, they could rely on volunteer ski patrollers to assist them.

This bill is a technical correction to acknowledge the volunteer work of thousands of men and women across the state who have dedicated countless hours and extensive knowledge to assist those in need. This should have been done decades ago, but for some reason slipped through the system.

In 1980 President Jimmy Carter signed Public Law 96-489 granting the National Ski Patrol a federal charter specifically "to promote, in any and all ways, patriotic, scientific, educational and civic improvement activities, public safety in skiing, by such means as the formation of volunteer local patrols consisting of competent skiers trained in first aid for the purpose of preventing accidents and rendering speedy assistance to individuals sustaining accidents".

Ski areas in Maine have worked tirelessly to heed the call of President Jimmy Carter and others to promote safety in skiing utilizing the expertise of ski patrollers, ambassador's and hosts. These fellow skiers and snowboarders dedicate their time and resources to help others appreciate the mountain lifestyle they so enjoy.

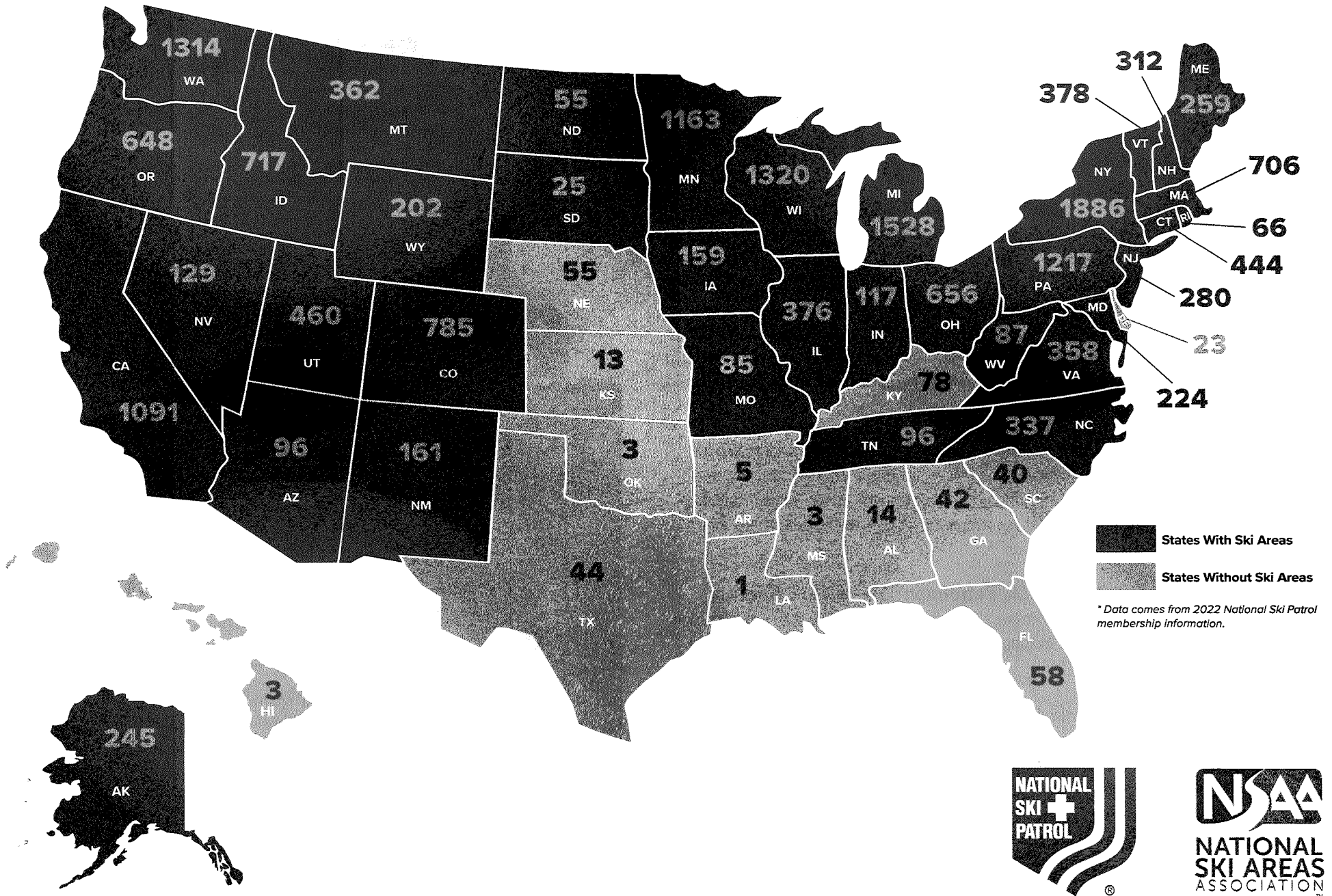
Additionally, ski areas are exempt from Federal Minimum Wage laws under the U.S. Fair Labor Standards Act (FLSA) through the Seasonal Recreation Employers exemption. This law exempts seasonal businesses (those that earn most of their revenue in six months or less) from federal minimum wage laws. Nineteen states have adopted this FLSA seasonal recreation exemption into their own minimum wage laws.

