SKI AREA SAFETY ACT OF 1962

Act 199 of 1962

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 disposition of revenues; to provide for liability for damages which result from a violation of this act; to provide civil fines for certain violations of this act; and to provide criminal penalties for certain violations of this act.

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1981, Act 86, Imd. Eff. July 2, 1981 ;-- Am. 1995, Act 120, Imd. Eff. June 30, 1995
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled MCL 338.3501 of the Michigan Compiled Laws.

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The People of the State of Michigan enact:

408.321 Ski area safety act of 1962; short title.

Sec. 1.

This act shall be known and may be cited as the "ski area safety act of 1962".

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.322 Definitions.

Sec. 2.

As used in this act:

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

(b) "Commissioner" means the director of commerce or an authorized representative of the director.

(c) "Department" means the state department of commerce.

(d) "Operator" means a person who owns or controls, or who has operational responsibility for, a ski area or ski lift. An operator includes this state or a political subdivision of this state.

(e) "Passenger" means a person, skier or nonskier, who boards, disembarks from, or is transported by a ski lift, regardless of whether the ski lift is being used during the skiing season or nonskiing season, and includes a person waiting for or moving away from the loading or unloading point of a ski lift.

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

(g) "Skier" means a person wearing skis or utilizing a device that attaches to at least 1 foot or the lower torso for the purpose of sliding on a slope. The device slides on the snow or other surface of a slope and is capable of being maneuvered and controlled by the person using the device. Skier includes a person not wearing skis or a skiing device while the person is in a ski area for the purpose of skiing.

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

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1976, Act 364, Imd. Eff. Dec. 23, 1976 ;-- Am. 1981, Act 86, Imd. Eff. July 2, 1981 ;-- Am. 1995, Act 120, Imd. Eff. June 30, 1995
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of

Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.323 Ski area safety board; creation; composition; qualifications; ex officio members.

Sec. 3.

A ski area safety board consisting of 7 members is created within the office of the commissioner. The board consists of 3 ski area managers, 1 from the Upper Peninsula and 2 from the Lower Peninsula; 1 engineer with skiing experience; 1 member of the central United States ski association, a nonprofit corporation; 1 person with skiing experience from the Upper Peninsula representing the general public; and 1 with skiing experience from the Lower Peninsula representing the general public. The commissioner and an officer of the Michigan tourist council are ex officio members of the board without vote.

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1976, Act 364, Imd. Eff. Dec. 23, 1976
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.For the transfer of the ski area safety board to the department of licensing and regulatory affairs by type II transfer and the abolishment of the ex-officio seats of the commissioner and officer of the Michigan tourist council, see E.R.O. No. 2024-2, compiled at MCL 16.735.

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408.324 Ski area safety board; appointment and terms of members; vacancies.

Sec. 4.

Members of the board shall be appointed by the governor with the advice and consent of the senate for terms of 4 years and until their successors are appointed and qualified. Vacancies in the board shall be filled for the unexpired term.

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1976, Act 364, Imd. Eff. Dec. 23, 1976
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.325 Ski area safety board; conducting business at public meeting; notice; election of chairperson and other officers; quorum; meetings; compensation and expenses.

Sec. 5.

(1) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The board shall elect a chairperson and other officers it considers necessary to perform its duties between meetings. A majority of the 7 voting members shall constitute a quorum. The board shall meet not less than once yearly on the call of the chairperson or by written request of not less than 3 members.

(2) The per diem compensation of the members of the board, other than the commissioner, and the schedule for reimbursement of expenses shall be established annually by the legislature.

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1976, Act 364, Imd. Eff. Dec. 23, 1976 ;-- Am. 1978, Act 178, Imd. Eff. June 4, 1978
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled

Laws.

408.326 Rules; proposed legislation establishing fee schedule.

Sec. 6.

(1) The board shall promulgate rules for the safe construction, installation, repair, use, operation, maintenance, and inspection of all ski areas and ski lifts as the board finds necessary for protection of the general public while using ski areas and ski lifts. The rules shall be reasonable and based upon generally accepted engineering standards, formulas, and practices.

