

Inherent liability

by BRIAN LOCKHART

Near where I grew up, there was a large park with several hills leading off from the main parking lot.

It wasn't a public park, it was started and maintained by a local service group, but it was open to the public at all times.

During the winter, the hills were the most popular tobogganing spot in town. Mostly because the city really didn't have any other hills.

It was a great spot. The best run was when you could make it down the hill, across the great lawn, and make it all the way out onto the ice-covered pond.

If you were lucky, the ice was thick enough to hold your weight. On other days, you might crash through and get wet.

On a good snowy day, the park was packed with people launching toboggans and sleds down the hills.

Occasionally, someone would get hurt ? it happens. If you're going to slide down a hill on an object with no method of steering, no brakes, and no roll cage, eventually, someone will collide with another sled, hit a tree, or flip over and do a face plant.

When you're a kid, you are ready to take that risk.

A few years ago, the park posted 'no tobogganing' signs. A couple of years later, they started planting shrubs and trees on the hills so no one could use them for sledding.

The reason ? insurance purposes. They were worried that if anyone got hurt, they could sue the organization that ran the park.

No doubt, it was a lawyer or someone involved in the insurance business who told them of this risk.

However, no one ever suggested that the liability of getting hurt should lie with the person taking the risk and sledding down the hill, not with the association, which just happened to operate a park with a hill.

There are all sorts of risks involved whenever you attend an event or participate in an activity.

If you like to go skiing, you are fully aware of the risks involved, which could include a fatal collision ? it happens every season. If you like to attend motorsports, there is an inherent danger of a wheel coming off a race car and entering the stands and injuring or killing someone ? I've seen that happen.

If you want to try jumping out of a perfectly good airplane with a parachute, you realize it is an inherently dangerous thing to do, and there is a very real risk of injury or death.

But people do all these activities anyway. That's what makes life fun and exciting.

While I'm sure many of these activities have insurance policies of some kind, most warn you when you enter the facility that there is an inherent risk of danger, and they will assume no responsibility if you make a wrong turn on the slopes and hit a tree.

Having an insurance policy is something you may need but hopefully never use. It is common sense to have home insurance, car insurance, and possibly life insurance, depending on your current place in life.

However, the insurance companies now have it drilled into the public perception that you need to have insurance of some kind for everything you do.

Somehow, they have established that someone else is always responsible for your actions, and everyone must be insured against that.

You can't hold any kind of event without having some insurance coverage.

I've seen small markets insist individual vendors must be insured. But what is your coverage protecting you from?

If you're a vendor selling your homemade soap at a booth at a home show, what is the inherent liability you have to be protected from? If a person trips over their own shoelace in front of your booth and cracks their head on the pavement, how is that your fault?

Yet people are told they need insurance coverage for this.

Several years ago, I was supposed to do a photoshoot from an aircraft for the company I was working for. A few days before the shoot, it was cancelled due to 'insurance purposes.'

I wasn't too happy about it being cancelled, so at our next manager meeting, I asked what had happened.

When they said 'insurance purposes', I asked for clarification on that. No one could provide a reason, explanation, or reasonable conclusion as to what 'insurance purposes' really meant. They didn't know, yet they all bought into the concept that if you do something, you must be insured.

This is a great business model for the insurance companies.

They have created a system where people or organizations must pay premiums for policies where there is no actual risk, and the insurance companies know they won't ever have to pay on a claim.

Try that policy on customers in your own small company and see what happens.