

Snowmobile Safety Manual

GILLINGHAM & ASSOCIATES

a division of Philadelphia Insurance Companies



The Great Outdoors Insurance Program

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Snowmobile Manual

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Comments from the Underwriter/Program Administrator

Gillingham & Associates, Inc. is an underwriter of insurance policies for outdoor recreation enterprises. We founded the company in 1990 for the purpose of insuring the outdoor recreational industry. We now insure hundreds of Snowmobile Operations, Guest Ranches, Outfitter & Guides, Sporting Clay and Hunting Preserves as well as Destination Resorts. We perceive a need for reasonable, dependable and quality insurance for the outdoor operators. To accomplish this, we have been thorough in our homework and selective of our insurance carriers and clients. Our intent is to provide you with a product delivering the peace of mind that comes from sharing your burden of liability with a trustworthy associate.

The Purpose of a Risk Management Program is to further promote the valued association of operator and insurer. In this manual, we have attempted to offer you a system of controlling risks that will ultimately result in the greatest safety to your guest while allowing you to maintain the element of adventure. We ask that you apply these Policies and Procedures to your operation.

Your industry is dynamic and so is this manual. We recognize that the best suggestions often come from the field. We welcome your comments.

We thank you for your confidence, your business and for keeping the outdoor experience alive and available.



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SNOWMOBILE

OPERATIONS

SECTION I

General

Insurance coverage under this Program is intended for over snow Snowmobile Operations, Guided Tours and Rentals, that provide sightseeing recreation. Activities that feature speed, competition, endurance, or “thrills” are specifically excluded.

I – A INFORMATION MANAGEMENT

Ensure that all of your promotional material available to the public is accurate, up-to-date, and presented in simple, straightforward terms that cannot be misinterpreted. This applies to written word, artwork, photographs, videotapes, mass media coverage, and oral remarks. Give special care to visual material; **ensuring that it depicts activities in which guests can expect to participate.**

Review your promotional material periodically and make appropriate modifications before any significant change in operations.

I – B RIDER ASSESSMENT AND EVALUATION

GENERAL

A few operators continue to express concerns that oral inquiries, questionnaires, and/or statements of liability describing risk and danger may adversely affect marketing and/or guest morale. An overview of successful Snowmobile Operations indicates otherwise.

To the contrary: guest dissatisfaction – and litigation – often arises from those who felt that they were not adequately informed, screened, or prepared for the activity.

Your request for relevant information from prospective riders is as legitimate as questions about your facilities or operation. The fact that there are certain contractual and liability aspects inherent in the recreational business is general knowledge. The raising of either issue need not be offensive when presented in the positive light of guest information, satisfaction, and safety.

The assessment/evaluation process should be continuous, from initial contact with the prospective guest through the booking and pre-ride preparations.

DRIVER AND PASSENGER QUALIFICATIONS

A. Age:

Drivers must be 16 years of age and possess a valid motor vehicle operator's license. The age requirement may be lowered to 14 years – on an exceptional basis – if the prospective driver has previous snowmobile driving experience and can demonstrate suitable driving skill and maturity.

There is no firm age requirement for passengers. Operators should be guided by experience, common sense, and their judgment of the ability of the driver to control the sled and passenger.

We recommend that children too small to hold on from the rear position be placed in front of the driver.

In no case shall a guide/employee carry a guest as passenger

B. Physical/medical condition:

All riders must certify in writing that they are physically, medically, and emotionally capable of participating in the activity. (See sample form.)

Women known, or claiming to be pregnant should not be permitted to ride snowmobiles.

For guests with physical and mental disabilities, advanced age, or frail condition, we recommend a courteous, personal inquiry as to how the special need could be accommodated. You should provide only those services which you can safely accommodate without excessive risk to the guest, other riders or you staff. Be certain your employees are aware of these circumstances.

C. Experience:

None required for guided tours. Rental operators may desire to establish higher standards.

