

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S2/12/25

A Bill

SENATE BILL 203

By: Senator Hester

By: Representatives Maddox, McCollum

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING PUBLICITY AND TOURISM; TO AMEND THE LAW CONCERNING OUTDOOR RECREATION ACTIVITIES AND RECREATIONAL TRAMWAYS; TO CREATE A RECREATIONAL TRAMWAY SYSTEM FOR STATE PARKS AND FOR OTHER LOCATIONS IN THE STATE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING OUTDOOR RECREATION ACTIVITIES AND RECREATIONAL TRAMWAYS; AND TO CREATE A RECREATIONAL TRAMWAY SYSTEM FOR STATE PARKS AND FOR OTHER LOCATIONS IN THE STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 15, Chapter 11, is amended to add an additional subchapter to read as follows:

Subchapter 10 - Recreational Tramways

15-11-1001. Findings and intent.

(a) The General Assembly finds that outdoor recreational activities:

- (1) Are practiced by a large number of citizens of this state;
- (2) Attract a large number of nonresidents;
- (3) Significantly contribute to the economy of Arkansas;
- (4) Include inherent risks in participating that should be

understood by participants; and



(5) Have inherent risks that are essentially impossible to eliminate by outdoor recreation operators and recreational tramway operators.

(b) The General Assembly intends with this subchapter to define:

(1) The areas of responsibility and affirmative acts for which outdoor recreation area operators and tramway operators are liable for loss, damage, or injury; and

(2) The risks that a participant expressly assumes and for which there can be no recovery.

15-11-1002. Definitions.

As used in this subchapter:

(1) "ANSI Ski Lift Code" means the American National Standard Institute ANSI B77.1-2022: Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements, as published by the American National Standards Institute, including any supplements or revisions;

(2) "Outdoor recreation activity" includes the following activities:

(A) Biking and mountain biking;

(B) Rock climbing, rappelling, and similar activities in improved or natural areas;

(C) Canoeing, rafting, and kayaking;

(D) Hiking, backpacking, and camping; and

(E) Utilizing a recreational tramway;

(3) "Outdoor recreation area" means property owned or operated by an outdoor recreation operator on which outdoor recreation activities are offered or occur in exchange for a fee or using equipment rented or purchased from the outdoor recreation operator;

(4) "Outdoor recreation operator" means the owner or operator of an outdoor recreation area, including an agency of the state or a political subdivision of the state, or the employees, agents, officers, or delegated representatives of the owner or operator of the outdoor recreation area;

(5)(A) "Recreational tramway" means a device:

(i) Used to transport recreational tramway users uphill, in cars on tracks or suspended in the air, using steel cables, chains, or belts or by ropes; and

(ii) Usually supported by trestles or towers with one (1) or more spans.

(B) "Recreational tramway" includes the following:

(i) A two-car aerial passenger tramway that is used to transport passengers in two (2) 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 a similar device;

(ii) A multi-car aerial passenger tramway that is 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 a similar device;

(iii) A track car in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable or a similar device;

(iv) A chair lift on which a passenger is carried on a chair suspended in the air and attached to a moving cable, chain, or link belt supported by trestles or towers with one (1) or more spans or a similar device; and

(v) Surface-level transportation on which a passenger is carried on a moving walkway that is commonly known as a "moving carpet";

(6)(A) "Recreational tramway area" means:

(i) A recreational tramway in operation administered or operated as a single enterprise;

(ii) The area beneath the recreational tramway; and

(iii) A queue, building, or structure for approaching, embarking, or disembarking the recreational tramway.

(B) "Recreational tramway area" does not include base lodges, motor vehicle parking lots, or other portions of areas used by persons engaged in recreation; and

(7) "Tramway operator" means a person, including an agency of the state or a political subdivision of the state, who owns or controls the operation of a recreational tramway.

15-11-1003. Duties and responsibilities of persons engaged in outdoor recreation activities.

(a) A person engaged in an outdoor recreation activity at an outdoor recreation area or a recreational tramway area has a duty and responsibility to exercise reasonable care in engaging in an outdoor recreation activity, including without limitation the exercise of reasonable care in:

(1) Participating in an outdoor recreation activity only on designated trails or other areas that are not marked "closed" and refraining from participating in an outdoor recreation activity in a portion of an area that is not a designated trail or is otherwise marked "closed";

(2) Knowing the range of his or her ability to participate in the outdoor recreation activity in which he or she is participating and acting within the limits of that ability;

(3) Being the sole judge of his or her knowledge of and ability to successfully negotiate any trail, rock-climbing area, or recreational tramway and refraining from negotiating a trail, rock-climbing area, or recreational tramway until obtaining sufficient knowledge and ability to do so;

(4) Heeding and obeying all warnings, notices, and signs provided by an outdoor recreation operator or a tramway operator and not altering, defacing, removing, or destroying the warning, notice, or sign;

(5) Maintaining control of his or her speed and course at all times and maintaining a proper lookout to be able to avoid other participants and objects;

(6) Staying clear of a vehicle or infrastructure other than when:

(A) Embarking on or disembarking from a recreational tramway; or

(B) Being present at or in a residential building or other building that is open to the public;

(7)(A) Acting in a safe manner that will avoid contributing to the:

(i) Injury or death of himself or herself or others;

(ii) Damage to property; or

(iii) Placing, fabricating, or shaping an object in a trail.

