

FIRST REGULAR SESSION

# SENATE BILL NO. 385

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 21, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

0946S.02I

## AN ACT

To repeal sections 508.140, 514.060, 516.120, 516.140, and 537.600, RSMo, and to enact in lieu thereof fifteen new sections relating to claims for damages and the payment thereof.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 508.140, 514.060, 516.120, 516.140, and 537.600, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 508.140, 514.060, 516.120, 516.140, 537.039, 537.327, 537.530, 537.600, 537.780, 537.785, 537.787, 537.800, 537.805, 537.807, and 537.810, to read as follows:

508.140. 1. If reasonable notice has been given to the adverse party or his attorney of record, the court or judge, as the case may be, shall consider the application, and if it is sufficient, the judge shall be disqualified or a change of venue shall be awarded to some county in the same, adjoining or next adjoining circuit, convenient to the parties for the trial of the case and where the causes complained of do not exist. One or more of several parties plaintiff or defendant may ask for the change of venue, and if the change is awarded the entire cause shall be removed, and there shall be no further change of venue awarded on the same side of the suit.

2. In all cases in counties in this state which have a population of more than sixty-five thousand inhabitants and wherein the removal is asked on the ground of objections to or prejudice of the inhabitants of the county and the adverse party has filed counter-affidavit controverting the objection to or the prejudice of the inhabitants of the county, the court shall hear evidence on the issue and determine the same on the merits of the evidence, and if the issue is determined in favor of the applicant for the change of venue, the change shall be awarded as herein provided.

**3. In addition to an application for change of venue for cause, either party**

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

may, in accordance with the procedures set forth in this section, request the court to transfer venue to some county in the same, adjoining, or next adjoining circuit without cause being shown.

[3.] 4. This section does not apply to causes wherein a special venire has been issued, and in such case the party not applying for the special venire shall be granted a change of venue as of course, upon proper affidavit.

514.060. 1. In all civil actions, or proceedings of any kind, the party prevailing shall recover his or her costs against the other party, except as provided in subsection 2 of this section or in those cases in which a different provision is made by law.

2. In all tort actions, including tort actions based upon improper health care, in which all claims for damages exceed twenty-five thousand dollars, except for those cases in which the court makes a written finding that mediation would have no chance of success, the court shall establish a discovery period after which the action or proceeding shall be referred to mediation, which shall be conducted by a trained mediator selected from a list approved by the circuit court. The cost of mediation shall be shared equally by all parties. If mediation is not successful, the mediator shall prepare a sealed report to be submitted to the court to be opened upon the completion of the trial. If the plaintiff's net recovery is greater than the plaintiff's last position at mediation, then the plaintiff shall be deemed to be the prevailing party and the defendant shall pay all of the costs of the plaintiff. If the plaintiff's net recovery is less than the defendant's last position at mediation, the defendant shall be deemed to be the prevailing party and the plaintiff shall pay all of the defendant's costs, except in those cases where the defendant is a governmental entity and the trial court makes a written finding that the plaintiff filed the petition in good faith, in which case neither party shall pay the other party's costs. If the plaintiff's net recovery is between the amount of the plaintiff's last position at mediation and the defendant's last position at mediation, then neither party shall pay the other party's costs.

3. All claims for costs shall be submitted to the trial court for determination as to the reasonableness and necessity of the costs.

4. As used in this section, "plaintiff's net recovery" means the amount of the judgment reduced by the plaintiff's percentage of comparative fault.

516.120. Within five years:

(1) All actions upon contracts, obligations or liabilities, express or implied, except those mentioned in section 516.110, and except upon judgments or decrees of a court of record, and except where a different time is herein limited;

(2) [An action upon a liability created by a statute other than a penalty or forfeiture;

(3)] An action for trespass on real estate;

[(4)] (3) An action for taking, detaining or injuring any goods or chattels, including actions for the recovery of specific personal property, or for any other injury to the person or rights of another, not arising on contract and not herein otherwise enumerated;

[(5)] (4) An action for relief on the ground of fraud, the cause of action in such case to be deemed not to have accrued until the discovery by the aggrieved party, at any time within ten years, of the facts constituting the fraud.

