

CHAPTER 80

[Senate Bill No. 5983]

WATER RIGHTS—COMPLEX CASES—RETENTION BY SUPERIOR COURT

AN ACT Relating to water rights; and amending RCW 90.03.160.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 19, chapter 117, Laws of 1917 as amended by section 76, chapter 109, Laws of 1987 and RCW 90.03.160 are each amended to read as follows:

Upon the completion of the service of summons as hereinbefore provided, the superior court in which said proceeding is pending shall make an order referring said proceeding to the department to take testimony by its duly authorized designee, as referee, and the designee shall report to and file with the superior court of the county in which such cause is pending a transcript of such testimony for adjudication thereon by such court. The superior court may, in any complex case with more than one thousand named defendants, including the United States, retain for hearing and further processing such portions of the proceeding as pertain to a discrete class or classes of defendants or claims of water rights if the court determines that: (1) Resolution of claims of such classes appear to involve significant issues of law, either procedural or substantive; and (2) such a retention will both expedite the conclusion of the case and reduce the overall expenditures of the plaintiff, defendants, and the court.

Passed the Senate March 6, 1989.

Passed the House March 31, 1989.

Approved by the Governor April 19, 1989.

Filed in Office of Secretary of State April 19, 1989.

CHAPTER 81

[Substitute House Bill No. 1774]

SKI AREA OPERATORS—LIMITATIONS ON LIABILITY

AN ACT Relating to duties of operators and users of commercial ski areas; amending RCW 70.117.010, 70.117.020, and 70.117.030; adding new sections to chapter 70.117 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 70.117 RCW to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

"Trails" or "runs" means those trails or runs that have been marked, signed, or designated by the ski area operator as ski trails or ski runs within the ski area boundary.

Sec. 2. Section 1, chapter 139, Laws of 1977 ex. sess. and RCW 70-117.010 are each amended to read as follows:

(1) The operator of any ski area shall maintain a sign system based on international or national standards.

All signs for instruction of the public shall be bold in design with wording short, simple, and to the point. All such signs shall be prominently placed.

Entrances to all machinery, operators', and attendants' rooms shall be posted to the effect that unauthorized persons are not permitted therein.

The sign "~~((Men))~~ Working on Lift" or a similar warning sign shall be hung on the main disconnect switch and at control points for starting the auxiliary or prime mover when ~~((men are))~~ a person is working on the passenger tramway.

(2) The interior of each reversible aerial tramway and gondola lift shall be prominently posted to show:

(a) The maximum capacity of each reversible aerial tramway and gondola lift in pounds and number of passengers (which shall also be posted at each loading area); and

(b) Instructions for procedure in emergencies.

(3) The following signs shall be posted at all aerial lifts except gondola lifts:

(a) "Prepare to Unload" (not less than fifty feet ahead of unloading area);

(b) "Keep Ski Tips Up" (ahead of any point where skis may come in contact with a platform or the snow surface);

(c) "Unload Here";

(d) "Safety Gate" (if applicable);

(e) "Remove Pole Straps from Wrists" (at loading area); and

(f) Sign visible at all points of downhill loading, listing downhill capacity of lift.

(4) The following signs shall be posted at all surface lifts:

(a) "Prepare to Unload" (not less than fifty feet ahead of unloading area);

(b) "Stay in Track";

(c) "Unload Here";

(d) "Safety Gate"; and

(e) "Remove Pole Straps from Wrists" (at loading area).

(5) The following signs shall be posted at all tows:

- (a) "No Loose Scarves
No Loose Clothing
No Long Hair Exposed"
(at loading area);
- (b) "Stay in Track";
- (c) "Unload Here"; and
- (d) "Safety Gate".

(6) All signs required for normal daytime operation shall be in place, and those pertaining to the tramway, lift, or tow operations shall be adequately lighted for night skiing.

(7) If a particular trail or ~~((slope))~~ run has been closed to the public by an operator, the operator shall place a notice thereof at the top of the trail or ~~((slope))~~ run involved, and no person shall ski on a ~~((slope))~~ run or trail which has been designated "Closed".

(8) An operator shall place a notice at the embarking terminal or terminals of a lift or tow which has been closed that the lift or tow has been closed and that a person embarking on such a lift or tow shall be considered to be a trespasser.