(B) Acting in a safe manner as required under subdivision (a)(7)(A) of this section includes without limitation refraining from

participating in an outdoor recreation activity when the participant's ability to do so safely is impaired:

(i) By the consumption of alcohol;

(ii) By the use of any narcotic or other drug; or

(iii) While under the influence of alcohol or any narcotic or other drug;

(8) Embarking on a recreational tramway only with the authority of the tramway operator;

(9) Boarding or dismounting from a recreational tramway only at a designated area;

(10) Acting in a manner while riding a recreational tramway that is consistent with posted rules and will not interfere with the proper and safe operation of the recreational tramway;

(11) Refraining from throwing or expelling an object while riding on a recreational tramway and placing an object on or about the uphill track, the entry area, or the exit area of a recreational tramway;

(12) Crossing the uphill track of a recreational tramway only at designated locations; and

(13) When involved in an outdoor recreation activity collision or other accident involving another individual who the participant knows or reasonably should know needs medical or other assistance, attempting to:

(A) Obtain assistance for the individual in need of assistance;

(B) Notify the proper authorities; and

(C) Not leave the scene of the collision or accident without giving the participant's personal identification to an employee or representative of the outdoor recreation operator or tramway operator, except for the purpose of obtaining assistance for the individual; and

(D) When requested, provide his or her personal identification to an employee or representative of the outdoor recreation operator or tramway operator.

(b) Each passenger using a recreational tramway with the permission of a tramway operator shall abide by and fulfill each duty and responsibility under subsection (a) of this section that is applicable to the use of a recreational tramway.

(c) Each participant and each passenger using a recreational tramway

with the permission of a tramway operator shall be deemed as a matter of law to have seen and understood all postings, signs, and other warnings provided by the tramway operator as required by this subchapter.

(d)(1) A tramway operator is entitled to assume, if reasonable, that each passenger who boards a recreational tramway has sufficient knowledge, ability, and physical dexterity to embark upon, disembark from, and negotiate the recreational tramway.

(2) A passenger who is unfamiliar with the use of a recreational tramway or who believes he or she does not have sufficient knowledge to embark upon, disembark from, and negotiate a recreational tramway shall ask the tramway operator for instruction on the use of the recreational tramway or to provide the knowledge to embark upon, disembark from, and negotiate the recreational tramway.

(e) This subchapter shall not be construed to extend liability to a tramway operator for injury to or death of a participant or other individual or damage to property resulting from a passenger who:

(1) Is unfamiliar with the use of a recreational tramway; or

(2) Believes he or she does not:

(A) Have sufficient knowledge to embark, disembark from, or negotiate a recreational tramway;

(B) Ask the tramway operator for instruction on the use of the recreational tramway or to provide the knowledge to embark, disembark from, or negotiate the recreational tramway; and

(C) Have the ability or physical dexterity to embark, disembark from, or negotiate a recreational tramway.

(f) An individual who is not authorized by the outdoor recreation operator or tramway operator to use or be present at the outdoor recreation area or recreational tramway area shall be deemed a trespasser.

15-11-1004. Duties of tramway operators.

(a)(1) A tramway operator is responsible for:

(A) The safe operation and maintenance of each recreational tramway in its area whenever the recreational tramway is in use;

(B) The safe construction of a recreational tramway that the tramway operator constructed; and

(C) Posting a sign at the bottom of a recreational tramway

that advises the passengers to seek advice if not familiar with riding a recreational tramway.

(2)(A) At least once during each calendar year, a tramway operator shall have all recreational tramways within the tramway operator's area inspected by an individual who is qualified under Arkansas law to inspect recreational tramways for compliance with the current requirements of the ANSI Ski Lift Code, if applicable.

(B) Provided, however, that compliance with the ANSI Ski Lift Code in effect within the preceding six (6) months shall be sufficient to comply with subdivision (a)(2)(A) of this section.

(C) A tramway operator shall not operate a recreational tramway that is not in compliance with the ANSI Ski Lift Code until that recreational tramway is certified as in compliance under subdivision (a)(2)(A) of this section.