D. Alcohol and/or Drugs:

No person under the influence of either may be permitted to ride on a snowmobile. No alcohol may be consumed on guided tours.

E. Protective Clothing:

Helmets must be provided for all riders. Wearing of helmets is required of all riders whenever the sled is moving.

Appropriate additional clothing: boots, gloves, parkas, suits, etc., should be provided or available. Operators should not permit inappropriately dressed guests to ride in cold weather conditions.

F. Solo Riders:

Rental operators must not rent a snowmobile to an individual who intends to ride alone.

I – C RIDER MANAGEMENT

A. Rider Questionnaire: (See sample form)

All drivers and adult passengers must complete this document. It contains the information required for initial rider assessment. Many operators include the questionnaire in the risk warning/liability release document.

B. Risk Warning/Liability Release Document:

All drivers and adult passengers must read and sign. It shows that they acknowledge the risk and accept it as part of the experience.

These documents require some specific statements and verbiage that may differ from state to state. We strongly recommend that you have an attorney assist you in preparing a document suitable for your activities.

I – D STAFF MANAGEMENT

GENERAL

Commercial snowmobile recreation activities, by their nature, can take place over extended geographical areas and in locations distant from immediate assistance or supervision.

The satisfaction, welfare, and possibly the lives of your guests may depend upon the competence and integrity of the accompanying staff members.

It is imperative that only the best, qualified personnel be entrusted with this responsibility.

1. Employment Criteria – (Trail Guides)

- (a) AGE: 20 years minimum
- (b) Trail Guides must be skilled and seasoned snowmobilers and the employees, owners, and/or official representatives of the business – NOT GUEST RIDERS;
- (c) Trail Guides must speak fluent English and have no less than average communication skills;
- (d) Trail Guides must have reputable, responsible, authoritative personality traits which will encourage both adult and child guest riders to follow their instruction;
- (e) Trail Guides must be thoroughly trained in trail procedures, public relations, emergency and safety procedures;
- (f) All staff members who accompany guest riders must possess a current certification in **MEDIC FIRST AID** and **CPR**. We also suggest training in Cold Weather Awareness.
- (g) At least one Trail Guide will accompany eight (8) guest driven snowmobiles.

2. **Worker's Compensation and Labor Laws.** If you have part-time or full-time employees, or contract labor workers, be certain you are in compliance with Worker's Compensation and Labor Laws of your state. This can best be assessed by contacting an attorney or your state's Worker's Compensation Division and/or Department of Labor. **EMPLOYEE INJURIES ARE EXPRESSLY NOT COVERED UNDER A GENERAL LIABILITY POLICY.**

3. **Employee Records** must be kept on file for fifteen to twenty years or as recommended by your legal counsel. Employment applications should be completed by each prospective employee and references provided to the employer. Next-of-kin names, addresses, phone numbers, and forwarding addresses must be on file. Employees often become prime witnesses in claims or litigation and it is important that they can be found easily after termination of their employment. Seek legal counsel on all employee applications, agreements or contracts and be careful of what you promise verbally and in writing to employees.

4. **Risk Management Meetings and Safety Drills.** We suggest that you have monthly or **weekly** risk management meetings. Read and review rules and all applicable Risk Management Programs with staff. Drill employees on emergency procedures by setting up or discussing mock emergencies. Document these meetings and retain documentation on file. Discuss the prior week's incidents, what caused the incident, what could have prevented the incident, and what appropriate action was or should have been taken.

5. **Emergencies.** General – This section covers preparation of contingency plans and procedures for handling emergency situations which take place on the trail or at a distance from the main guest facility. Emphasis is on physical management; administrative management of incidents is covered in Section I-G, INCIDENT MANAGEMENT.

- (a) Professional adherence to Risk Management Principles by all hands will substantially reduce hazards. The unpredictable and spontaneous, however, are part of the guest business and must be planned for as if they were a certainty. Murphy's Law applies.

