

34:4A-1 AT SEQ.

LEGISLATIVE HISTORY CHECKLIST

NJSA 34:4A-1 to 34:4A-15 ("Ski Lift Safety Act")

COPY NO. 2

Laws of 1975 Chapter 226

Bill No. A1222

Sponsor(s) Bornheimer

Date Introduced Feb. 15, 1974

Committee: Assembly Judiciary, Law Public Safety & Defense

Senate -----

Amended during passage Yes  Amendments during passage denoted by asterisks

Date of passage: Assembly May 13, 1974; re-enacted April 10, 1975

Senate June 13, 1974, re-enacted April 21, 1975

Date of approval Oct. 15, 1975

Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly  No

Senate  No

Fiscal Note Yes

Veto message Yes

Message on signing  No

Following were printed:

Reports  No

Hearings  No

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LAWS OF N J 1975

INTROD 10-15-75

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ASSEMBLY, No. 1222

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1974

By Assemblymen BORNHEIMER, FROUDE, KARCHER, OTLOWSKI, PATERO, CODEY and RUANE

Referred to Committee on Judiciary

AN ACT to promote safety in the construction, maintenance and operation of passenger tramways used in skiing, requiring the registration of such tramways and providing for the adoption and enforcement of rules and regulations pertaining thereto, supplementing Title 13 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State  
2 of New Jersey:

1 1. This act shall be known and may be cited as the "Ski Lift  
2 Safety Act."

1 2. It shall be the policy of the State of New Jersey to protect its  
2 citizens and visitors from unnecessary mechanical hazards in the  
3 operation of ski tows, lifts and tramways, to ensure that proper  
4 design and construction are used, that accepted safety devices and  
5 sufficient personnel are provided for, and that periodic inspections  
6 and adjustments are made which are deemed essential to the safe  
7 operation of ski tows, ski lifts and tramways. The primary  
8 responsibility for design, construction, maintenance and inspection  
9 rests with the operators of such passenger tramway devices. The  
10 State, through the Department of Labor and Industry, as herein-  
11 after provided, shall register all ski lift devices, establish reason-  
12 able standards of design and operational practices and make such  
13 independent inspections as may be necessary in carrying out this  
14 policy.

1 3. As used in this act, except where otherwise clearly required by  
2 the context,

3 a. "Passenger tramway" means a device used to transport  
4 passengers uphill, on skis or in cars on tracks or suspended in the  
5 air, by the use of steel cables, chains or belts or by ropes, and

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

6 usually supported by trestles or towers with one or more spans, and  
7 includes

8 (1) "aerial passenger tramway," a device used to transport  
9 passengers in two open or enclosed cars attached to and suspended  
10 from a moving wire rope, or attached to a moving wire rope and  
11 supported on a standing wire rope, or similar devices;

12 (2) "multicar aerial passenger tramway," a device used to  
13 transport passengers in several open or enclosed cars attached to  
14 and suspended from a moving wire rope, or attached to a moving  
15 wire rope and supported on a standing wire rope, or similar  
16 devices;

17 (3) "skimobile," a device in which a passenger car running on  
18 steel or wooden tracks is attached to and pulled by a steel cable, or  
19 similar devices;

20 (4) "chairlift," a type of transportation on which passengers  
21 are carried on chairs suspended in the air and attached to a moving  
22 cable, chain or link belt supported by trestles or towers with one or  
23 more spans, or similar devices;

24 (5) "J-bar," "T-bar," "poma lift" or "platter pull," so called  
25 and similar types of devices, being means of transportation which  
26 pull skiers riding on skis by means of an attachment to a main over-  
27 head cable supported by trestles or towers with one or more spans;

28 (6) "rope tow," a type of transportation which pulls the skiers  
29 riding on skis as the skier grasps the rope manually, or similar  
30 devices;

31 b. "Operator" means a person who owns, manages or directs the  
32 operation of a passenger tramway, and includes the State or any  
33 political subdivision or instrumentality thereof;

34 c. "Commissioner" means the Commissioner of the Department  
35 of Labor and Industry, or any officer or employee of the depart-  
36 ment assigned by him to carry out any of the functions, duties and  
37 powers conferred or imposed upon him by this act.

