S T A T E O F N E W Y O R K

1178

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to enacting the "Steven Kovacs Law" to impose an affirmative duty upon a residential host to render assistance to a guest on private premises in the event of a medical emergency

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as the "Steven Kovacs Law".

S 2. Article 9 of the general obligations law is amended by adding a new title 2 to read as follows:

TITLE 2

SOCIAL HOST RESPONSIBILITY

SECTION 9-201. SOCIAL HOST RESPONSIBILITY.

S 9-201. SOCIAL HOST RESPONSIBILITY. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "HOST" MEANS ANY PERSON HAVING CONTROL OVER A PRIVATE PREMISES.

(B) "CONTROL" MEANS THE ACTUAL AUTHORITY AND ABILITY TO REGULATE, DIRECT OR DOMINATE THE PRIVATE PREMISES.

(C) "PRIVATE PREMISES" MEANS ANY HOME, APARTMENT, CONDOMINIUM, COOPERATIVE UNIT OR OTHER DWELLING UNIT OF ANY KIND, INCLUDING YARDS AND OPEN AREAS OVER WHICH THE HOST HAS CONTROL.

(D) "GUEST" MEANS A PERSON WHO IS PHYSICALLY PRESENT ON THE PRIVATE PREMISES OF A HOST, WHICH SHALL NOT BE DEEMED TO INCLUDE PERSONS TRESPASSING UPON THE PRIVATE PREMISES.

2. A HOST WHO IS PRESENT AND HAS ACTUAL KNOWLEDGE THAT A GUEST ON THE PRIVATE PREMISES OVER WHICH THE HOST EXERCISES CONTROL IS SUFFERING OR HAS SUFFERED A MEDICAL EMERGENCY AND WHO FAILS TO GIVE REASONABLE ASSISTANCE TO SUCH GUEST SHALL BE LIABLE FOR DAMAGES FOR INJURIES

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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SUSTAINED BY SUCH GUEST OR FOR DAMAGES FOR THE DEATH OF SUCH GUEST WHICH OCCURRED BY REASON OF SUCH FAILURE. REASONABLE ASSISTANCE MAY INCLUDE OBTAINING OR ATTEMPTING TO OBTAIN AID FROM LAW ENFORCEMENT OR MEDICAL PERSONNEL.

3. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, ONCE A HOST OR OTHER PERSON AT THE PRIVATE PREMISES HAS UNDERTAKEN TO RENDER REASONABLE ASSISTANCE TO A GUEST, IT SHALL BE A COMPLETE DEFENSE AGAINST ANY CLAIM FOR CIVIL DAMAGES ALLEGEDLY CAUSED BY ACTS OR OMISSIONS OF SUCH PERSON IN RENDERING SUCH ASSISTANCE, UNLESS IT IS ESTABLISHED THAT SUCH INJURIES OR DEATH WERE CAUSED BY GROSS NEGLIGENCE ON THE PART OF SUCH PERSON.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.