- (b) Emergency Procedure Checklist. This procedure should be developed by each operator/manager to specify actions to be taken by the staff member(s) throughout an emergency. It should be part of an Employee Manual and part of the basic training program. A copy should be included in the trail emergency kit but all trail guides should know it from memory.

The procedures will be tailored for each particular business and location. A few general guidelines are:

1. Staff member in charge: Report initial assessment of situation to base.
2. If an injury: Best qualified staff takes charge of injured.
3. Other Staff: Take charge of unaffected guests. Segregate from injured. Establish calm.
4. Staff member in charge: Report detailed assessment to base
5. If injury: Application of first aid is continuous.
6. Prepare for further action: Reinforcement, evacuation, return to base, etc.
7. The ride activity should be reconstituted with appropriate staff and equipment and continue as soon as practical

I – E EQUIPMENT AND FACILITY MANAGEMENT

1. Equipment

a. Snowmobiles

Snowmobiles for guest use shall be standard commercial models, not customized for increased performance. They shall have engines of mid-range size. The machines must not be over five years old.

Snowmobiles used for double riding shall be those designated appropriate by manufacturer's specifications.

b. Helmets and Other Protective Equipment

Sufficient helmets will be available to ensure headgear of proper fit for all riders.

All equipment shall be maintained in clean, sanitary, serviceable condition.

If Snowmobiles and/or Equipment are insured under this program against theft or damage, they must be secured and protected adequately when not in actual use.

c. Communication Equipment

Two-way communication by radio or telephone between guide and base is required on all guided tours. Although there may be some areas where terrain or services degrade the effectiveness of equipment, any time saved in an emergency is worthwhile. If electronic communication is impossible, an additional staff member should accompany the trail ride.

d. Emergency Equipment Kit

Every trail ride should be equipped with an emergency kit. It should be the responsibility of the staff member in charge of the ride. It should be inventoried and inspected for serviceability and completeness daily. The kit should contain at a minimum:

1. First Aid Kit
2. Emergency Procedure Check List (yours)
3. Map(s) for extended rides
4. Notebook and Pencil
5. Knife
6. Watch
7. Camera with film
8. Flashlight
9. Matches (waterproof)
10. Incident Report and Witness Statement Forms
11. Two Way Communication Equipment
12. Space Blankets(2) and Chemical Hand Warmers.

2. Facilities: Trails

- a. Trails selected for guest riders must be appropriate to the skill and comfort level of the least qualified individual on the particular ride. Weather conditions also affect the difficulty of the ride and must be considered.
- b. Suitable trails (or terrain) must be determined by physical inspection of experienced staff members and approved by management.
- c. We suggest that both topographical and sketch maps of the trail system be posted in a prominent location for staff use. The map(s) should be annotated to indicate the following features, where appropriate:
 1. Potentially hazardous areas or conditions;
 2. Points or areas where radio/telephone communication is possible (or impossible);
 3. Suitable helicopter landing zones;
 4. Time/distance factors;
 5. Routine or suitable halt points; and
 6. Points of interest

Copies of such map(s) should be included in the Trail Guide Emergency Equipment Kit.

- d. Trails should be inspected and maintained free of obstacles, low hanging branches and other hazards as appropriate. In wooded areas the trail guide equipment might include a bowsaw.

I – F OPERATIONS MANAGEMENT

1. Pre-Ride Operations (In Sequence)

- a. Rider Completes Questionnaire; Approved by Management.
- b. Rider executes Risk Warning Liability Release Document; Approved by Management.
- c. Rider executes Rental Agreement (Unguided Rentals Only); Approved by Management.
- d. Riders receive and don helmets and protective clothing.
- e. Staff presents Operation, Trail Rules, and Safety Instruction

1. Operation

- Starting and Stopping Engine
- Emergency Stop Switch
- Throttle and Brakes
- Passenger Strap
- Running Boards

2. Trail and Safety Rules

- Wear helmet at all times when moving
- Secure scarves and loose clothing
- Keep feet on Running Boards
- Stay on trail and keep to right
- Keep in single file
- Maintain 75 feet distance from sled ahead.
- Avoid lakes or glare ice.