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

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1976, Act 364, Imd. Eff. Dec. 23, 1976 ;-- Am. 1981, Act 86, Imd. Eff. July 2, 1981
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Admin Rule: R 408.61 et seq. of the Michigan Administrative Code.

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408.326a Duties of ski area operator.

Sec. 6a.

Each ski area operator shall, with respect to operation of a ski area, do all of the following:

(a) Equip each snow-grooming vehicle and any other authorized vehicle, except a snowmobile, with a flashing or rotating yellow light conspicuously located on the vehicle, and operate the flashing or rotating yellow light while the vehicle is moving on, or in the vicinity of, a ski run. A snowmobile operated in a ski area shall be operated with at least 1 operating white light located on the front of the snowmobile.

(b) Mark with a visible sign or other warning device the location of any hydrant or similar fixture or equipment used in snow-making operations located on a ski run, as prescribed by rules promulgated under section 20(3).

(c) Mark the top of or entrance to each ski run, slope, and trail to be used by skiers for the purpose of skiing, with an appropriate symbol indicating the relative degree of difficulty of the run, slope, or trail, using a symbols code prescribed by rules promulgated under section 20(3).

(d) Mark the top of or entrance to each ski run, slope, and trail which is closed to skiing, with an appropriate symbol indicating that the run, slope, or trail is closed, as prescribed by rules promulgated under section 20(3).

(e) Maintain 1 or more trail boards at prominent locations in each ski area displaying that area's network of ski runs, slopes, and trails and the relative degree of difficulty of each ski run, slope, and trail, using the symbols code required under subdivision (c) and containing a key to that code, and indicating which runs, slopes, and trails are open or closed to skiing.

(f) Place or cause to be placed, if snow-grooming or snow-making operations are being performed on a ski run, slope, or trail while the run, slope, or trail is open to the public, a conspicuous notice at or near the top of or entrance to the run, slope, or trail indicating that those operations are being performed.

(g) Post the duties of skiers and passengers as prescribed in sections 21 and 22 and the duties, obligations, and liabilities of operators as prescribed in this section in and around the ski area in conspicuous places open to the public.

(h) Maintain the stability and legibility of all required signs, symbols, and posted notices.

History: Add. 1981, Act 86, Imd. Eff. July 2, 1981
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Admin Rule: R 408.61 et seq. of the Michigan Administrative Code.

408.327 Promulgation of rules.

Sec. 7.

The rules shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1976, Act 364, Imd. Eff. Dec. 23, 1976
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Admin Rule: R 408.61 et seq. of the Michigan Administrative Code.

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408.328 Commissioner of labor; administration of act.

Sec. 8.

The commissioner, subject to the limitations herein contained and the rules and regulations of the board, shall administer and enforce the provisions of this act.

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.329 Ski lifts; permits requirement, inspection.

Sec. 9.

No person shall operate a ski lift without a permit issued by the commissioner. On or before October 1 of each year an operator shall apply for a permit to the commissioner on a form furnished by the commissioner and containing such information as the board may require. All ski lifts shall be inspected before they are originally put into operation for the public's use and thereafter at least once every 12 months, unless permitted to operate on a temporary permit.

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.330 Ski lifts; temporary permits.

Sec. 10.

The commissioner may issue a temporary permit for 30 calendar days to an operator, who has previously been operating in this state on a regular or annual basis, to continue operation. An inspection of his ski lifts shall be made within 30 days from the issuance of the permit. A ski lift inspected and covered by a permit in the preceding year may operate on a temporary basis until further inspected.

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.331 Ski lifts; permits, issuance, expiration.

Sec. 11.

If upon inspection a ski lift is found to comply with the rules and regulations of the board, the commissioner shall issue a permit to operate. A permit shall expire on September 30 of the following year.

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

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408.332 Ski lifts; erection, alteration, moving, plans and specifications; rope tows.

Sec. 12.