(D) A tramway operator's compliance with the inspection requirement under subdivision (a)(2)(A) of this section does not by itself preclude potential liability on the part of the tramway operator for a failure to operate or maintain a recreational tramway safely.

(b)(1) If a participant or a passenger using a recreational tramway with the permission of the tramway operator is unfamiliar with the use of a recreational tramway and asks for instruction on its use, the tramway operator shall provide a reasonable opportunity for the instruction.

(2) A tramway operator shall install and maintain at or near the loading area for each recreational tramway a sign stating that if a participant or other passenger is unfamiliar with the use of the recreational tramway and asks for instruction for its use, the tramway operator will provide a reasonable opportunity for the instruction.

15-11-1005. Duties of outdoor recreation operators.

An outdoor recreation operator shall have the following duties with respect to operation of an outdoor recreation area:

(1) To maintain one (1) or more trail boards at prominent locations at each outdoor recreation area displaying that area's network of trails; and

(2)(A) To not intentionally, recklessly, with gross negligence, or negligently cause injury to a person.

(B) Provided that, except for the duties of the outdoor recreation operator under this subchapter, the outdoor recreation operator shall have no duty to eliminate, alter, control, or lessen the risks inherent in an outdoor recreation activity that include without limitation those described in this subchapter.

15-11-1006. Assumptions of risk.

(a) A participant in an outdoor recreation activity shall be presumed to have:

(1) Known the inherent risks of the outdoor recreation activity in which he or she participates;

(2) Fully appreciated the nature and extent of the inherent risks of the outdoor recreation activity; and

(3) Voluntarily exposed himself or herself to the inherent risks of the outdoor recreation activity, even if a particular risk was not specifically presented or stated to the participant by the outdoor recreation operator.

(b) A passenger who uses a recreational tramway shall be presumed to have:

(1) Known the risks of an outdoor recreation activity that are applicable to the use of a recreational tramway;

(2) Fully appreciated the nature and extent of the risks applicable to the use of a recreational tramway; and

(3) Voluntarily exposed himself or herself to the risks applicable to the use of a recreational tramway, even if a particular risk was not specifically presented or stated to the individual by the tramway operator.

(c) A presumption under subsections (a) and (b) of this section may be rebutted by the participant or passenger by proving that the participant or passenger did not:

(1) Know the particular inherent risk of the outdoor recreation activity that proximately caused the injury or death or damage to property at issue;

(2) Fully appreciate the nature and extent of the risk; or

(3) Voluntarily expose himself or herself to the risk.

(d) An outdoor recreation operator or tramway operator's negligence is

not an inherent risk of an outdoor recreation activity, and a participant or passenger is not presumed to have accepted the risk of the negligence of the outdoor recreation operator or tramway operator and the injuries proximately caused from the negligence.

15-11-1007. Liability of tramway operators and outdoor recreation operators.

(a) A tramway operator or an outdoor recreation operator shall be liable only if the tramway operator or outdoor recreation operator does any of the following:

(1) Commits an act or omission related to an outdoor recreation activity that is intentional, reckless, grossly negligent, or negligent regarding the safety of an individual or property and that act or omission proximately causes injury to or the death of the individual or damage to property; or

(2) Intentionally, recklessly, with gross negligence, or negligently commits an act or omission related to a participant in an outdoor recreation activity that proximately causes injury to or the death of the participant or other individual or damage to property.

(b)(1) A tramway operator or outdoor recreation operator shall not be liable, and an individual or individual's representative may not recover from a tramway operator or outdoor recreation operator for negligence, if a proximate cause of the injury, death, or damage was the individual's own negligence.

(2) In an action for damages against a tramway operator or outdoor recreation operator, the tramway operator or outdoor recreation operator may plead, as appropriate, the affirmative defense of:

(A) Assumption of the risk by the individual;

(B) Contributory negligence by the individual; or

(C) Both assumption of the risk and contributory negligence by the individual.

15-11-1008. Inspectors.

(a) The Arkansas Occupational Safety and Health office within the Department of Labor and Licensing shall make investigators and inspectors available for as long as the investigators and inspectors need to conduct

investigations and inspections of recreational tramways.

(b) The investigators under subsection (a) of this section may obtain copies of any records or maintenance documents or other requested documentation as admissible evidence without the issuance of an administrative inspection warrant or search warrant.

(c) The inspectors under subsection (a) of this section shall have the duty and authority to investigate, inspect, and determine whether a tramway operator has:

(1) Violated the laws of the State of Arkansas or of the United States respecting the operation of a recreational tramway; or

(2) Operated the recreational tramway in such a way as to endanger the general health and welfare of the public.

15-11-1009. Claims against a state entity.

A claim arising out of this subchapter against a state board, employee, or other body or person employed by the State of Arkansas under this subchapter shall be submitted to the Arkansas State Claims Commission.

/s/Hester