2. During Ride Operations

- a. Trail guide makes communication check with Base Management upon departure. Periodic communication checks throughout ride.
- b. Trail guide monitors riders while on trail. Periodic halts to check riders condition, answer questions, account for all riders, etc.

3. Post Ride Operations

- a. Trail guide checks condition of each rider.
- b. Reports any special occurrences to management.

I - G INCIDENT MANAGEMENT

Much of what we have included in this booklet was designed to help you avoid incidents and to help you prevent “accidents” from becoming lawsuits. The recreational industry however, by its very nature, is going to have its share of injured guests.

Time is of the Essence

The brief period following the accident or incident can be the key to your legal defense several years later. Use that time wisely! These are the minutes you have to treat the injured party; the hour(s) before the evacuation; the minutes or days before the other guests leave and their memories of the events are changed or forgotten; the time before your guides forget the details or leave your employ; and the responses to the media following the incident. Let’s look at each of those.

Your Guests:

Most lawsuits are entered by guests who either believe they were not properly informed of the requirements and hazards of the activity, or guests who feel you have not demonstrated the highest level of care and concern for his/her well being and personal safety. That care and concern starts in the mind of the guests at the beginning of their activity with you. So make a personal connection. Address guests **by their name**. Treat them, their concerns, and their family members as individuals.

If a guest is injured, we recommend trying to keep one staff member with the injured party from the time of the initial response and treatment through evacuation, waiting for him or her at the doctor or hospital, and following up afterwards. That personal relationship and consistency can reduce stress, help calm and assure the injured party, and is often the key factor in whether or not the injured party chooses to file suit. The personal care and attention **do** matter. Take the case of whitewater adventurers who were seriously injured. They or their attorneys subscribed to the belief that “...for every societal wound, there must be a financial poultice.” However, they enjoyed their guide and appreciated the care and concern demonstrated after the incident. So they didn’t sue the operator. They did sue the travel agent who booked them without providing adequate warning about the hazard of the activity!

What Do I Say?

If an incident occurs, be responsive. It's okay to let the guest know you're sorry they are hurt and you are doing everything you can. Be both empathetic and sympathetic. Show care and concern both for the injured party and other participants. While one person may be injured, family members and other guests may be experiencing shock, concerned about their own safety, or generally "shaken" by what they have seen or experienced.

Help your guests feel they are in capable hands. Check in with them about how they are doing. You need to provide a calm, settling influence on the guests. It is okay to say things like, "I've sent for help. The techniques we practiced in the Red Cross first aid class seem to have stopped the bleeding. I'll do everything I can to keep you comfortable (until we evacuate, continue, etc.)..." Both injured parties and others need to be reassured. Their evaluation of what happened and how you handled the incident can be important issues if litigation ensues.

What Don't I Say?

Don't admit wrongdoing, e.g.,

"Oh, you're the third person that hit that stump."

"Gee, I must not have adjusted your throttle correctly."

"That strap must have failed." Etc.

Don't make value judgments, e.g.,

"Well, that was a stupid thing to do."

"You said you were an experienced rider "Anybody with half a brain could have..." Etc.

Don't guarantee a speedy evacuation.

You may have no control over the timing and your idea of "soon" may be very different from that of an injured party.

Don't profess to be a medical expert.

Photographs:

If you or guests have a camera available, get photographs of the incident site and of the injured party. Photos of the physical conditions encountered immediately prior to the incident, i.e., steep terrain, a fallen tree obstructed from view by snow, wet or slippery path or roadways, etc., may be especially helpful in reconstructing how the incident occurred.

The Media:

If there is a serious accident or fatality, you can expect that the media will contact you. Often, that contact will be by phone. It is in your best interest to assign one spokesperson to handle those media inquiries. Let your staff know if inquiries are to go through one person. The person (with your supervision) should prepare a factual statement (which may need to be reviewed by legal counsel.)