1 4. The commissioner may adopt and from time to time supple-  
2 ment, alter or repeal reasonable rules, regulations and codes re-  
3 lating to public safety in the construction, operation and mainte-  
4 nance of passenger tramways. Such rules, regulations and codes  
5 shall conform as nearly as practicable to established standards,  
6 if any, and shall not be discriminatory in their application to  
7 operators of passenger tramways. The procedures regarding such  
8 adoption, supplement, alteration or repeal shall conform to the  
9 applicable provisions of the "Administrative Procedure Act"  
10 (P. L. 1968, c. 410; C. 52:14B-1 et seq.). The commissioner shall  
11 cause the text of such rules, regulations and codes and of any

12 changes therein resulting from supplement, alteration or repeal  
13 from time to time to be published in pamphlet form and a copy  
14 thereof furnished without charge to each registered operator.  
15 Rules, regulations or codes adopted by the commissioner shall in  
16 no way reduce or diminish the standard of care imposed upon  
17 passenger tramway operators under existing law.

1 5. a. A passenger tramway shall not be operated in this State  
2 unless it has been registered by the commissioner, in the manner  
3 provided in this section.

4 b. On or before October 1 in 1974 and each year thereafter, every  
5 operator of a passenger tramway shall apply to the commissioner,  
6 on forms supplied by him, for registration of the passenger tram-  
7 way or tramways which such operator owns or manages or the  
8 operation of which he directs. The application shall contain such  
9 information as the commissioner may reasonably require in order  
10 for him to determine whether the passenger tramways sought to  
11 be registered comply with the intent of this act and the rules, regu-  
12 lations and codes adopted pursuant to this act.

13 c. The commissioner shall issue to the applying operator without  
14 delay registration certificates for each passenger tramway for  
15 which such registration is sought when he is satisfied.

16 (1) that the facts in the application are sufficient to enable him  
17 to fulfill his duties under this act; and

18 (2) that each such passenger tramway sought to be registered  
19 complies with the rules and regulations adopted pursuant to this  
20 act.

21 d. In order to satisfy himself that the conditions described in  
22 paragraphs (1) and (2) of subsection c. of this section have been  
23 fulfilled, the commissioner may cause to be made such inspections  
24 described in section 7 of this act as he may reasonably deem nec-  
25 essary.

26 e. When an operator installs a passenger tramway subsequent to  
27 October 1 of any year, such operator shall file a supplemental  
28 application for registration of such passenger tramway. Upon  
29 receipt of such supplemental application the commissioner shall  
30 proceed immediately to initiate proceedings leading to the regis-  
31 tration or rejection of registration of such passenger tramway  
32 pursuant to the provisions of this act.

33 f. Each registration shall expire on September 30 next following  
34 the day of issue.

35 g. Each operator shall cause the registration certificate for each  
36 passenger tramway thus registered to be displayed prominently at  
37 the place where passengers are loaded thereon.

38 \***h.** An application for registration or supplemental application  
39 shall be accompanied by the following annual fees :

40 (1) for each rope tow, \$10.00;

41 (2) for each J-bar, T-bar, poma lift or platter pull, so-called,  
42 \$25.00;

43 (3) for each chairlift or skimobile, \$50.00;

44 (4) for each aerial passenger tramway or multicar aerial  
45 passenger tramway, \$100.00.]\*

1 6. Before constructing a new or altering an existing passenger  
2 tramway the operator or prospective operator shall submit plans  
3 and specifications to the commissioner. The commissioner may  
4 make recommendations relative to the safety of the layout and  
5 equipment, but such recommendations shall not relieve the operator  
6 or prospective operator of his primary responsibility as set forth  
7 in section 2 of this act.

1 7. a. The commissioner may cause to be made such inspection  
2 of the construction, operation and maintenance of passenger tram-  
3 ways as he may reasonably require for the purpose of assuring  
4 compliance with the codes, rules and regulations adopted pursuant  
5 to this act. Certification of compliance by a qualified inspector  
6 who has been approved by the commissioner may be accepted in-  
7 stead of other inspection. In any legal proceedings, a certificate  
8 of compliance issued pursuant to this section shall be competent  
9 evidence only for the purpose of establishing the fact of issuance  
10 of said certificate, and for no other purpose.

