

Ski and Snowboard Health, Safety and Liability Standards

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Background

California's mountains host an extensive recreational skiing and snowboarding industry. Approximately 30 resorts draw skiers and snowboarders from all over the world. Recently publicized deaths and injuries of resort guests and personnel have drawn public attention to the industry's safety policies and practices. The vast majority of the public is poorly informed about serious risks facing the customers as well as employees at California resorts. The ski industry has no uniform safety policies, procedures, or signage, and those safety practices that are in place vary from location to location. Increased snowboarding presents unique safety issues and the need for specific new precautionary measures.

Unlike most states with major ski resorts, California has no ski safety statute, no proactive oversight and no established ski and snowboard safety standards. Although the U.S. Forest Service has contractual authority to enforce safety improvements on land leased to ski resorts, with no established national safety standards, the Forest Service takes a "hands-off" position on safety regulation.

The California ski industry enjoys legal liability protections through a common law doctrine of "assumed risk" as well as contractual negligence waivers included on ski pass purchase agreements. As a result of these protections, ski resorts have limited exposure to legal liability. In addition, there is no publicly accessible, statewide repository of information on ski resort-related deaths and injuries.

There is a clear and pressing need to educate the public about safety issues related to skiing and snowboarding at California resorts, determine the best safety practices for these ski resorts and ensure access to actual statistics regarding injuries and fatalities that occur at various California ski resorts.

Consequences of Inadequate Ski Slope Safety Measures

Jessica Gregorie was walking with her snowboard across the High Beaver Traverse at Alpine Meadows on February 5, 2006, when she slipped on the steeply sloped, icy terrain and uncontrollably slid over a cliff into the Granite Chief Wilderness area of the Tahoe National Forest. There were no signs posted to warn snowboarders and skiers of the potentially icy surface or of the undetectable cliff below. In addition, Alpine Meadows provided no rope guidance across the steep traverse and no fencing.

After Jessica died, Dan and Margaret Gregorie sought information about their daughter's death and were merely provided a brief summary of what happened and a copy of the ski-

pass agreement. To date, there have been no significant safety improvements or changes to the area where she slipped to her death.

According to the National Ski Areas Association, serious injuries (paraplegics, serious head and other serious injuries) occur at the rate of about 43.6 per year. In the 2007/2008 season, there were 41 serious injuries. Thirty-two of these serious injuries were skiers and nine were snowboarders. The rate of serious injury in 2007/2008 was 0.68 per million skier/snowboarder visits. According to a Centers for Disease Control and Prevention (CDC) study in the journal *Wilderness and Environmental Medicine*, more people are hurt snowboarding than any other outdoor activity, accounting for a quarter of emergency room visits. Almost 213,000 people were treated each year in emergency departments for outdoor recreational injuries from 2004 to 2005. Of those injured, about 109,000 (51.5 percent) were young people between the ages of 10 and 24.

California Ski and Snowboard Safety Organization

In order to inform the public and promote skier safety, Dr. Dan Gregorie created the California Ski and Snowboard Safety Organization (CSSSO). Among the functions of the CSSSO are the following:

- Monitoring and informing the public regarding safety issues related to skiing and snowboarding at California resorts;
- Serving as an educational resource to the public and industry on best safety practices;
- Informing legislators regarding best-practice legislation and regulation in other states; and,
- Advocating for the passage of best-practice skiing and snowboarding safety legislation in California and partnering with health and safety organizations working to ensure the safest possible recreational and work environments for the public and mountain operations' personnel.

Existing Law

California Civil Code Section 846: Exculpates property owners from liability in cases involving non-commercial recreational use of their land, excepting "willful and wanton" conduct. The doctrine of primary assumption of risk and "inherent danger" has not been codified at the state level (some counties have relevant ordinances), but exists in case law.

California Labor Code Sections 7340-7357: Provide for, among other things, permitting requirements for aerial tramways and biannual inspections by the Division of Occupational Safety and Health.

California Penal Code Section 602(r): Provides that every person who, among other things, willfully commits a trespass by knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure is guilty of a misdemeanor.

16 U.S.C.A. § 497b: Provides that the Secretary of Agriculture is authorized to issue permits for the use and occupancy of lands within the National Forest System for nordic and alpine skiing operations and purposes.

AB 2218 (Keeley) of 2002: This bill would have created the California Ski Safety Commission (Commission) in order to adopt uniform signs and provide a copy of its standards and recommendations to all ski areas doing business in California. This bill also would have required ski areas posting signs to use the signs adopted by the Commission. This bill failed passage from the Senate Appropriations Committee.

Helpful Internet Website Links

California Ski and Snowboard Safety Organization: Promotes and supports safety improvements in California skiing, snowboarding and recreational snow sports and serves as an independent, factual public resource regarding the safety of California ski resorts: <http://www.calskisafety.org>

National Ski Areas Association: Serves as the trade association for ski area owners and operators: <http://www.nsaa.org/nsaa/home/>

Ski Law: Provides information and analysis on legal cases involving ski accidents and various state laws governing ski safety: <http://www.skilaw.com>

U.S. Forest Services: Manages public lands in national forests and grasslands, which encompass 193 million acres: <http://www.fs.fed.us>

Topics of Discussion

- What, if any, statistics are made available by California ski resorts describing the number of injuries and deaths that occur on the ski slopes?
- What, if any, state and federal regulations govern ski safety including the number and type of signage that is required on California's ski slopes?
- What, if any, measures should be taken to improve safety on California's ski slopes?