*Be clear about the assignment. It is to provide the who, what, where, and when that goes into a typical media story (though you may not want to tell “who” at the time when you are still trying to locate their family.) You will probably want to provide some background on your organization’s experience at providing the activities. It **is not** the place to assign blame, admit guilt, or speculate about what may have occurred. If a story is delivered in that manner **you will get more press than you want.**

*Attempt to be accurate and provide the facts. If the answer to a question is unknown, say it is unknown. Don’t speculate.

*If you are dealing with restrictions, such as not releasing names until family members are contacted or you are unable to talk with the injured party until the doctor gives the okay, etc., explain that to the media.

*If you provide, see, or hear erroneous information, correct the error as quickly as possible. Provide correct information.

***No one (including your chosen spokesperson) is to release any information that assigns responsibility or admits liability for the accident without first consulting your insurer’s legal counsel.**

Failure to observe this restriction can jeopardize your case and your insurance coverage.

*It is often best to say simply “the incident is under investigation at this time.”

After the Incident:

When equipment is involved in an accident, and could have contributed to the incident, pull it out of service and discuss what you should do with the insurer’s claims representative. They may suggest having equipment checked by an authorized dealer or repair facility, taking photographs, or returning it to service but marked for easy identification in the future.

Remember, everything doesn’t end after the doctor sends the person home or admits him/her into the hospital. Nor should it end when an injured and angry guest says “I’m going to sue you for this.” Follow up with the injured party to see how he/she is doing. Send or hand deliver a card, note, and/or flowers, or just make a phone call. Let the person know that his/her well-being matters to you. If the injury prevents the person from completing the activity, offer a refund fee. Consider giving them a voucher to come riding with you again after he/she recovers. You would be amazed at the success other guides have had using the voucher to build positive relationships, even after serious accidents. Not only is it a great way to create customer goodwill, but the more friends he/she brings along, the less that “free pass” costs you.

Your personal attention, care, and concern can actually prevent a lawsuit. If you end up with a lawsuit however, remember that everything you said and did, before, during, and after the incident will be reviewed by the injured party’s attorney or by the Courts. Don’t forget that what you say and do, and what you don’t say and do are important parts of your Risk Management program!

NOTIFY YOUR INSURANCE COMPANY IMMEDIATELY (within 48 hours of the incident) by calling your agent or designated insurance adjuster by phone. Follow up by also submitting to your company a written report. ALL INCIDENTS, NO MATTER HOW MINOR, MUST BE SUBMITTED TO YOUR INSURANCE COMPANY BECAUSE IF A COMPANY CAN INVESTIGATE THE INCIDENT IMMEDIATELY, THE COST OF ANY

RESULTING CLAIM IS OFTEN REDUCED CONSIDERABLY. This, in turn, keeps insurance costs down and coverage available for operations. This is doubly important because some states have mandated by law that late notification of a potential claim incident (in one instance, eight months after the incident took place), can make coverage for the resulting claim null and void.

INCIDENT REPORTS AND WITNESS STATEMENTS

Keep several copies of the Incident Report and Witness Statement forms (Sample Form 9) with your first aid kit(s). That way required information can be gathered and easily recorded after an incident occurs and the guest has been taken care of by the guide or medical professionals.

Record the information as soon as possible, while memories are fresh and recollections are clear. These forms, and the information they contain, will be critical to your defense. Try to document everything that is said. Information you obtain immediately after the incident will usually be more accurate than statements taken at a later date.

Discovery:

This term generally refers to a pretrial device that can be used by one party, i.e. a guest injured while participating in an activity offered by you, etc., in order to assist in that party's preparation for trial. Tools of discovery include facts, documents, or other things which are in your exclusive knowledge and possession. The litigating attorney can request and obtain any and all records. For that reason, it is essential that you (and persons working for or on your behalf) avoid comments which could be potentially damaging. Avoid writing or publicly expressing assumptions, opinions, and personal feeling which may arise during the stressful time at and after the occurrence of an incident. Even verbal statements can be subject to discovery.