516.140. 1. **The following actions shall be brought** within two years:

(1) An action for libel, slander, assault, battery, false imprisonment, criminal conversation, malicious prosecution or actions brought under section 290.140, RSMo;

(2) **An action upon a liability created by a statute other than a penalty or forfeiture.**

2. An action by an employee for the payment of unpaid minimum wages, unpaid overtime compensation or liquidated damages by reason of the nonpayment of minimum wages or overtime compensation, and for the recovery of any amount under and by virtue of the provisions of the Fair Labor Standards Act of 1938 and amendments thereto, such act being an act of Congress, shall be brought within two years after the cause accrued.

537.039. 1. **Except as provided in subsection 3 of this section, in any action to recover damages arising out of the operation or use of a motor vehicle, a person shall not recover noneconomic losses to compensate for pain, suffering, physical impairment, disfigurement, or any other nonpecuniary damages if any of the following applies:**

(1) **The injured person was at the time of the accident operating the vehicle in violation of section 577.010 or 577.012, RSMo, and pleaded guilty or was found guilty of that offense;**

(2) **The injured person was the owner of a vehicle involved in the accident, and such vehicle was being operated in violation of section 303.025, RSMo; or**

(3) **The injured person was the operator of a vehicle involved in the accident, and the operator is the owner of a vehicle registered in violation of section 303.025, RSMo.**

2. **Except as provided in subsection 3 of this section, an insurer shall not be liable, directly or indirectly, under a policy of motor vehicle liability or uninsured motorist insurance to indemnify for noneconomic losses of an injured person as described in subsection 1 of this section.**

3. **In the event a person described in subdivision (2) or (3) of subsection 1 of this section was injured by a motorist who at the time of the accident was operating a vehicle in violation of section 577.010 or 577.012, RSMo, and such motorist pleaded guilty or was found guilty of that offense, the injured person shall not be prohibited by subsection 1 of this section from recovering any**

noneconomic damages described in such provision.

537.327. 1. As used in this section, unless the context provides otherwise, the following terms shall mean:

(1) "Canoe", a watercraft which has an open top and is designed to hold one or more participants;

(2) "Canoeing, rafting, kayaking, or tubing", riding in or on, training in or on, using, paddling, or being a passenger in or on a canoe, kayak, raft, or tube, including a person assisting a participant;

(3) "Equipment", any accessory to a watercraft which is used for propulsion, safety, comfort, or convenience including, but not limited to, paddles, oars, and personal floatation devices;

(4) "Inherent risks of paddlesport activities", those dangers, hazards, or conditions which are an integral part of paddlesport activities in Missouri's free-flowing streams or rivers, including, but not limited to:

(a) Risks typically associated with watercraft, including change in water flow or current, submerged, semi-submerged, and overhanging objects, capsizing, swamping, or sinking of watercraft and resultant injury, hypothermia, or drowning;

(b) Cold weather or heat-related injuries and illnesses, including hypothermia, frostbite, heat exhaustion, heat stroke, and dehydration;

(c) An "act of nature" which may include rock fall, inclement weather, thunder and lightning, severe or varied temperature, weather conditions, and winds including tornadoes;

(d) Equipment failure or operator error;

(e) Attack or bite by animals;

(f) The aggravation of injuries or illnesses because they occurred in remote places where there are no available medical facilities;

(5) "Kayak", a watercraft similar to a canoe with a covered top which may have more than one circular opening to hold participants, or designed to permit a participant to sit on top of an enclosed formed seat;

(6) "Outfitter", any individual, group, club, partnership, corporation, or business entity, whether or not operating for profit or not-for-profit, or any employee or agent, which sponsors, organizes, rents, or provides to the general public the opportunity to use any watercraft by a participant on Missouri's free-flowing streams or rivers;

(7) "Paddlesport activity", canoeing, rafting, or kayaking in or on a watercraft as follows:

(a) A competition, exercise, or undertaking that involves a watercraft;