11 \***b.** The expenses of such inspections shall be paid in the first  
12 instance by the commissioner from funds appropriated or other-  
13 wise made available for such purpose; but each operator of a  
14 passenger tramway so inspected shall, upon notification of the  
15 amount due, reimburse the State for the actual cost of such inspec-  
16 tion not exceeding \$5.00 per hour for each person employed in  
17 making such inspection.]\*

1 8. a. If as a result of an inspection it is found that there exists any  
2 violation of the rules, regulations or codes, adopted under this act,  
3 or that there exists a condition in passenger tramway construction,  
4 operation or maintenance endangering the safety of the public, an  
5 immediate report shall be made to the commissioner for appro-  
6 priate investigation and order.

7 b. Any person may make written complaint to the commissioner  
8 setting forth any thing or act claimed to be done or omitted to be  
9 done by any registered operator which is alleged to be in violation  
10 of any rule, regulation or code adopted under this act, or setting

11 forth any condition in passenger tramway construction, operation  
12 or maintenance which is alleged to endanger the safety of the pub-  
13 lic. Thereupon the commissioner shall cause a copy of said com-  
14 plaint to be forwarded to the registered operator complained of,  
15 which may be accompanied by an order requiring that the matters  
16 complained of be answered in writing within a time to be specified  
17 by the commissioner. The commissioner may investigate the matter  
18 complained of if it shall appear that there are reasonable grounds  
19 therefor.

20 c. If after investigation the commissioner finds that such a  
21 violation of rules, regulations or codes exists, or that there is a  
22 condition in passenger tramway construction, operation or mainte-  
23 nance endangering the safety of the public, he shall forthwith issue  
24 a written order setting forth his findings, the corrective action to  
25 be taken, and fixing a reasonable time for compliance therewith.  
26 Such order shall be served upon the operator involved by regis-  
27 tered mail, and shall become final, unless the operator shall apply  
28 to the commissioner for a hearing in the manner provided in this  
29 section.

30 d. When facts are presented to the commissioner tending to  
31 show that an unreasonable hazard exists in the continued operation  
32 of a tramway, he may, after such verification of the facts as is  
33 practical under the circumstances and consistent with the public  
34 safety, issue an emergency order requiring the operator of said  
35 tramway forthwith to cease using the same for the transportation  
36 of passengers. Such emergency order shall be in writing and notice  
37 thereof may be served by any person upon the operator or his  
38 agent immediately in control of said tramway by a true and at-  
39 tested copy of such order, the return of such service to be shown  
40 by an affidavit on the back thereof. Such emergency order shall be  
41 effective for a period not to exceed 48 hours from the time of ser-  
42 vice. Immediately after the issuance of an emergency order here-  
43 under, the commissioner shall conduct an investigation into the  
44 facts of the case as contemplated in subsection c. of this section and  
45 shall take such action under subsection c. as may be appropriate.

1 9. a. Any operator who is aggrieved by an order issued pursuant  
2 to subsection c. of section 8 of this act may, within 10 days after the  
3 service of such order, apply to the commissioner for a review of  
4 such order. It shall be the duty of the commissioner to provide  
5 such hearing at the earliest convenient day. At such hearing the  
6 operator shall have the right to be heard personally or by counsel,

7 to cross-examine witnesses appearing against him and to produce  
8 evidence in his own behalf. After such hearing the commissioner  
9 shall report his findings in writing and make such order as the  
10 facts may require. Such hearing and decision shall conform to  
11 the applicable provisions of the "Administrative Procedure Act"  
12 (P. L. 1968, c. 410; C. 52:14B-1 et seq.).

13 b. Any operator aggrieved by a decision of the commissioner  
14 after such hearing may, within \***[30]**\* \*45\* days after the effective  
15 date thereof, appeal therefrom to the Superior Court. No such  
16 appeal shall suspend the operation of an order made by the com-  
17 missioner; but the court may suspend such order pending deter-  
18 mination of the appeal whenever in the opinion of the court justice  
19 may require such suspension. The Superior Court shall hear the  
20 appeal at the earliest convenient day and shall make such decree  
21 as justice may require.