Before a new ski lift is erected, or before a presently existing ski lift is moved to a different location, or whenever any additions or alterations are made which change the structure, mechanism, classification or capacity of any ski lift, the operator shall file with the department detailed, duplicate plans and specifications of such work. The plans and specifications shall be prepared by a qualified tramway firm or by an engineer, licensed in this state as a professional engineer, in accordance with Act No. 240 of the Public Acts of 1937, as amended, being sections 338.551 to 338.576 of the Compiled Laws of 1948. Upon approval of plans and specifications, the department shall issue a permit for such work. All rope tows shall be excluded from this section.

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.333 Ski lifts; order to cease operation.

Sec. 13.

The commissioner or board may order, in writing, a temporary cessation of operation of a ski lift if it has been determined after inspection to be hazardous or unsafe. Operation shall not resume until such conditions are corrected to the satisfaction of the commissioner or board.

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.334 Ski lifts; existing installations.

Sec. 14.

This act shall not be construed to prevent the use of any existing installation, upon inspection found to be in a safe condition and to conform with the rules and regulations of the board.

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.335 Ski lifts; rules and regulations, modification for hardship, record.

Sec. 15.

If there are practical difficulties or unnecessary hardships for an operator to comply with the rules and regulations under this act, the commissioner, with the approval of the board, may modify the application of such rules or regulations to such a situation, if the spirit of the provisions shall be observed and the public safety is secured. Any operator may make a written request to the board stating his grounds and applying for such modification. Any authorization by the commissioner and the board shall be in writing and shall describe the conditions under which the modification is permitted. A record of all modifications shall be kept in the department and open to the public.

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History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.336 Ski lifts; fees.

Sec. 16.

(a) An application for a permit shall be accompanied by fees of:
$25.00 for an annual permit; or
$2.00 for each rope tow,
$5.00 for each T bar, J bar or platter pull,
$15.00 for each chair lift or skimobile, and
$30.00 for each aerial tramway,
if greater than the $25.00 annual permit fee.
(b) Inspection fees shall be as follows:
$8.00 for each rope tow,
$20.00 for each T bar, J bar or platter pull,
$60.00 for each chair lift or skimobile,
$120.00 for each aerial tramway, and
$50.00 for reinspections or special inspections at an operator's request.

Any operator may employ any person, partnership or corporation, approved by the commissioner and board, to make the inspections. Inspections made by any person, partnership, or corporation, that may be employed by an operator, shall be on forms furnished or approved by the department. Inspection fees shall be waived when the annual permit application is accompanied by such an inspection report.

(c) Fees for review and approval of plans prior to construction shall be $200.00 for a chair lift, T bar, J bar, platter pull or tramway.

Fees for review and approval of plans for modification and alteration of an existing lift shall be $50.00.

(d) Fees shall be paid to the department, which shall give receipts therefor.

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1964, Act 130, Eff. Aug. 28, 1964
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of

Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.337 Chief inspector; inspection service.

Sec. 17.

The department, with the advice and consent of the board, shall employ or retain a person qualified in engineering and training who shall be designated chief inspector. The chief inspector and such additional inspectors and other employees as may be necessary to properly administer this act may be hired on a temporary basis or borrowed from other state departments, or the department may contract with persons, partnerships or corporations for such inspection services on an independent basis.

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

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408.338 Revenue; disbursements.

Sec. 18.

All fees for permits or inspections, or any other income received under this act, shall be paid into the general fund. All salaries and other moneys expended under this act shall be paid by the state treasurer from a fund appropriated by the legislature.

History: 1962, Act 199, Imd. Eff. June 7, 1962
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.339 Notice of public hearing.

Sec. 19.

(1) In addition to the notice prescribed in section 5(1) notice of a public hearing held under this act shall be published not less than once and not less than 10 days before the hearing, in newspapers of general circulation prescribed by the commissioner.

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1978, Act 178, Imd. Eff. June 4, 1978
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.340 Violations; penalties; rules.

Sec. 20.