- (b) Training or teaching activities;
- (c) A ride, trip, tour, or other activity, however informal or impromptu, whether or not a fee is paid, that is sponsored by an outfitter;
- (d) A guided trip, tour, or other activity, whether or not a fee is paid, that is sponsored by an outfitter;
- (8) "Participant", any person, whether amateur or professional, whether or not a fee is paid, which rents, leases, or uses watercraft or is a passenger on a rented, leased, or used watercraft participating in a paddlesport activity;
- (9) "Personal floatation device", a life jacket, floatable cushion, or other device approved by the United States Coast Guard;
- (10) "Raft", an inflatable watercraft which has an open top and is designed to hold one or more participants;
- (11) "Tube", an inflatable tire inner tube or similar inflatable watercraft which has an open top capable of holding one or more participants;
- (12) "Watercraft", any canoe, kayak, raft, or tube propelled by the use of paddles, oars, hands, poles, or other nonmechanical, nonmotorized means of propulsion.

2. Except as provided in subsection 4 of this section, an outfitter shall not be liable for any injury to or the death of a participant resulting from the inherent risks of paddlesport activities and, except as provided in subsection 4 of this section, no participant or a participant's representative shall make any claim against, maintain any action against, or recover from an outfitter for injury, loss, damage, or death of the participant resulting from any of the inherent risks of paddlesport activities.

3. This section shall not apply to any employer-employee relationship governed by the provisions of chapter 287, RSMo.

4. The provisions of subsection 2 of this section shall not prevent or limit the liability of an outfitter that:

- (1) Intentionally injures the participant;
- (2) Commits an act or omission that constitutes negligence for the safety of a participant in a paddlesport activity and that negligence is the proximate cause of the injury or death of a participant;
- (3) Provides unsafe equipment or watercraft to a participant and knew or should have known that the equipment or watercraft was unsafe to the extent that it did cause the injury;
- (4) Fails to provide a participant a United States Coast Guard approved personal floatation device; or
- (5) Fails to use that degree of care that an ordinarily careful and prudent

person would use under the same or similar circumstances.

5. Every outfitter shall post and maintain signs which contain the warning notice specified in this subsection. Such signs shall be placed in a clearly visible location on or near areas where the outfitter conducts paddlesport activities. The warning notice specified in this subsection shall appear on the sign in black letters on a white background with each letter to be a minimum of one inch in height. Every written contract entered into by an outfitter for the providing of watercraft to a participant shall contain the warning notice specified in this subsection. The signs and contracts described in this subsection shall contain the following warning notice:

**"WARNING**

**Under Missouri law, an outfitter is not liable for an injury to or the death of a participant in paddlesport activities resulting from the inherent risks of paddlesport activities pursuant to the Revised Statutes of Missouri."**

6. This section shall not be construed to limit or modify any defense or immunity already existing in statute or common law or to affect any claim occurring prior to August 28, 2005.

537.530. 1. In any action for damages in excess of three thousand dollars against an individual or entity licensed to practice a profession by this state, or any agency or court thereof, on account of the rendering of or failure to render professional services, the plaintiff or his or her attorney shall file an affidavit with the court stating that he or she has obtained the written opinion of a similarly licensed professional which states that the defendant failed to use such care as a reasonably prudent and careful professional would have under similar circumstances and that such failure to use such reasonable care directly caused or directly contributed to cause the damages claimed in the petition.

2. The affidavit shall state the name, address, and qualifications of all similarly licensed professionals offering such opinion.

3. A separate affidavit shall be filed for each defendant named in the petition.

4. Such affidavit shall be filed no later than ninety days after the filing of the petition unless the court, for good cause shown, orders that such time be extended for a period of time not to exceed an additional ninety days.

5. If the plaintiff or his or her attorney fails to file such affidavit the court shall, upon motion of any party, dismiss the action against such moving party without prejudice.

6. "License" for purposes of this section shall not include a license to operate a vehicle.