~~(9) ((An operator shall prominently place a notice containing the substance of RCW 70.117.030 in such places as are necessary to notify the public:~~

~~((+))) Any snow making machines or equipment shall be clearly visible and clearly marked. Snow grooming equipment or any other vehicles shall be equipped with a yellow flashing light at any time the vehicle is moving on or in the vicinity of a ski run; however, low profile vehicles, such as snowmobiles, may be identified in the alternative with a flag on a mast of not less than six feet in height.~~

~~((+++)) (10) The operator of any ski area shall maintain a readily visible sign on each rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device, advising the users of the device that:~~

~~(a) Any person not familiar with the operation of the lift shall ask the operator thereof for assistance and/or instruction; and~~

~~(b) The skiing-ability level recommended for users of the lift and the ~~((slopes))~~ runs served by the device shall be classified "easiest", "more difficult", and "most difficult".~~

Sec. 3. Section 2, chapter 139, Laws of 1977 ex. sess. and RCW 70.117.020 are each amended to read as follows:

(1) In addition to the specific requirements of this section, all skiers shall conduct themselves within the limits of their individual ability and shall not act in a manner that may contribute to the injury of themselves or any other person.

(2) No person shall:

- (a) Embark or disembark upon a ski lift except at a designated area;

(b) Throw or expel any object from any tramway, ski lift, commercial skimobile, or other similar device while riding on the device;

(c) Act in any manner while riding on a rope tow, wire rope tow, j-bar, t-bar, ski lift, or similar device that may interfere with the proper or safe operation of the lift or tow;

(d) Wilfully engage in any type of conduct which may injure any person, or place any object in the uphill ski track which may cause another to fall, while traveling uphill on a ski lift; or

(e) Cross the uphill track of a j-bar, t-bar, rope tow, wire rope tow, or other similar device except at designated locations.

(3) Every person shall maintain control of his or her speed and course at all times, and shall stay clear of any snowgrooming equipment, any vehicle, any lift tower, and any other equipment on the mountain. (~~Snow grooming equipment or any other vehicles shall be equipped with a flashing yellow light at any time the vehicle is moving on or in the vicinity of a ski run.~~)

(4) A person shall be the sole judge of his or her ability to negotiate any trail, ~~((slope))~~ run, or uphill track and no action shall be maintained against any operator by reason of the condition of the track, trail, or ~~((slope))~~ run unless the condition results from the negligence of the operator.

(5) Any person who boards a rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device shall be presumed to have sufficient abilities to use the ~~((lift))~~ device. No liability shall attach to any operator or attendant for failure to instruct the person on the use of the device, but a person shall follow any written or verbal instructions that are given regarding the use.

(6) Because of the inherent risks in the sport of skiing all persons using the ski hill shall exercise reasonable care for their own safety. However, the primary duty shall be on the person skiing downhill to avoid any collision with any person or object below him or her.

(7) ~~((Subsection (6) of this section notwithstanding.))~~ Any person skiing ((on other than improved)) outside the confines of trails open for skiing or ((slopes)) runs open for skiing within the ski area boundary shall be responsible for any injuries or losses resulting from his or her action.

(8) ~~((Subsections (6) and (7) of this section notwithstanding.))~~ Any person on foot or on any type of sliding device shall be responsible for any collision whether the collision is with another person or with an object.

(9) A person embarking on a lift or tow without authority shall be considered to be a trespasser.

Sec. 4. Section 3, chapter 139, Laws of 1977 ex. sess. and RCW 70.117.030 are each amended to read as follows:

(1) Any person who is involved in a skiing accident and who departs from the scene of the accident without leaving personal identification or otherwise clearly identifying himself or herself before notifying the proper

authorities or obtaining assistance, knowing that any other person involved in the accident is in need of medical or other assistance, shall be guilty of a misdemeanor.

(2) An operator shall place a prominent notice containing the substance of this section in such places as are necessary to notify the public.

NEW SECTION. Sec. 5. A new section is added to chapter 70.117 RCW to read as follows:

Ski area operators shall place a notice of the provisions of RCW 70.117.020(7) on their trail maps, at or near the ticket booth, and at the bottom of each ski lift or similar device.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

****NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.***

*Sec. 7 was vetoed, see message at end of chapter.

Passed the House March 15, 1989.

Passed the Senate April 5, 1989.

Approved by the Governor April 19, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 19, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 7, Substitute House Bill No. 1774 entitled:

"AN ACT Relating to duties of operators and users of commercial ski areas."

This bill reduces the liability exposure of ski area operators and increases the responsibilities of those operators to warn skiers. The need for the emergency clause is not warranted due to the fact that the next ski season will not be starting until long after this bill has become effective in the ordinary course.

With the exception of section 7, Substitute House Bill No. 1774 is approved."

CHAPTER 82

[Senate Bill No. 5874]

MARITIME COMMEMORATIVE OBSERVANCE

AN ACT Relating to maritime commemorative observance; amending RCW 27.60.900; adding a new section to chapter 27.34 RCW; creating a new section; repealing RCW 27.60-.045; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) The legislature finds that: