

IN THE SENATE

SENATE BILL NO. 1320

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO BICYCLISTS AND MOUNTAIN OPERATORS; AMENDING TITLE 6, IDAHO CODE,  
2 BY THE ADDITION OF A NEW CHAPTER 33, TITLE 6, IDAHO CODE, TO PROVIDE LEG-  
3 ISLATIVE PURPOSE, TO DEFINE TERMS, TO PROVIDE THAT MOUNTAIN OPERATORS,  
4 PASSENGERS, AND BICYCLISTS SHALL HAVE CERTAIN DUTIES, AND TO PROVIDE  
5 THAT MOUNTAIN OPERATORS, PASSENGERS, AND BICYCLISTS SHALL HAVE CERTAIN  
6 LIABILITIES.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended  
10 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
11 ter 33, Title 6, Idaho Code, and to read as follows:

12 CHAPTER 33

13 RESPONSIBILITIES AND LIABILITIES OF BICYCLISTS AND MOUNTAIN OPERATORS

14 6-3301. LEGISLATIVE PURPOSE. The legislature finds that the sport of  
15 bicycling is practiced by a large number of citizens of this state at moun-  
16 tain areas and also attracts a large number of nonresidents, significantly  
17 contributing to the economy of Idaho. Since it is recognized that there are  
18 inherent risks in the sport of bicycling that should be understood by each  
19 bicyclist and that are essentially impossible to eliminate by the mountain  
20 operators, it is the purpose of this chapter to define those areas of re-  
21 sponsibility and affirmative acts for which mountain operators shall be li-  
22 able for loss, damage, or injury and to define those risks that the bicyclist  
23 expressly assumes and for which there can be no recovery. Nothing in this  
24 chapter shall impact other defenses that may be raised by mountain operators  
25 against claims asserted by bicyclist.

26 6-3302. DEFINITIONS. The following words and phrases when used in this  
27 chapter shall have, unless the context clearly indicates otherwise, the  
28 meanings given to them in this section.

29 (1) "Aerial passenger tramway" means any device operated by a moun-  
30 tain operator used to transport passengers by single or double reversible  
31 tramway; chairlift or gondola lift; T-bar lift, J-bar lift, platter lift, or  
32 similar device; a fiber rope or wire rope tow, or a conveyor that is subject  
33 to regulations adopted by the proper authority.

34 (2) "Bicyclist" means any person present at a mountain area under the  
35 control of a mountain operator for the purpose of engaging in activities, in-  
36 cluding but not limited to bicycling downhill or uphill, jumping on a bicycle  
37 or any other cycling device, or who is using any mountain area. "Bicyclist"  
38 does not include a person using an aerial passenger tramway.

1 (3) "Mountain area" means the property owned, leased, or authorized  
2 under a special use permit and under the control of the mountain operator  
3 within the state of Idaho.

4 (4) "Mountain operator" means any person, partnership, corporation, or  
5 other commercial entity, and its agents, officers, employees, or represen-  
6 tatives, who has operational responsibility for nonwinter activities at any  
7 mountain area and the use of an aerial passenger tramway during spring, sum-  
8 mer, and fall.

9 (5) "Passenger" means any person who is lawfully using an aerial pas-  
10 senger tramway or is waiting to embark or has recently disembarked from an  
11 aerial passenger tramway and is in its immediate vicinity.

12 6-3303. DUTIES OF MOUNTAIN OPERATORS WITH RESPECT TO MOUNTAIN AR-  
13 EAS. Every mountain operator shall have the following duties with respect to  
14 operation of a mountain area:

15 (1) To maintain one (1) or more trail boards at prominent locations at  
16 each mountain area displaying that area's network of trails;

17 (2) To post a sign at the bottom of all aerial passenger tramways that  
18 advises the passengers to seek advice if not familiar with riding the aerial  
19 passenger tramway; and

20 (3) To not intentionally or negligently cause injury to any person;  
21 provided, that except for the duties of the operator set forth in this sec-  
22 tion and in section 6-3204, Idaho Code, the mountain operator shall have no  
23 duty to eliminate, alter, control, or lessen the risks inherent in the sport  
24 of bicycling that include but are not limited to those described in section  
25 6-3206, Idaho Code; and, provided further, that no activities undertaken by  
26 the mountain operator in an attempt to eliminate, alter, control, or lessen  
27 such risks shall be deemed to impose on the mountain operator any duty to  
28 accomplish such activities to any standard of care.

29 6-3304. DUTIES OF MOUNTAIN OPERATORS WITH RESPECT TO AERIAL PASSENGER  
30 TRAMWAYS. Every mountain operator shall have the duty to construct, oper-  
31 ate, maintain, and repair any aerial passenger tramway in accordance with  
32 the American national standards safety requirements for aerial passenger  
33 tramways.