1 10. Any operator who operates a passenger tramway which has  
2 not been registered by the commissioner as provided in this act,  
3 or after its registration has been suspended or its operation for-  
4 bidden by a lawful order of the commissioner under this act, is a  
5 disorderly person and shall be subject to a fine of not more than  
6 \$50.00 or imprisonment for not more than 10 days, or both; and  
7 each day during which such illegal operation of a passenger tram-  
8 way continues shall constitute a separate offense.

1 11. If any operator fails to comply with a lawful order issued  
2 by the commissioner pursuant to the provisions of this act, the  
3 commissioner may order the operator to cease operations for such  
4 time as the commissioner considers necessary for the protection  
5 of the safety of the public.

1 12. The commissioner shall have the power to bring injunctive  
2 proceedings in any court of competent jurisdiction to compel com-  
3 pliance with any lawful order made by him pursuant to the pro-  
4 visions of this act.

1 \*13. Any operator who discharges or in any other manner dis-  
2 criminate against any employee because such employee has made  
3 any complaint to the commissioner regarding a violation of this  
4 act or any rule or regulation promulgated hereunder, or because  
5 such employee has caused to be instituted or is about to cause to  
6 be instituted any proceeding under or related to this act or any  
7 rule or regulation promulgated hereunder, or because such em-  
8 ployee has testified or is about to testify in any such proceeding,  
9 shall be guilty of a misdemeanor and shall, upon conviction there-  
10 for, be fined not less than \$50.00 nor more than \$200.00. Such

11 operator shall be required, as a condition of such judgment of  
12 conviction, to offer reinstatement in employment to any such dis-  
13 charged employee and to correct any such discriminatory action,  
14 and also to pay to any such employee, in full, all wages lost as a  
15 result of such discharge or discriminatory action.

1 14. In addition to any other sanctions herein or otherwise pro-  
2 vided by law, the commissioner, upon notice and hearing, may im-  
3 pose a penalty not exceeding \$500.00 for any violation of this act  
4 or of any rule or regulation promulgated hereunder. Unsatisfied  
5 penalties shall be recovered by and in the name of the commissioner  
6 in a civil action by a summary proceeding under the Penalty En-  
7 forcement Law (N. J. S. 2A:58-1). Where any violation of this  
8 act or of any rule or regulation promulgated hereunder is of a  
9 continuing nature, each day during which such violation continues  
10 after the date fixed by the commissioner in any order or notice for  
11 the correction or termination of such violation, shall constitute an  
12 additional, separate, and distinct offense.

1 15. The commissioner shall charge operators a reasonable fee  
2 for conducting inspections, processing applications, and meeting  
3 all other responsibilities under this act.\*

1 \***[13.]**\* \*16.\* This act shall take effect immediately and shall  
2 apply to the operation of all passenger tramways in this State after  
3 September 30, 1974. Passenger tramways in existence and actually  
4 operated during 1974 prior to September 30, 1974, may continue to  
5 operate without registration until final action is taken by the com-  
6 missioner upon the initial application for registration thereof pur-  
7 suant to section 5 of this act.



A 1222 (1974)

7

STATEMENT

This bill regulates the design, construction, operation and maintenance of ski tows, lifts and tramways, within this State by the annual registration of such devices with the Department of Labor and Industry. The registration would be in such a manner as to allow the commissioner of the regulatory department to insure that operators are complying with the rules, regulations and codes adopted pursuant to this act. The bill places the primary responsibility for design, construction, maintenance and inspection with the operators of the passenger tramways themselves; however, the commissioner is empowered, when he deems necessary to assure compliance, to cause inspections to be made, and when infractions are noted, to issue written orders directing corrective action to be taken; and in the event public safety is effected, to direct operation of the tramway to cease, pending a full investigation. The commissioner also has the power to bring injunctive proceedings in a court of competent jurisdiction. The penalty prescribed for each day of operation in violation of this act is \$50.00 and imprisonment for not more than 10 days, or both.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

April 7, 1975

ASSEMBLY BILL NO. 1222

To the General Assembly:

Pursuant to Article V, Section 1, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 1222, with my objections, for reconsideration.