Incident & Accident Report:

The Guide in charge will complete the Incident & Accident Report Form (Sample Form 9.) However, if a witness is hostile, or otherwise uncooperative after a catastrophic accident, make sure you have their name and how to reach them, but leave it to your insurer's claims staff or legal council to take their written statement. Take the written statements of witnesses who are positive, or neutral. When interviewing, ask the question, "What happened?" It's a simple question that each person

needs to answer. The statement may be completed by the witness or taken by someone from your organization. Once completed, the witness must review, sign and date the statement.

You can use the same form to note the injured guest's version of "what happened" and to note other comments, e.g., "...If I'd only followed your instructions about..." "...knew I was over ice. I didn't think the sled would..." or "...I looked down and panicked. It wasn't anything you did..." etc. Those comments may be of assistance in defending you in the event of a suit. However, your task is to make sure the person is cared for after an incident. We are not suggesting that you get a signed statement from the injured guest. That can be done by the insurer once the injury has been attended to and the shock is past. If the person is in pain, in shock, agitated or hysterical following an incident, it is not the time to play inquisitive reporter. Don't be insensitive or intrusive. If he/she makes comments about what happened, jot them down when you get a free moment. Like the old journalism adage states, "Before you be fancy, be fast. Before you be fast, be accurate." Try to put it on paper while the words are fresh.

I – I SAMPLE FORMS

STANDARD GUEST INFORMATION FORM

INCIDENT – ACCIDENT REPORT

WITNESS STATEMENT

STANDARD GUEST INFORMATION FORM

It is our goal to provide our guests with a safe, comfortable and enjoyable experience. We ask that you provide the following information:

NAME: _____
(PRINT)

1. Age: _____

2. Snowmobile Driving Experience:

Please check whichever is most applicable:

Never Few Times Often; Last Time _____

3. Do you have any physical, medical or emotional condition that might be adversely affected by participating. _____

If yes, please explain: _____

4. Are you pregnant? _____

5. Are you under the influence of drugs or alcohol? _____

6. Do you require any special assistance, medication, drug allergies or equipment of which we should be aware? _____

If yes, please explain: _____

Signature: _____ Date: _____

INCIDENT – ACCIDENT REPORT

Insured: _____

Address: _____

Contact Person: _____

Best time to Contact: _____

Office Phone: _____ Home Phone: _____

Guide operating tour on which incident occurred: _____

Age: _____ Phone Number: _____

Date of Incident: _____ Time: _____ am/pm

Location of Incident: _____

Name of Person Injured: _____

Activity: _____

Did the incident occur on NPS, USFS, or BLM land? Yes No

Was an accident or incident report made by any police, or governmental agency? Yes No

If yes, please attach copies.

Are photographs available? Yes No.

Describe in detail how the incident occurred: _____

Use the reverse side of this sheet if additional space is needed.

Include a diagram if a collision.

Was First Aid administered? Yes No.

Was person taken to doctor or hospital? Yes No.

If yes, who and where? _____

Treatment given: _____

Describe injured person's reaction to incident: _____

Other employees involved, who witnessed incident, or were involved in post incident care: _____

Person making report

Date

WITNESS STATEMENT

NAME OF WITNESS: _____ AGE: _____

PERMANENT ADDRESS: _____

HOME TELEPHONE: _____ WORK: _____

OCCUPATION: _____

RELATIONSHIP TO INJURED: _____

TEMPORARY ADDRESS: _____

UNTIL: _____ PHONE: _____

NAME OF INJURED PARTY: _____

DATE OF INCIDENT: _____

SPECIFIC LOCATION OF INCIDENT: _____

Describe the incident – Who? What? Where? When? How? _____

Use reverse side or additional pages if needed.

Describe Accident Site Conditions: _____

Had the guide provided any instructions which the injured person was not following at the time of the incident? yes no If yes, explain: _____

Did the injured person state that the accident was his or her fault? yes no

Signature of Witness: _____ Date: _____

Statement Taken By: _____ Date: _____