

## **EAT, SLEEP, SKI AND LIABILITY?**

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The Massachusetts Ski Safety Act<sup>1</sup>, also known as “MSSA” provides the circumstances in which a ski area operator may be found liable to individuals injured while on the operator’s slopes. The statute requires ski operators to erect signs, mark and identify trail maintenance, emergency vehicles and snow making operations located on the trail. It also requires ski operators to provide the statute of limitations and notice period information on the back of any ski ticket issued by the operator.

In regards to skiers, MSSA imposes strict notice requirements and a short one-year statute of limitations period with regard to any claim against a ski area operator for injuries sustained while skiing. However, for accidents resulting in death, the longer statute of limitations associated with wrongful death actions under M.G.L. c. 229, § 2 applies as opposed to the one-year statute of limitations under MSSA. Also, for injuries sustained at a ski area, but not sustained while skiing, such as slip and fall inside the lodge, the short statute of limitations under MSSA does not apply.

One of the most important aspects of MSSA, is that it absolves ski area operators from injuries to persons or property that arise out of the risks inherent in the sport of skiing. The law imposes a duty on the skier to control one’s speed, avoid obstacles along the slope and avoid collisions with other skiers. The statute also absolves ski area operators from responsibility for collisions that occur between skiers and injuries sustained by skiers who do not remain on the designated ski trails. The law even goes as far as imposing a fine against any skier who commits a “hit and run”, that is, a skier who leaves after being involved in a collision without identifying himself or herself or seeking assistance for others involved in the accident who may be injured.

The two purposes of MSSA have been described by the courts as contradictory: 1) to limit the liability of ski operators thus, increasing the likelihood of their economic survival and 2) to ensure skier safety. Brush v. Jiminy Peak Mountain Resort, Inc., 626 F.Supp.2d 139, 147 (D. Mass. 2009). It follows that as we head into the winter season, skiers, operators and their insurers should familiarize themselves with the statutory scheme and the limitations and obligations imposed thereunder.

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<sup>1</sup> M.G.L. c. 143, §§ 71H-71S.