**7. "Similarly licensed professional" for purposes of this section shall mean an individual licensed in this state, or any other state, who possesses the education, training, and experience to be licensed in the same or substantially the same profession as the defendant.**

537.600. 1. Such sovereign or governmental tort immunity as existed at common law in this state prior to September 12, 1977, except to the extent waived, abrogated or modified by statutes in effect prior to that date, shall remain in full force and effect; except that, the immunity of the public entity from liability and suit for compensatory damages for negligent acts or omissions is hereby expressly waived in the following instances:

(1) Injuries directly resulting from the negligent acts or omissions by public employees arising out of the operation of motor vehicles or motorized vehicles within the course of their employment;

(2) Injuries caused by the condition of a public entity's property if the plaintiff establishes that the property was in dangerous condition at the time of the injury, that the injury directly resulted from the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of harm of the kind of injury which was incurred, and that either a negligent or wrongful act or omission of an employee of the public entity within the course of his employment created the dangerous condition or a public entity had actual or constructive notice of the dangerous condition in sufficient time prior to the injury to have taken measures to protect against the dangerous condition. In any action under this subdivision wherein a plaintiff alleges that he was damaged by the negligent, defective or dangerous design of a highway or road, which was designed and constructed prior to September 12, 1977, the public entity shall be entitled to a defense which shall be a complete bar to recovery whenever the public entity can prove by a preponderance of the evidence that the alleged negligent, defective, or dangerous design reasonably complied with highway and road design standards generally accepted at the time the road or highway was designed and constructed.

2. The express waiver of sovereign immunity in the instances specified in subdivisions (1) and (2) of subsection 1 of this section are absolute waivers of sovereign immunity in all cases within such situations whether or not the public entity was functioning in a governmental or proprietary capacity and whether or not the public entity is covered by a liability insurance for tort.

3. The term "public entity" as used in this section shall include any multi-state compact agency created by a compact formed between this state and any other state which has been approved by the Congress of the United States. [Sovereign immunity, if any, is waived for the proprietary functions of such multi-state compact agencies as of the date that the Congress of the United States approved any such multi-state compact.

4. Pursuant to the prerogative of the general assembly to declare the public policy of

the state in matters concerning liability in tort for public entities, the general assembly declares that prior to September 12, 1977, there was no sovereign or governmental immunity for the proprietary functions of multistate compact agencies operating pursuant to the provisions of sections 70.370 to 70.440, RSMo, and 238.030 to 238.110, RSMo, including functions such as the operation of motor vehicles and the maintenance of property, involved in the operation of a public transit or public transportation system, and that policy is hereby reaffirmed and declared to remain in effect.

5. Any court decision dated subsequent to August 13, 1978, holding to the contrary of subsection 4 of this section erroneously interprets the law and the public policy of this state, and any claimant alleging tort liability under such circumstances for an occurrence within five years prior to February 17, 1988, shall in addition to the time allowed by the applicable statutes of limitation or limitation of appeal, have up to one year after July 14, 1989, to file or refile an action against such public entity and may recover damages imposed by the common law of this state as for any other person alleged to have caused similar damages under similar circumstances.]

**537.785. 1. This act may be referred to and cited as the "Business Premises Safety Act of 2005".**

**2. As used in sections 537.785 to 537.787, the following terms mean:**

**(1) "Business", any commercial or agricultural enterprise including, but not limited to, sales, services, manufacturing, food service, property management or leasing company, or any other entity, whether for profit or not for profit, which owns, operates, or leases property to which persons are invited or permitted to visit;**

**(2) "Person", any individual other than an employee or agent of the owner or occupier of the property in question;**

**(3) "Injury", any personal injury including, but not limited to, physical injury, sickness, disease, or death and all damages resulting therefrom including, but not limited to, medical expenses, wage loss, and loss of service;**

**(4) "Criminal act", those offenses specified under chapters 565 to 571, RSMo, that have resulted in injury;**

**(5) "Intentional Act", an act done with the object to cause injury.**

**537.787. 1. There is no duty upon the owners or operators of a business, individually or collectively, or upon merchants or shopkeepers, to guard against the criminal act of a third party unless:**

**(1) They know or have reason to know that acts are then occurring or are about to occur on the premises that pose imminent probability of injury to a person; or**

**(2) The same criminal acts have occurred on the premises within the prior**



twenty-four months such that there is substantial foreseeability that such action will occur again. If either of these conditions are met, a duty of reasonable care to protect against such acts shall arise.

A business is not to be regarded as the insurer of the safety of its customers and has no absolute duty to implement security measures for the protection of its customers. Any measures implemented shall be determined by considering both the magnitude of the burden to the business in implementing security measures and the substantial foreseeability of the injury to be prevented.

