

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

As Engrossed: S2/12/25

A Bill

SENATE BILL 203

5 By: Senator Hester
6 By: Representatives Maddox, McCollum
7

For An Act To Be Entitled

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

Subtitle

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18 TO AMEND THE LAW CONCERNING OUTDOOR
19 RECREATION ACTIVITIES AND RECREATIONAL
20 TRAMWAYS; AND TO CREATE A RECREATIONAL
21 TRAMWAY SYSTEM FOR STATE PARKS AND FOR
22 OTHER LOCATIONS IN THE STATE.
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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

Subchapter 10 - Recreational Tramways

15-11-1001. Findings and intent.

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

32 (1) Are practiced by a large number of citizens of this state;

33 (2) Attract a large number of nonresidents;

34 (3) Significantly contribute to the economy of Arkansas;

35 (4) Include inherent risks in participating that should be

36 understood by participants; and



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

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

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

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

9
10 15-11-1002. Definitions.

11 As used in this subchapter:

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

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

19 (A) Biking and mountain biking;

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

22 (C) Canoeing, rafting, and kayaking;

23 (D) Hiking, backpacking, and camping; and

24 (E) Utilizing a recreational tramway;

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

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

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

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

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

3 (B) "Recreational tramway" includes the following:

4 (i) A two-car aerial passenger tramway that is used
5 to transport passengers in two (2) open or enclosed cars attached to, and
6 suspended from, a moving wire rope or attached to a moving wire rope and
7 supported on a standing wire rope or a similar device;

8 (ii) A multi-car aerial passenger tramway that is
9 used to transport passengers in several open or enclosed cars attached to,
10 and suspended from, a moving wire rope or attached to a moving wire rope and
11 supported on a standing wire rope or a similar device;

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

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

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

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

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

25 (ii) The area beneath the recreational tramway; and

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

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

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

34
35 15-11-1003. Duties and responsibilities of persons engaged in outdoor
36 recreation activities.

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

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

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

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

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

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

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

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

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

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

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

32 (ii) Damage to property; or

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

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

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

3 (i) By the consumption of alcohol;

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

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

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

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

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

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

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

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

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

24 (B) Notify the proper authorities; and

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

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

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

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

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

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

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

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

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

18 (2) Believes he or she does not:

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

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

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

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

29
30 15-11-1004. Duties of tramway operators.

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

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

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

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

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

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

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

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

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

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

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

28
29 15-11-1005. Duties of outdoor recreation operators.

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

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

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

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

6
7 15-11-1006. Assumptions of risk.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5
6 15-11-1007. Liability of tramway operators and outdoor recreation
7 operators.

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

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

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

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

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

28 (A) Assumption of the risk by the individual;
29 (B) Contributory negligence by the individual; or
30 (C) Both assumption of the risk and contributory
31 negligence by the individual.

32
33 15-11-1008. Inspectors.

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

1 investigations and inspections of recreational tramways.

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

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

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

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

13
14 15-11-1009. Claims against a state entity.

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

18
19 */s/Hester*

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22 **APPROVED: 2/25/25**