



January 7, 2026

**Testimony in OPPOSITION of LD 1761,
An Act to Prohibit Indemnification Agreements**

Senator Carney, Representative Kuhn and members of the Judiciary Committee, my name is Dirk Gouwens and I am the Executive Director of the Ski Maine Association. We represent the interests of the ski industry in Maine. I live in New Portland Maine and I am here to testify in opposition to LD 1761, An Act to Prohibit Indemnification Agreements.

While this proposed law appears to have support from several different construction leaning organizations and associations, its broad language will have unintended consequences to businesses that rely on these types of indemnification agreements to operate. The ski industry is one of the businesses that will be adversely affected by this law should it be allowed to proceed in its current form.

As a brief history, in the 1970's a series of court cases related to ski accidents ran through the courts in various jurisdictions around the country .Some of these resulted in large verdicts against ski area operators. As a result, nearly all insurance companies pulled out of the ski industry resulting in a loss of skiing facilities nationwide because either insurance was not available, or at a cost that was unaffordable. In the early 1970's Maine had as many as 70 operating ski areas. Today we have 18.

The Maine Legislature, along with legislators in nearly all states with ski areas stepped in and created common sense legislation that requires all skiers and snowboarders to accept the inherent risks of the sport. **MRS Title 32, §15217. SKIERS' AND TRAMWAY PASSENGERS' RESPONSIBILITIES**

"Acceptance of inherent risks. Because skiing as a recreational sport and the use of passenger tramways associated with skiing may be hazardous to skiers or passengers, regardless of all feasible safety measures that may be taken, each person who participates in the sport of skiing accepts, as a matter of law, the risks inherent in the sport and, to that extent, may not maintain an action against or recover from the ski area operator, or its agents, representatives or employees, for any losses, injuries, damages or death that result from the inherent risks of skiing."

On a more recent note, in 2010 the Oregon legislature struck down its skier statute and replaced it with a much less stringent version. The result has been a series of large verdicts against ski area operators extending even to Mountain Biking in the summer. This prompted every insurer to leave the Oregon market except for one resulting in extreme increases in premiums and the closure of several ski areas and nearly all Mountain Biking facilities in the state.

The ski industry in Maine employs over 5000 people at peak season each year in rural Maine where jobs are desperately needed. We urge you to vote Ought Not To Pass on LD 1761.

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§15217. Skiers' and tramway passengers' responsibilities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Inherent risks of skiing" means those dangers or conditions that are an integral part of the sport of skiing, including, but not limited to: existing and changing weather conditions; existing and changing snow conditions, such as ice, hardpack, powder, packed powder, slush and granular, corn, crust, cut-up and machine-made snow; surface or subsurface conditions, such as dirt, grass, bare spots, forest growth, rocks, stumps, trees and other natural objects and collisions with or falls resulting from such natural objects; lift towers, lights, signs, posts, fences, mazes or enclosures, hydrants, water or air pipes, snowmaking and snow-grooming equipment, marked or lit trail maintenance vehicles and snowmobiles, and other man-made structures or objects and their components, and collisions with or falls resulting from such man-made objects; variations in steepness or terrain, whether natural or as a result of slope design; snowmaking or snow-grooming operations, including, but not limited to, freestyle terrain, jumps, roads and catwalks or other terrain modifications; the presence of and collisions with other skiers; and the failure of skiers to ski safely, in control or within their own abilities. [PL 2007, c. 287, §3 (AMD).]

B. "Skiing" means the use of a ski area for snowboarding or downhill, telemark or cross-country skiing; for sliding downhill or jumping on snow or ice on skis, a toboggan, sled, tube, snowboard, snowbike or any other device; or for similar uses of any of the facilities of the ski area, including, but not limited to, ski slopes, trails and adjoining terrain. [PL 2007, c. 287, §3 (AMD).]

C. "Skier" means any person at a ski area who participates in any of the activities described in paragraph B. [PL 1995, c. 560, Pt. H, §14 (NEW); PL 1995, c. 560, Pt. H, §17 (AFF).]

D. "Competitor" means a skier actually engaged in competition or a special event or training or practicing for competition or a special event on any portion of the ski area made available by the ski area operator. [PL 2007, c. 287, §3 (NEW).]

E. "Freestyle terrain" includes, but is not limited to, terrain parks and terrain park features such as jumps, rails, fun boxes and all other constructed or natural features, halfpipes, quarterpipes and freestyle-bump terrain. [PL 2007, c. 287, §3 (NEW).]

[PL 2007, c. 287, §3 (AMD).]

2. Acceptance of inherent risks. Because skiing as a recreational sport and the use of passenger tramways associated with skiing may be hazardous to skiers or passengers, regardless of all feasible safety measures that may be taken, each person who participates in the sport of skiing accepts, as a matter of law, the risks inherent in the sport and, to that extent, may not maintain an action against or recover from the ski area operator, or its agents, representatives or employees, for any losses, injuries, damages or death that result from the inherent risks of skiing.

[PL 2007, c. 287, §3 (AMD).]

3. Warning notice. A ski area operator shall post and maintain at the ski area where the lift tickets and ski school lessons are sold and at the loading point of each passenger tramway signs that contain the following warning notice:

WARNING:

Under Maine 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, but not limited to: existing and changing weather conditions; existing and changing snow conditions, such as ice, hardpack, powder, packed powder, corn, crust and slush and cut-up, granular and machine-made snow; surface or subsurface conditions, such as dirt, grass, bare spots, rocks, stumps, trees, forest

growth or other natural objects and collisions with such natural objects; lift towers, lights, signs, posts, fences, mazes or enclosures, hydrants, water or air pipes, snowmaking and snow-grooming equipment, marked or lit trail maintenance vehicles and snowmobiles, and other man-made structures or objects; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including, but not limited to, freestyle terrain, jumps, roads and catwalks or other terrain modifications; the presence of and collisions with other skiers; and the failure of skiers to ski safely, in control or within their own abilities.

[PL 2007, c. 287, §3 (AMD).]

4. Duty to ski within limits of ability. A skier has the sole responsibility for knowing the range of the skier's own ability to negotiate any slope or ski trail, and it is the duty of the skier to ski within the limits of the skier's own ability, to maintain control of the rate of speed and the course at all times while skiing, to heed all posted and oral warnings and instructions by the ski area operator and to refrain from acting in a manner that may cause or contribute to the injury of the skier or others.

[PL 1995, c. 560, Pt. H, §14 (NEW); PL 1995, c. 560, Pt. H, §17 (AFF).]

4-A. Competition and freestyle terrain. A competitor accepts all inherent risks of skiing and all risks of course, venue and area conditions, including, but not limited to: weather and snow conditions; obstacles; course or feature location, construction and layout; freestyle terrain configuration and condition; collision with other competitors; and other courses, layouts and configurations of the area to be used.

[PL 2007, c. 287, §3 (NEW).]

5. Responsibility for collisions. The responsibility for a collision between any skier while skiing and any person or object is solely that of the skier or skiers involved in the collision and not the responsibility of the ski area operator or its agents, representatives or employees.

[PL 1995, c. 560, Pt. H, §14 (NEW); PL 1995, c. 560, Pt. H, §17 (AFF).]

6. Liability. A ski area operator or its agents, representatives or employees are not liable for any loss, injury, damage or death resulting from the design of the ski area.

[PL 1995, c. 560, Pt. H, §14 (NEW); PL 1995, c. 560, Pt. H, §17 (AFF).]

7. Provision of name and current address required. A skier involved in, causing or contributing to a collision or other accident at a ski area that results in a fall or injury may not leave the vicinity of the collision or accident before giving that skier's name and current address to an employee or representative 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 case the person leaving the scene of the collision shall give that skier's name and current address after securing such aid. A ski area operator, or its agents, representatives or employees, is not liable for a skier's failure to provide that skier's name and address or for leaving the vicinity of an accident or collision.

[PL 1995, c. 560, Pt. H, §14 (NEW); PL 1995, c. 560, Pt. H, §17 (AFF).]

8. Actions not prohibited. This section does not prevent the maintenance of an action against a ski area operator for:

A. The negligent operation or maintenance of the ski area; or [PL 1995, c. 560, Pt. H, §14 (NEW); PL 1995, c. 560, Pt. H, §17 (AFF).]

B. The negligent design, construction, operation or maintenance of a passenger tramway. [PL 1995, c. 560, Pt. H, §14 (NEW); PL 1995, c. 560, Pt. H, §17 (AFF).]

[PL 1995, c. 560, Pt. H, §14 (NEW); PL 1995, c. 560, Pt. H, §17 (AFF).]

SECTION HISTORY

PL 1995, c. 560, §H14 (NEW). PL 1995, c. 560, §H17 (AFF). PL 2007, c. 287, §3 (AMD).