

Lawsuit Freeze

By Reg P. Wydeven
March 18, 2018

For my daughter's 15th birthday, we took her to Title Town, the new development across from Lambeau Field in Green Bay. She and her boyfriend went sledding down Ariens Hill on inner tubes and then went ice skating at their outdoor rink.

I wanted to memorialize the occasion by taking many photos. I thought it would be best for me to do so in the warm confines of 46 Below, the park's restaurant. I ate one of the best cheeseburgers I ever tried while watching the Philadelphia Eagles kill the Minnesota Vikings. Oh, and I also took a few pictures.

My wife, meanwhile, rented an ice bike, or a bicycle ridden on the skating rink. She had a blast (and worked up quite a sweat) while cruising around the rink, passing lollygagging skaters. I got some great snapshots of her, too.

I'm positive the memory will be one of the highlights of my 2018 – we had a ton of fun. And most importantly, no one got hurt. While the good folks at Title Town take every precaution to keep their patrons safe, even if one of us had gotten hurt, there's not much we could do.

Two years ago, Wisconsin adopted a law that impacted injuries resulting from alpine sports at a ski area. We have laws that govern what happens if someone is injured or dies from participating in a "recreational activity," which is defined as any activity undertaken for the purpose of exercise, relaxation, or pleasure. Someone who participates in a recreational activity assumes the "risks inherent in the recreational activity of which the ordinary prudent person is or should be aware" and must satisfy certain behavioral duties.

If an accident from a recreational activity occurs on public premises designed for such a purpose, liability is proportional. This means that if I got hurt by hiking around High Cliff blindfolded, it's pretty likely I was more responsible for my injuries than the park, which decreases my ability to receive monetary damages.

Some sports, however, are naturally more dangerous than others. These are excluded under the definition of "recreational activity" if they are performed at a ski area. Under prior law, these were known as "snow sports," and included skiing, sledding, and tubing. So long as operators of a ski area satisfy certain duties related to safety and give adequate notice of assumed risks, they owe no further duty of care to a participant and are immune from liability for a participant's injury or death.

Under the new law, though, the term "snow sport" was changed to "alpine sport." The definition was also expanded to include riding a bicycle within a ski area after purchasing or receiving a ticket, pass, or license from the ski area operator.

Just like I was unaware of ice bikes, apparently bicycling on ski hills is also a thing I had never heard of. The new law provides that if I get hurt or die biking on a ski hill, which is almost a certainty, I can't sue the ski area operator.

At 45, I now think of ping-pong as an extreme sport. Not surprisingly, I wasn't aware of this new law. However, if you are a young daredevil and were inspired by the Winter Olympics to want to ride a bicycle down a ski hill, you do so at your own peril: if you get hurt, you can't sue the operator.