2. Subject to any duty created under this section, the proximate cause of any injury sustained as a result of the intentional or criminal act of any person shall be deemed to be the conduct of the person committing the intentional or criminal act.

3. In the case of past criminal activities, remedial action to provide protection to customers shall not be admissible in evidence to show prior negligence or breach of a duty of a business in any action against the business for damages.

537.800. 1. This act may be cited as the agritourism promotion act.

2. As used in sections 537.800 to 537.810, the following terms shall mean:

(1) "Agritourism operator", any person engaged in the business of providing one or more agritourism activities;

(2) "Agritourism activity", any activity that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities including, but not limited to, farming activities, ranching activities or historic, cultural, or natural attractions. An activity may be an agritourism activity whether or not the participant pays to participate in the activity. An activity is not an agritourism activity if the participant is paid to participate in the activity;

(3) "Agritourism location", a specific parcel of land where a qualified agritourism operator engages in agritourism activities;

(4) "Participant", any person who engages in an agritourism activity;

(5) "Inherent risks of an agritourism activity", those dangers of conditions that are an integral part of an agritourism activity including, but not limited to, certain hazards such as surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming or ranching operations. Inherent risks of an agritourism activity also includes the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to follow instructions given by

the agritourism operator or failing to exercise reasonable caution while engaging in the agritourism activity.

537.805. 1. At every agritourism location, the qualified agritourism operator shall post and maintain signage that contains the warning notice specified in subsection 3 of this section. This section shall be deemed satisfied if such signage is placed in a clearly visible location at or near the agritourism location. The warning notice specified in subsection 3 of this section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height.

2. Every written contract entered into by an agritourism operator to provide an agritourism activity shall contain in clearly readable print the warning notice and language specified in subsection 3 of this section.

3. The signs described in subsection 1 of this section and the contracts described in subsection 2 of this section shall contain the following warning notice:

**"WARNING**

Under Missouri law, there is no liability for an injury or death of a participant in an agritourism activity conducted at this location if such injury or death results from the inherent risks of such agritourism activity. Inherent risks of agritourism activities include, but shall not be limited to, the potential of you as a participant to act in a negligent manner that may contribute to your injury or death and the potential of another participant to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

4. Upon request, the agritourism operator shall provide to any participant a written description of the agritourism activity, as set forth in the registration under section 537.810, and amendments thereto, for which this act limits the agritourism operator's liability at the agritourism location.

537.807. Except as provided in section 537.810, in any action for damages arising from the operation of an agritourism activity, the agritourism operator shall not be liable for civil damages, provided the operator has complied with the provisions of section 537.805.

537.810. Nothing in sections 537.800 to 537.810 shall prevent or limit the liability of an agritourism operator if:

(1) The agritourism operator injures the participant by willful or wanton conduct; or

(2) The agritourism operator has actual knowledge of a dangerous condition in the land or waters or the dangerous propensity of a particular animal or a dangerous condition in the facilities or equipment used in the agritourism activity and does not make such dangerous condition known to the participant and such

dangerous condition causes the participant to sustain injuries.

537.780. 1. As used in this section, unless the context otherwise requires, the following terms shall mean:

(1) "Competitor", a skier actually engaged in competition or in practice therefore with the permission of the ski area operator on any slope or trail or portion thereof designated by the ski area operator for the purpose of competition;

(2) "Conditions of ordinary visibility", daylight and, where applicable, nighttime in non-precipitating weather;

(3) "Inherent dangers and risks of skiing", those dangers or conditions which are an integral part of the sport of skiing, including: changing weather conditions; snow conditions as they exist or may change such as ice, hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface or subsurface conditions such as bare spots, forest growth, rocks, stumps, streambeds, and trees, or other natural objects, and collisions with such natural objects; impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes, other man-made structures and their components; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to, roads and catwalks or other terrain modifications; collisions with other skiers; and the failure of skiers to ski within their own abilities;

(4) "Passenger", any person who is lawfully using any passenger tramway;

(5) "Passenger tramway", a device such as a ski lift, rope tow, carpet, and any other surface lift;

(6) "Ski area", all ski slopes or trails and other places under the control of a ski area;

(7) "Ski area operator", any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas;

(8) "Skier", any person using a ski area for the purpose of skiing, for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, a snowboard, or any other device, or for the purpose of using any of the facilities of the ski area including, but not limited to, ski slopes and trails;

(9) "Ski slopes or trails", those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subdivision (8) of this subsection. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subdivision or in subdivision (8) of this subsection, however, shall imply that ski slopes or trails may not be restricted for use by persons using skies only, or for use by persons using

any other device described in subdivision (8) of this subsection.