34 6-3305. DUTIES OF PASSENGERS. Every passenger shall have the duty to  
35 not:

36 (1) Board or embark upon or disembark from an aerial passenger tramway  
37 except at an area designated for such purpose;

38 (2) Drop, throw, or expel any object from an aerial passenger tramway;

39 (3) Perform any act that interferes with the running or operation of an  
40 aerial passenger tramway;

41 (4) Use any aerial passenger tramway if the passenger does not have the  
42 ability to use it safely without instruction, until the passenger has re-  
43 quested and received sufficient instruction to permit safe usage;

44 (5) Embark on an aerial passenger tramway without the authority of the  
45 mountain operator; or

46 (6) Use any aerial passenger tramway without engaging such safety or  
47 restraining devices as may be provided.

1           6-3306. DUTIES OF BICYCLISTS. (1) It is recognized that bicycling as a  
2 recreational sport is hazardous, regardless of all feasible safety measures  
3 that can be taken.

4           (2) Each bicyclist expressly assumes the risk of and legal responsi-  
5 bility for any injury to person or property that results from participation  
6 in the sport of bicycling, including any injury caused by but not limited  
7 to the following: uneven or slippery trail and feature conditions, vary-  
8 ing slopes and terrain, bumps, stumps, trees, roots, forest growth, cliffs,  
9 rock and rock drops, loose gravel and dirt, wet surfaces, holes and potholes,  
10 downed timber, debris, depressions, other bicycles, dark tunnels, jumps,  
11 dirt and wood features and other constructed features, lift loading and un-  
12 loading, padded and nonpadded barriers, paved surfaces, collisions with ve-  
13 hicles owned or operated by individuals or entities other than the mountain  
14 operator, other bicyclists, pedestrians, wildlife, objects or heavy equip-  
15 ment, and mechanical or other failure of rental or personal equipment not in-  
16 cluding equipment rented out by the mountain operator.

17           (3) Each bicyclist shall have the sole individual responsibility for  
18 knowing the range of his own ability to negotiate any trail, and it shall be  
19 the duty of each bicyclist to bicycle within the limits of the bicyclist's  
20 own ability, to maintain reasonable control of speed and course at all times  
21 while bicycling, to heed all posted warnings and safety requirements, to bi-  
22 cycle only on a bicycling area designated by the mountain operator, and to  
23 refrain from acting in a manner that may cause or contribute to the injury of  
24 anyone. The responsibility for collisions by any bicyclist while actually  
25 bicycling, with any person, shall be solely that of the individual or indi-  
26 viduals involved in such collision and not that of the mountain operator.

27           (4) No person shall place any object in the mountain area or on the up-  
28 hill track of any aerial passenger tramway that may cause a passenger or bi-  
29 cyclist to fall; cross the track of any T-bar lift, J-bar lift, platter lift  
30 or similar device, a fiber rope or wire rope tow, and a conveyor, except at  
31 a designated location; or depart when involved in a bicycling accident from  
32 the scene of the accident without leaving personal identification, includ-  
33 ing name and address, before notifying the proper authorities or obtaining  
34 assistance when that person knows that any other person involved in the acci-  
35 dent is in need of medical or other assistance.

36           6-3307. LIABILITY OF MOUNTAIN OPERATORS. Any mountain operator shall  
37 be liable for loss or damages caused by its failure to follow the duties set  
38 forth in sections 6-3303 and 6-3304, Idaho Code, where the violation of duty  
39 is causally related to the loss or damage suffered. The mountain operator  
40 shall not be liable to any passenger or bicyclist acting in violation of its  
41 duties as set forth in sections 6-3305 and 6-3306, Idaho Code, where the vio-  
42 lation of duty is causally related to the loss or damage suffered; nor shall  
43 a mountain operator be liable for any injury or damage to a person who is not  
44 legally entitled to be in the mountain area, or for any loss or damages caused  
45 by any object dropped, thrown, or expelled by a passenger from an aerial pas-  
46 senger tramway.

47           6-3308. LIABILITY OF PASSENGERS. Any passenger shall be liable for  
48 loss or damages resulting from violations of the duties set forth in section

1 6-3305, Idaho Code, and shall not be able to recover from the mountain opera-  
2 tor for any losses or damages where the violation of duty is causally related  
3 to the loss or damage suffered.

4 6-3309. LIABILITY OF BICYCLISTS. Any bicyclist shall be liable for  
5 loss or damages resulting from violations of the duties set forth in section  
6 6-3306, Idaho Code, and shall not be able to recover from the mountain opera-  
7 tor for any losses or damages where the violation of duty is causally related  
8 to the loss or damage suffered.