

# HOUSE BILL No. 4692

May 2, 2013, Introduced by Rep. McMillin and referred to the Committee on Regulatory Reform.

A bill to amend 1962 PA 199, entitled "Ski area safety act of 1962," by amending the title and sections 2, 6, 8, 9, 11, 13, 14, 15, 16, 17, and 20 (MCL 408.322, 408.326, 408.328, 408.329, 408.331, 408.333, 408.334, 408.335, 408.336, 408.337, and 408.340), the title and section 2 as amended by 1995 PA 120 and sections 6 and 20 as amended by 1981 PA 86; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

### TITLE

2

An act to provide for the inspection, licensing, and regulation of ski areas and ski lifts; to provide for the safety of skiers, spectators, and the public using ski areas; to provide for certain presumptions relative to liability for an injury or damage sustained by skiers; to prescribe the duties of skiers and ski area operators; ~~to create a ski area safety board;~~ **TO PROVIDE FOR THE POWERS AND DUTIES OF CERTAIN STATE GOVERNMENTAL OFFICERS AND**

8

1 **ENTITIES;** to provide for the disposition of revenues; to provide  
 2 for liability for damages ~~which~~ **THAT** result from a violation of  
 3 this act; **AND** to provide ~~civil fines for certain violations of this~~  
 4 ~~act; and to provide criminal~~ **REMEDIES AND** penalties. ~~for certain~~  
 5 ~~violations of this act.~~

6 Sec. 2. As used in this act:

7 ~~—— (a) "Board" means the ski area safety board.~~

8 **(A)** ~~(b)~~ "Commissioner" means the director of ~~eommerce~~ **THE**  
 9 **DEPARTMENT** or ~~an~~ **HIS OR HER** authorized representative. ~~of the~~  
 10 ~~director.~~

11 **(B)** ~~(c)~~ "Department" means the ~~state~~ department of ~~eommerce~~.  
 12 **LICENSING AND REGULATORY AFFAIRS.**

13 **(C)** ~~(d)~~ "Operator" means ~~a~~ **THIS STATE, A POLITICAL SUBDIVISION**  
 14 **OF THIS STATE, OR ANY** person ~~who~~ **THAT** owns or controls, or ~~who~~ **THAT**  
 15 has operational responsibility for, a ski area or ski lift. ~~An~~  
 16 ~~operator includes this state or a political subdivision of this~~  
 17 ~~state.~~

18 **(D)** ~~(e)~~ "Passenger" means ~~a person,~~ **AN INDIVIDUAL**, skier or  
 19 nonskier, who boards, disembarks from, or is transported by a ski  
 20 lift, regardless of whether the ski lift is being used during the  
 21 skiing season or nonskiing season, and includes ~~a person~~ **AN**  
 22 **INDIVIDUAL WHO IS** waiting for or moving away from the loading or  
 23 unloading point of a ski lift.

24 **(E)** ~~(f)~~ "Ski area" means an area used for skiing and served by  
 25 1 or more ski lifts.

26 **(F)** ~~(g)~~ "Skier" means ~~a person~~ **AN INDIVIDUAL WHO IS** wearing  
 27 skis or utilizing a device that attaches to at least 1 foot or the

1 lower torso for the purpose of sliding on a slope; ~~the device~~  
 2 **THAT** slides on the snow or other surface of a slope; and **THAT** is  
 3 capable of being maneuvered and controlled by the person using the  
 4 device. Skier includes ~~a person~~ **AN INDIVIDUAL WHO IS** not wearing  
 5 skis or a skiing device while ~~the person~~ **HE OR SHE** is in a ski area  
 6 for the purpose of skiing.

7 (G) ~~(h)~~ "Ski lift" means a device for transporting ~~persons~~  
 8 **INDIVIDUALS** uphill on skis, ~~or~~ in cars on tracks, or suspended in  
 9 the air by the use of cables, chains, belts, or ropes, and usually  
 10 supported by trestles or towers with 1 or more spans. Ski lift  
 11 includes a rope tow.

12 Sec. 6. (1) The ~~board~~ **COMMISSIONER** shall promulgate rules for  
 13 the safe construction, installation, repair, use, operation,  
 14 maintenance, and inspection of all ski areas and ski lifts as the  
 15 ~~board~~ **COMMISSIONER** finds necessary for protection of the general  
 16 public while using ski areas and ski lifts. The rules shall be  
 17 reasonable, ~~and based upon~~ **ON** generally accepted engineering  
 18 standards, formulas, and practices, **AND PROMULGATED UNDER THE**  
 19 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**  
 20 **24.328.**

21 (2) The ~~board, with the advice of the commissioner,~~ shall  
 22 propose legislation to establish ~~the~~ **A** fee schedule for permits,  
 23 inspections, and plan review activities. The fees shall reflect the  
 24 actual costs and expenses of the department for issuing permits and  
 25 conducting inspections and plan reviews.