2. A violation of any requirement of this section shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of the person violating such requirement.

3. (1) No passenger shall board a passenger tramway if the passenger does not have sufficient physical dexterity, ability, and knowledge to negotiate or use such facility safely or until such passenger has asked for and received information sufficient to enable the passenger to use the equipment safely. A passenger is required to follow any written or verbal instructions that are given to the passenger regarding the use of the passenger tramway.

(2) No passenger shall:

(a) Embark upon or disembark from a passenger tramway except at a designated area except in the event of a stoppage of the passenger tramway, and then only under the supervision of the operator, or unless reasonably necessary in the event of an emergency to prevent injury to the passenger or others;

(b) Throw or expel any object from any passenger tramway while riding on such device, except as permitted by the operator;

(c) Act, while riding on a passenger tramway, in any manner that may interfere with proper or safe operation of such passenger tramway;

(d) Engage in any type of conduct that may contribute to cause injury to any person;

(e) Place in an uphill track of a J-bar, T-bar, platter pull, rope tow, or any other surface lift any object that could cause another skier to fall;

(f) Embark upon a passenger tramway marked as closed; or

(g) Disobey any instructions posted in accordance with this article or any verbal instructions by the ski area operator regarding the proper or safe use of a passenger tramway unless such verbal instructions are contrary to this article or the rules promulgated under it, or contrary to posted instructions.

4. (1) Each skier solely has the responsibility for knowing the range of his own ability to negotiate any ski slope or trail and to ski within the limits of such ability. Each skier expressly accepts and assumes the risk of and all legal responsibility for any injury to person or property resulting from any of the inherent dangers and risks of skiing; except that a skier is not precluded under this section from suing another skier for any injury to person or property resulting from such other skier's acts or omissions. The risk of a skier on skier collision is neither an inherent risk nor a risk assumed by a skier in an action by one skier against another.

(2) Each skier has the duty to maintain control of his or her speed and

course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below the person.

(3) No skier shall ski on a ski slope or trail that has been closed.

(4) Each skier shall stay clear of snow grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails.

(5) Each skier has the duty to heed all posted information and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others. Each skier shall be presumed to have seen and understood all information posted in accordance with this article near base area lifts, on the passenger tramways, and on such ski slopes or trails as the person is skiing. Under conditions of decreased visibility, the duty is on the skier to locate and ascertain the meaning of all signs posted.

(6) Each ski used by a skier while skiing shall be equipped with a strap or other device capable of stopping the ski should the ski become unattached from the skier. This requirement shall not apply to cross country skis and snowboarders.

(7) No skier shall cross the uphill track of a J-bar, T-bar, platter pull, carpet, or rope tow except at locations designated by the operator, nor shall a skier place any object in such an uphill track.

(8) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, the skier shall have the duty to avoid moving skiers already on the ski slope or trail.

(9) No person shall move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any controlled substance.

(10) No skier involved in a collision with another skier or person in which an injury results shall leave the vicinity of the collision before giving his or her name and current address to an employee of the ski area operator or a member of the voluntary ski patrol, except for the purpose of securing aid for a person injured in the collision, in which event the person so leaving the scene of the collision shall give his or her name and current address.

5. The competitor shall be held to assume the risk of all course conditions including, but not limited to, weather and snow conditions, course construction or layout, and obstacles which a visual inspection should have revealed. No liability shall attach to a ski area operator for injury or death of any competitor proximately caused by such assumed risk.

6. Notwithstanding any judicial decision or any other law to the contrary, no skier may make any claim against or recover from any ski area operator for injury resulting from any of the inherent dangers and risks of skiing.

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