Nearly every other state in the country with ski areas has already adopted this type of exemption from minimum wage including the nearby states of New Hampshire and Massachusetts. The two states with the most skiers each year, Colorado and California adopted this type of exemption years ago.

We urge you to vote Ought to Pass on LD 2149

*Dirk Gouwens – Executive Director*  
Ski Maine Association, PO Box 689, Farmington, ME 04938  
[www.skimaine.com](http://www.skimaine.com) (207) 773-SNOW (7669) (o) (207) 653-5590 (mobile)

# Number of Volunteer Ski Patrollers by State (2022-23)



# Act to Exempt Seasonal Volunteer Ski Patrollers from Maine Minimum Wage Laws

## Seasonal Recreation Employers Exempt from Federal Minimum Wage

Under the U.S. Fair Labor Standards Act (FLSA), there is a long-standing exemption from minimum wage laws for seasonal employers that authorizes the use of volunteer ski patrollers. This federal law exempts seasonal businesses – such as those that operate less than seven months a year, or those that earn most of their revenue in six months of operations – from federal minimum wage laws. See 29 U.S.C. § 213(a)(3). Nineteen states have adopted this FLSA seasonal recreation exemption from their own state minimum wage laws, providing state and federal laws allowing the use of volunteer ski patrollers.

## Congress Grants National Ski Patrol a Federal Charter for its Volunteerism

In 1980, President Jimmy Carter signed Public Law 96-489 granting the NSP a federal charter. Founded in 1938, NSP is a 501(c)(3) non-profit, with more than 19,000 medically trained volunteer ski patrollers. Only the Red Cross, Boy Scouts, the U.S. Olympic Committee, and the VFW have such charters. Congress granted this Charter to NSP “to promote, in every way, patriotic, scientific, educational, and civic improvement activities and public safety in skiing, by such means as the formation of volunteer local patrols consisting of competent skiers trained in first aid for the purpose of preventing accidents and rendering speedy assistance to individuals sustaining accidents.”