26 Sec. 8. The commissioner, ~~subject to the limitations herein~~  
 27 ~~contained and the rules and regulations of the board,~~ shall

1 administer and enforce the provisions of this act.

2       Sec. 9. ~~No~~**A** person shall **NOT** operate a ski lift without a  
3 permit issued by the commissioner. On or before October 1 of each  
4 year, an operator shall apply for a permit to the commissioner on a  
5 form furnished by the commissioner and containing ~~such~~**THE**  
6 information ~~as the board may require. All~~**REQUIRED BY THE**  
7 **DEPARTMENT. A** ski lifts **LIFT** shall be inspected before ~~they are~~**IT**  
8 **IS** originally put into operation for the public's use and  
9 ~~thereafter~~ at least once every 12 months **WHILE IN OPERATION**, unless  
10 ~~permitted to operate~~**OPERATION OF THE LIFT IS AUTHORIZED** on a  
11 temporary permit.

12       Sec. 11. If, ~~upon~~**AFTER** inspection, a ski lift is found to  
13 comply with the rules ~~and regulations of the board,~~**COMMISSIONER,**  
14 the commissioner shall issue a permit to operate. A permit shall  
15 expire on September 30 of the following year.

16       Sec. 13. The commissioner ~~or board~~ may order, in writing, a  
17 temporary cessation of operation of a ski lift if it ~~has been~~**IS**  
18 determined after inspection to be hazardous or unsafe. Operation **OF**  
19 **THE SKI LIFT** shall not resume until ~~such conditions are~~**THE**  
20 **HAZARDOUS OR UNSAFE CONDITION IS** corrected to the satisfaction of  
21 the commissioner. ~~or board.~~

22       Sec. 14. This act ~~shall not be construed to~~**DOES NOT** prevent  
23 the use of any existing ~~installation, upon inspection found to be~~  
24 **SKI LIFT IF AN INSPECTION FINDS THE RIDE IS** in a safe condition and  
25 ~~to conform with~~**CONFORMS TO** the rules ~~and regulations of the board.~~  
26 **COMMISSIONER.**

27       Sec. 15. If there are practical difficulties or unnecessary

1 hardships for an operator to comply with the rules and regulations  
 2 under this act, the commissioner ~~, with the approval of the board,~~  
 3 may modify the application of ~~such~~ **THOSE** rules ~~or regulations to~~  
 4 ~~such a~~ **THE OPERATOR'S** situation, if the spirit of the provisions  
 5 ~~shall be~~ **RULES ARE** observed and the public safety is secured. Any  
 6 operator may make a written request to the ~~board~~ **DEPARTMENT** stating  
 7 ~~his~~ **ITS** grounds and applying for ~~such a~~ **A** modification **DESCRIBED IN**  
 8 **THIS SECTION**. Any authorization by the commissioner ~~and the board~~  
 9 **UNDER THIS SECTION** shall be in writing and shall describe the  
 10 conditions under which the modification is permitted. ~~A~~ **THE**  
 11 **DEPARTMENT SHALL KEEP A** record of all modifications ~~shall be kept~~  
 12 ~~in the department and~~ **UNDER THIS SECTION THAT IS** open to the  
 13 public.

14 Sec. 16. (1) ~~(a) An application for a permit shall be~~  
 15 ~~accompanied by fees of:~~ **APPLICANT FOR AN ANNUAL PERMIT UNDER THIS**  
 16 **ACT SHALL SUBMIT 1 OF THE FOLLOWING FEES WITH THE APPLICATION,**  
 17 **WHICHEVER IS GREATER:**

18 (A) **AN ANNUAL PERMIT FEE OF \$25.00.** ~~for an annual permit, or~~

19 (B) **AN ANNUAL FEE THAT IS EQUAL TO THE SUM OF ALL OF THE**  
 20 **FOLLOWING:**

21 (i) ~~\$2.00 for~~ **FOR** each rope tow, **\$2.00.**

22 (ii) ~~\$5.00 for~~ **FOR** each T bar, J bar, or platter pull, **\$5.00.**

23 (iii) ~~\$15.00 for~~ **FOR** each chair lift or skimobile, ~~and~~ **\$15.00.**