(1) Except for sections 21 to 24, and except as provided in subsection (2), a person who violates this act, or a rule or order promulgated or issued pursuant to this act, or a person who interferes with, impedes, or obstructs the commissioner, an authorized representative of the commissioner, or a board member in the performance of duties prescribed by this act, is guilty of a misdemeanor. Each day a violation or other act continues shall be considered a separate offense.

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

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

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1978, Act 178, Imd. Eff. June 4, 1978 ;-- Am. 1981, Act 86, Imd. Eff. July 2, 1981
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

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408.341 Skier conduct; prohibited conduct in ski area.

Sec. 21.

(1) A skier shall conduct himself or herself within the limits of his or her individual ability and shall not act or ski in a manner that may contribute to his or her injury or to the injury of any other person. A skier shall be the sole judge of his or her ability to negotiate a track, trail, or slope.

(2) While in a ski area, a skier or passenger shall not do any of the following:

(a) Board a ski lift which has been designated as closed.

(b) Wilfully board or embark upon, or disembark from, a ski lift, except at an area designated for those purposes.

(c) Intentionally drop, throw, or expel an object from a ski lift while riding on the lift.

(d) Do any act which interferes with the running or operation of a ski lift, such as, but not limited to: swinging or bouncing on an aerial lift, attempting to contact supporting towers, machinery, guides, or guards while riding on a ski lift; or skiing out of the designated ski track on a surface lift or tow.

(e) Use a ski lift, unless the skier or passenger has the ability to use the lift safely without instruction on use of the lift by a ski area owner, manager, operator, or employee, or unless the skier or passenger requests and receives instruction before entering the boarding area of the ski lift.

(f) Use a ski lift or ski without properly engaging and using ski restraining devices, brakes, or restraining straps.

History: 1962, Act 199, Imd. Eff. June 7, 1962 ;-- Am. 1981, Act 86, Imd. Eff. July 2, 1981
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.342 Duties of skier in ski area; acceptance of dangers.

Sec. 22.

(1) While in a ski area, each skier shall do all of the following:

(a) Maintain reasonable control of his or her speed and course at all times.

(b) Stay clear of snow-grooming vehicles and equipment in the ski area.

(c) Heed all posted signs and warnings.

(d) Ski only in ski areas which are marked as open for skiing on the trail board described in section 6a(e).

(2) Each person who participates in the sport of skiing accepts the dangers that inhere in that sport insofar as the dangers are obvious and necessary. Those dangers include, but are not limited to, injuries which can result from variations in terrain; surface or subsurface snow or ice conditions; bare spots; rocks, trees, and other forms of natural growth or debris; collisions with ski lift towers and their components, with other skiers, or with properly marked or plainly visible snow-making or snow-grooming equipment.

History: Add. 1981, Act 86, Imd. Eff. July 2, 1981
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.343 Accidents causing injury; notice; identification; misdemeanor; penalty.

Sec. 23.

(1) A skier involved in an accident causing an injury to another person shall to the extent that he or she is reasonably able to do so immediately notify the ski patrol or the operator, or law enforcement or emergency personnel, and shall clearly identify himself or herself. A skier who wilfully fails to give identification after involvement in a skiing accident with another person, or a skier who is reasonably able to do so who fails to notify the proper authorities or to obtain assistance when the skier knows that another person involved in the accident is in need of medical or other assistance, is guilty of a misdemeanor, punishable by imprisonment for not more than 30 days, or a fine of not more than $100.00, or both.

(2) A skier involved in an accident causing an injury to himself or herself, but not to another person, shall immediately notify the ski patrol or the operator, or law enforcement or emergency personnel, if the accident created a known hazardous condition in the area where the accident occurred.

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History: Add. 1981, Act 86, Imd. Eff. July 2, 1981
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

408.344 Violation of act; liability.

Sec. 24.

A skier or passenger who violates this act, or an operator who violates this act shall be liable for that portion of the loss or damage resulting from that violation.

History: Add. 1981, Act 86, Imd. Eff. July 2, 1981
Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.