## Colorado Law Exempts Volunteer Ski Patrol from State Minimum Wage

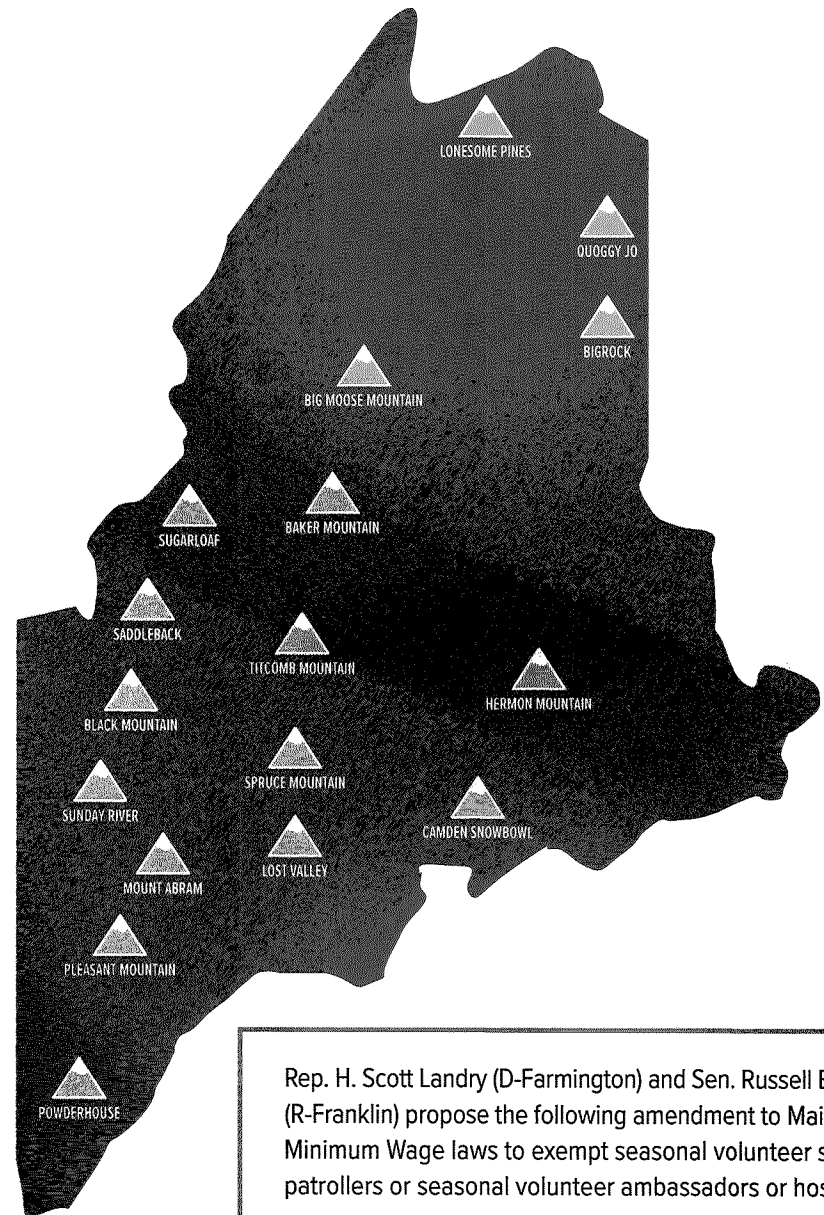
C.R.S § 8-40-301. Scope of term “employee”: “Employee’ excludes any person who volunteers time for a ski area operator, or for a ski area sponsored program or activity, notwithstanding the fact that such person may receive noncash remuneration [e.g., ski passes] in conjunction with such person’s status as a volunteer.”

## California Labor Code § 3352 – “Ski Patrolman” exempt in California

“Any person who performs voluntary services as a ski patrolman who receives no compensation for those services other than meals or lodging or the use of ski lift facilities is excluded from workers compensation purposes.”

## Massachusetts Title XXI, Chapter 151, Section 2 – Volunteer personnel at ski areas exempt from minimum wage

Massachusetts amended its minimum wage laws in November 2023 to expand exemptions from state minimum wage. The law defines “occupation” for purposes of state minimum wage as excluding “any volunteer personnel at ski areas”: “Occupation’ . . . shall not include [for purposes of minimum wage] professional service, agricultural and farm work, . . . work by seasonal camp counselors and counselor trainees or work by members of religious orders, or any volunteer personnel at ski areas.”



Rep. H. Scott Landry (D-Farmington) and Sen. Russell Black (R-Franklin) propose the following amendment to Maine’s Minimum Wage laws to exempt seasonal volunteer ski patrollers or seasonal volunteer ambassadors or hosts:

Amend Sec.3, 26 MRSA § 663, sub-§3, to add new para. M: “A person who is a seasonal volunteer ski patroller and seasonal volunteer ambassador or host at a ski area.”

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**New Hampshire**

279:21 Minimum Hourly Rate. –

Unless otherwise provided by statute, no person, firm, or corporation shall employ any employee at an hourly rate lower than that set forth in the federal minimum wage law, as amended. **The limitations imposed hereby shall be subject to the following exceptions:**

**II. These limitations shall not apply to employees engaged as newsboys, non-professional ski patrolmen or golf caddies.**

**V-a. These limitations shall not apply to an employee of a ski area who exclusively performs welcoming and guest relation services at a ski area which are not essential to the functional operations of a ski area.**

**VI, VII. [Repealed.]**

**VIII.** Those employees covered by the introductory paragraph of this section, **with the following exceptions**, shall, in addition to their regular compensation, be paid at the rate of time and one-half for all time worked in excess of 40 hours in any one week:

**(a) Any employee employed by an amusement, seasonal, or recreational establishment if:**

**(1) It does not operate for more than 7 months in any calendar year; or**

**(2) During the preceding calendar year, its average receipts for any 6 months of such year were not more than 33-1/3 percent of its average receipts for the other 6 months of such year. In order to meet the requirements of this subparagraph, the establishment in the previous year shall have received at least 75 percent of its income within 6 months. The 6 months, however, need not be 6 consecutive months.**



June 8, 2023  
For immediate release

### **Maine Ski Areas see Second Highest Visitations in State History**

Farmington, ME – Despite a late start to winter and less than ideal natural snowfall, Maine Ski Areas saw the second highest visitation level in its history. This rebound in the first full year without Covid restrictions shows that Maine ski areas continue to provide a great product that is sought out by Mainers and visitors from other states as well. The only season that was better was the very snowy winter of 2007-2008.

This past season, Maine ski areas saw 1,372,128 skier visits. A skier visit is one person skiing or snowboarding at a ski area any one day of the season. 2007-2008 was the only better season with 1,426,543 skier visits.

After a season of historic snowfall across the western United States, the national skier visit number hit a new record high of 64.7 million for the 2022-23 season, up from the previous record high of 61 million visits set in the 2021-22 season. This great news at both the state and national level shows that skiers are flocking to ski areas across the country to enjoy the exciting outdoor experience our resorts offer.

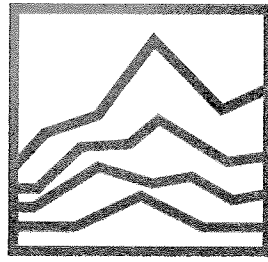
“Despite less than ideal winter weather across much of the state, skiers came out in droves to enjoy what Maine ski areas have to offer said Dirk Gouwens, Executive Director of Ski Maine Association. We are seeing continued capital improvements at our ski areas this summer and are confident that with a little help from Mother Nature, we will continue to see more and more visitors to our ski areas in the future.”

Ski Maine is a not for profit association representing the ski areas of Maine. For more information, contact Dirk Gouwens, Executive Director.

Dirk Gouwens  
[dgouwens@skimaine.com](mailto:dgouwens@skimaine.com)  
207-773-SNOW (7669)

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*Dirk Gouwens – Executive Director*  
Ski Maine Association, PO Box 689, Farmington, ME 04938  
[www.skimaine.com](http://www.skimaine.com) (207) 773-SNOW (7669) (o) (207) 653-5590 (mobile)



**RRC**  
ASSOCIATES

## **Economic Impact of Maine Ski Areas 2022-23 Season**

This report summarizes the findings of an Economic Value Analysis Study of downhill skiing and snowboarding areas in Maine. Ski Maine Association, the trade group for ski areas in the state, commissioned the study, which was conducted by RRC Associates of Boulder, Colorado. RRC Associates is the foremost consulting and market research firm in the snowsports industry and tracks many statistics and figures for the industry throughout North America. RRC Associates publishes annually on behalf of the National Ski Areas Association (NSAA) the Kottke End of Season Report, the National Demographic Study, and the Economic Analysis of US Ski Areas, three major industry reports that track patterns of significance to the ski resort industry related to operational, demographic, and financial information, respectively.

Findings from the study reveal:

### **Maine Ski Industry generates significant economic benefits**

- **\$448 million** total economic output
- **4090 year-round equivalent jobs**
- **\$142 million** labor income
- Plus, Summer and capex spending at businesses in ski towns (other than resort operators)
- Plus, Second home construction and upkeep impacts in ski communities
- Plus, Quality of Life and Health/Wellness benefits
- Plus, Resorts add seasonal balance to state tourism industry
- Plus, Resorts provide marketing exposure/leadership
- Plus, Resorts provide local community contributions/donations

### **Skiing is important to Mainers**

- Roughly 71,000 - 86,000 residents downhill ski/snowboard in a given season
- Maine residents ski 3.19x more days per capita than the national average (7th highest nationally)

### **Maine has a competitive niche in skiing**

- Maine resorts have maintained a roughly 10% share of NSAA Northeast Region skier visits for the last 27 seasons.
- Maine attracts an even balance of skiers on day trips (48%) and overnight trips (52%)
- A substantial share of ski visitors are from out of state (50% at a sample of six resorts.)
- *The 2022-23 season saw the second highest number of skier visits in Maine history.*