24 (iv) ~~\$30.00 for~~ **FOR** each aerial tramway, **\$30.00.**

25 ~~— if greater than the \$25.00 annual permit fee.~~

26 (C) ~~(b) Inspection fees shall be~~ **UNDER THIS ACT ARE** as  
 27 follows:

(i) ~~\$8.00 for~~ **FOR** each rope tow, **\$8.00.**

(ii) ~~\$20.00 for~~ **FOR** each T bar, J bar, or platter pull, **\$20.00.**

(iii) ~~\$60.00 for~~ **FOR** each chair lift or skimobile, **\$60.00.**

(iv) ~~\$120.00 for~~ **FOR** each aerial tramway, ~~and~~ **\$120.00.**

(v) ~~\$50.00 for reinspections or special inspections~~ **FOR A REINSPECTION OR SPECIAL INSPECTION** at an operator's request, **\$50.00.**

(2) ~~Any~~ **AN** operator may employ any person, ~~partnership or corporation, approved by the commissioner and board,~~ to make the inspections. ~~Inspections~~ **AN INSPECTION. AN INSPECTION** made by ~~any~~ **A** person, ~~partnership, or corporation, that may be employed~~ **OR ENGAGED** by an operator, ~~shall be on forms~~ **A FORM** furnished or approved by the department. ~~Inspection fees shall be waived when~~ **THE DEPARTMENT SHALL WAIVE THE INSPECTION FEE IF** the annual permit application is accompanied by ~~such an inspection report~~ **DESCRIBED IN THIS SUBSECTION.**

(3) ~~(c) Fees~~ **THE FEE** for review and approval of plans ~~prior to~~ before construction ~~shall be~~ **IS** \$200.00 for a chair lift, T bar, J bar, platter pull, or tramway.

(4) ~~Fees~~ **THE FEE** for review and approval of plans for modification and alteration of an existing lift ~~shall be~~ **IS** \$50.00.

(5) ~~(d) Fees~~ **DESCRIBED IN THIS SECTION** shall be paid to the department. ~~, which shall give receipts therefor.~~ **THE DEPARTMENT SHALL PROVIDE A RECEIPT FOR ANY FEE PAID.**

Sec. 17. The department, ~~with the advice and consent of the board,~~ shall employ or retain ~~a person~~ **AN INDIVIDUAL WHO IS** qualified in engineering and training ~~who shall be designated~~ **AND**

1 **DESIGNATE HIM OR HER AS THE** chief inspector. The chief inspector  
 2 and ~~such~~**ANY** additional inspectors and other employees as ~~may be~~  
 3 the department determines are necessary to properly administer this  
 4 act may be hired on a temporary basis or borrowed from other state  
 5 departments, or the department may contract with ~~persons,~~  
 6 ~~partnerships or corporations for such~~ **A PERSON TO PROVIDE**  
 7 inspection services on an independent basis.

8       Sec. 20. ~~(1) Except for sections 21 to 24, and except as~~  
 9 ~~provided in subsection (2), a~~ **A** person ~~who~~ **THAT** violates this act,  
 10 or a rule or order promulgated or issued ~~pursuant to~~ **UNDER** this  
 11 act, or a person who interferes with, impedes, or obstructs the  
 12 commissioner ~~,~~**OR** an authorized representative of the commissioner  
 13 ~~, or a board member~~ in the performance of duties prescribed ~~by~~  
 14 **UNDER** this act, is guilty of a misdemeanor. Each day a violation or  
 15 other act continues ~~shall be considered~~ **IS** a separate offense.

16 ~~—— (2) A member of the board who intentionally violates section~~  
 17 ~~5(1) shall be subject to the penalties prescribed in Act No. 267 of~~  
 18 ~~the Public Acts of 1976, as amended.~~

19 ~~—— (3) Not more than 270 days after the effective date of this~~  
 20 ~~subsection, the board shall, pursuant to section 7, promulgate~~  
 21 ~~rules consistent with this act to implement this act, except for~~  
 22 ~~subsection (2) and sections 21, 22, 23, and 24, not to exceed~~  
 23 ~~\$50.00 for each violation.~~

24       Enacting section 1. Sections 3, 4, 5, and 7 of the ski area  
 25 safety act of 1962, 1962 PA 199, MCL 408.323, 408.324, 408.325, and  
 26 408.327, are repealed.