

LexisNexis (TM) New Jersey Annotated Statutes

*** This section is current through New Jersey 216th Legislature ***
*** First Annual Session, 2014 c. 10 and J.R. 1 ***

TITLE 34. LABOR AND WORKERS' COMPENSATION
CHAPTER 4A. SKI LIFT SAFETY

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 34:4A-1 (2014)

§ 34:4A-1. Short title

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

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N.J. Stat. § 34:4A-2 (2014)

§ 34:4A-2. Public policy

It shall be the policy of the State of New Jersey to protect its citizens and visitors from unnecessary mechanical hazards in the operation of ski tows, lifts and tramways, to ensure that proper design and construction are used, that accepted safety devices and sufficient personnel are provided for, and that periodic inspections and adjustments are made which are deemed essential to the safe operation of ski tows, ski lifts and tramways. The primary responsibility for design, construction, maintenance and inspection rests with the operators of such passenger tramway devices. The State, through the Department of Labor and Industry, as hereinafter provided, shall register all ski lift devices, establish reasonable standards of design and operational practices and make such independent inspections as may be necessary in carrying out this policy.

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N.J. Stat. § 34:4A-3 (2014)

§ 34:4A-3. Definitions

As used in this act, except where otherwise clearly required by the context,

a. "Passenger tramway" means a device used to transport passengers uphill, on skis or in cars on tracks or suspended in the air, by the use of steel cables, chains or belts or by ropes, and usually supported by trestles or towers with one or more spans, and includes

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

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

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

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

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

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

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

c. "Commissioner" means the Commissioner of the Department of Labor and Industry, or any officer or employee of the department assigned by him to carry out any of the functions, duties and powers conferred or imposed upon him by this act.

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N.J. Stat. § 34:4A-4 (2014)

§ 34:4A-4. Rules, regulations and codes; publication; furnishing to registered operators

The commissioner may adopt and from time to time supplement, alter or repeal reasonable rules, regulations and codes relating to public safety in the construction, operation and maintenance of passenger tramways. Such rules, regulations and codes shall conform as nearly as practicable to established standards, if any, and shall not be discriminatory in their application to operators of passenger tramways. The procedures regarding such adoption, supplement, alteration or repeal shall conform to the applicable provisions of the "Administrative Procedure Act" (P.L.1968, c. 410; C. 52:14B-1 et seq.). The commissioner shall cause the text of such rules, regulations and codes and of any changes therein resulting from supplement, alteration or repeal from time to time to be published in pamphlet form and a copy thereof furnished without charge to each registered operator. Rules, regulations or codes adopted by the commissioner shall in no way reduce or diminish the standard of care imposed upon passenger tramway operators under existing law.

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N.J. Stat. § 34:4A-5 (2014)

§ 34:4A-5. Passenger tramway; registration; application; issuance; inspections; supplemental application; expiration; display

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

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

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

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

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

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

e. When an operator installs a passenger tramway subsequent to October 1 of any year, such operator shall file a supplemental application for registration of such passenger tramway. Upon receipt of such supplemental application the commissioner shall proceed immediately to initiate proceedings leading to the registration or rejection of registration of such passenger tramway pursuant to the provisions of this act.

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

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

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N.J. Stat. § 34:4A-6 (2014)

§ 34:4A-6. Construction of new or alteration of passenger tramway; submission of plans and specifications

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

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N.J. Stat. § 34:4A-7 (2014)

§ 34:4A-7. Inspection by commissioner or certification of compliance by qualified inspector

The commissioner may cause to be made such inspection of the construction, operation and maintenance of passenger tramways as he may reasonably require for the purpose of assuring compliance with the codes, rules and regulations adopted pursuant to this act. Certification of compliance by a qualified inspector who has been approved by the commissioner may be accepted instead of other inspection. In any legal proceedings, a certificate of compliance issued pursuant to this section shall be competent evidence only for the purpose of establishing the fact of issuance of said certificate, and for no other purpose.

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N.J. Stat. § 34:4A-8 (2014)

§ 34:4A-8. Violation of rules, regulations or code; report; complaint by any person; forwarding to operator; investigation; order; service; emergency order to stop operation

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

b. Any person may make written complaint to the commissioner setting forth any thing or act claimed to be done or omitted to be done by any registered operator which is alleged to be in violation of any rule, regulation or code adopted under this act, or setting forth any condition in passenger tramway construction, operation or maintenance which is alleged to endanger the safety of the public. Thereupon the commissioner shall cause a copy of said complaint to be forwarded to the registered operator complained of, which may be accompanied by an order requiring that the matters complained of be answered in writing within a time to be specified by the commissioner. The commissioner may investigate the matter complained of if it shall appear that there are reasonable grounds therefor.

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

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

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N.J. Stat. § 34:4A-9 (2014)

§ 34:4A-9. Operator aggrieved by order; application for review; hearing; decision; appeal

a. Any operator who is aggrieved by an order issued pursuant to subsection c. of section 8 of this act may, within 10 days after the service of such order, apply to the commissioner for a review of such order. It shall be the duty of the commissioner to provide such hearing at the earliest convenient day. At such hearing the operator shall have the right to be heard personally or by counsel, to cross-examine witnesses appearing against him and to produce evidence in his own behalf. After such hearing the commissioner shall report his findings in writing and make such order as the facts may require. Such hearing and decision shall conform to the applicable provisions of the "Administrative Procedure Act" (P.L.1968, c. 410; *C. 52:14B-1* et seq.).

b. Any operator aggrieved by a decision of the commissioner after such hearing may, within 45 days after the effective date thereof, appeal therefrom to the Superior Court. No such appeal shall suspend the operation of an order made by the commissioner; but the court may suspend such order pending determination of the appeal whenever in the opinion of the court justice may require such suspension. The Superior Court shall hear the appeal at the earliest convenient day and shall make such decree as justice may require.

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N.J. Stat. § 34:4A-10 (2014)

§ 34:4A-10. Illegal operation; penalty

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

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N.J. Stat. § 34:4A-11 (2014)

§ 34:4A-11. Failure of operator to comply with order; order for cessation of operation

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

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N.J. Stat. § 34:4A-12 (2014)

§ 34:4A-12. Injunctions to compel compliance

The commissioner shall have the power to bring injunctive proceedings in any court of competent jurisdiction to compel compliance with any lawful order made by him pursuant to the provisions of this act.

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N.J. Stat. § 34:4A-13 (2014)

§ 34:4A-13. Discharge or discrimination against employee due to actions to help enforce this act; penalties

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 \$ 50.00 nor more than \$ 200.00. 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.

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N.J. Stat. § 34:4A-14 (2014)

§ 34:4A-14. Violations; penalty

In addition to any other sanctions herein or otherwise provided by law, the commissioner, upon notice and hearing, may impose a penalty not exceeding \$ 500.00 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 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.

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N.J. Stat. § 34:4A-15 (2014)

§ 34:4A-15. Fees

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