This bill, entitled the "Ski Lift Safety Act", gives to the Commissioner of Labor and Industry the authority to regulate the design, construction, operation and maintenance of ski tows, lifts, and tramways within the State of New Jersey. Our ski industry is an important asset for the State. The increasing popularity of skiing requires that we make certain that the health and safety of our people are properly protected when engaging in this sport. Therefore, I agree with the objective of granting the Commissioner of Labor and Industry the authority to meet this responsibility.

While I support this concept, the bill itself raises technical questions in its present form. First, adequate enforcement of this law and its regulations can be assured if the Commissioner were given the authority to impose civil penalties through the administrative hearing process. Such an amendment would insure swift prosecution of violators in many cases and eliminate the need for adding a large number of cases to the work load of county prosecutors who must concern themselves with more serious criminal offenses. Second, the bill does not contain any protection for employees who bring violations to the attention of the Commissioner and are then subject to retaliation because of their action. Most of our existing labor and public safety laws already contain such a provision and I find no valid reason for an exception in this case. Third, it is impractical to set forth in legislation specific monetary amounts which the Commissioner of Labor and Industry can charge for processing registration applications or for conducting inspections. The Commissioner should be granted the authority to impose reasonable fees. His department will then be able to raise revenues which equal the costs of regulation without having to return to the Legislature each time to increase fees. Finally, while Supreme Court rules give a party 45 days within which to appeal the final action of a State administrative agency, this bill provides 30 days. I see no justification for different treatment in this area.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

Assembly Bill No. 1222

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For all of the foregoing reasons, I herewith return Assembly Bill No. 1222 for reconsideration with the recommendation that it be amended as follows:

1. Page 4, Section 6(h), lines 38-45: Delete from "h." to "\$100.00".
2. Page 4, Section 7(b), lines 11-17: Delete from "b." to "inspection".
3. Page 6, Section 9(b), line 14: Delete "30" and insert "45".
4. Page 6, Section 12, line 4: After "act" insert the following:

"13. Any operator who discharges or in any other manner discriminates against any employee because such employee has made any complaint to the Commissioner regarding a violation of this act or any rule or regulation promulgated hereunder, or because such employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this act or any rule or regulation promulgated hereunder, or because such employee has testified or is about to testify in any such proceeding, shall be guilty of a misdemeanor and shall, upon conviction therefor, be fined not less than \$50 nor more than \$200. Such operator shall be required, as a condition of such judgment of conviction, to offer reinstatement in employment to any such discharged employee and to correct any such discriminatory action, and also to pay to any such employee, in full, all wages lost as a result of such discharge or discriminatory action.

"14. In addition to any other sanctions herein or otherwise provided by law, the Commissioner, upon notice and hearing, may impose a penalty not exceeding \$500 for any violation of this act or of any rule or regulation promulgated hereunder. Unsatisfied penalties shall be recovered by and in the name of the Commissioner in a civil action by a summary proceeding under the Penalty

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

Assembly Bill No. 1222

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Enforcement Law (N.J.S. 2A:58-1). Where any violation of this act or of any rule or regulation promulgated hereunder is of a continuing nature, each day during which such violation continues after the date fixed by the Commissioner in any order or notice for the correction or termination of such violation, shall constitute an additional, separate, and distinct offense.

"15. The Commissioner shall charge operators a reasonable fee for conducting inspections, processing applications, and meeting all other responsibilities under this act."

5. Page 6, Section 13, line 1: Delete "13" and insert "16".

Respectfully,

/s/ Brendan T. Byrne

GOVERNOR

[ seal ]

Attest:

/s/ Donald Lan

EXECUTIVE SECRETARY TO THE GOVERNOR

FISCAL NOTE TO  
**ASSEMBLY, No. 1222**

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**STATE OF NEW JERSEY**

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DATED: MAY 13, 1974

Assembly Bill No. 1222 regulates the design, construction, operation and maintenance of ski tows, lifts and tramways, within this State by the annual registration of such devices with the Department of Labor and Industry.

The Division of Budget and Accounting estimates that enactment of this legislation would require a State expenditure of \$10,057.00 in fiscal 1974-75, \$7,349.00 in fiscal 1975-76 and \$7,759.00 in fiscal 1976-77.

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The fiscal note is based on an estimate of costs rather than actual cost information.

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In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.