

STATE OF NEW YORK

7250--A

2019-2020 Regular Sessions

IN ASSEMBLY

April 18, 2019

Introduced by M. of A. FALL, JEAN-PIERRE, BUTTENSCHON, FRONTUS, DICKENS, GRIFFIN, CRUZ, COOK, JAFFEE, SAYEGH, D'URSO -- read once and referred to the Committee on Economic Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to trampoline park safety

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 12-C to read as follows:

ARTICLE 12-C TRAMPOLINE PARK SAFETY

Section 220. Definitions.

221. Business registration.

221-a. Exemptions.

222. License suspension or revocation.

223. Compliance with industry standards.

224. Trampoline park employee training, equipment and supervision.

225. Reporting of injuries; emergency response plan.

226. Annual registration to the department.

227. Inspection.

228. Insurance.

228-a. Claims for inherent risks.

§ 220. Definitions. As used in this article, the following words and phrases shall have the following meanings:

1. "commercial trampoline" shall mean a device that:

(a) incorporates a trampoline bed; and

(b) is used for recreational jumping, springing, bouncing, acrobatics, or gymnastics in a trampoline park.

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

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1 2. "department" shall mean the department of state.

2 3. "emergency response plan" shall mean a written plan of action for
3 the reasonable and appropriate contact, deployment, and coordination of
4 services, agencies, and personnel to provide the earliest possible
5 response to an injury or emergency as approved by the department.

6 4. "inherent risk" shall mean a danger or condition that is an inte-
7 gral part of an activity occurring at a trampoline park.

8 5. "inspection" shall mean a procedure that an inspector conducts to:

9 (a) determine whether a trampoline park facility, including any device
10 or material, is constructed, assembled, maintained, tested, and operated
11 in accordance with this article and the manufacturer's recommendations;

12 (b) determine the operational safety of a trampoline park facility,
13 including any device or material; and

14 (c) determine whether the trampoline park's policies and procedures
15 comply with this article.

16 6. "inspector" shall mean an individual who:

17 (a) conducts an inspection of a trampoline park to certify compliance
18 with this article and industry safety standards as approved by the
19 department; and

20 (b) (i) is certified by:

21 (A) an organization, approved by the department, that develops and
22 publishes consensus standards for a wide range of materials, products,
23 systems, and services that are used for trampolines; or

24 (B) an organization, approved by the department, that promotes trampo-
25 line park safety and adopts the standards described in clause (A) of
26 this subparagraph;

27 (ii) represents the insurer of the trampoline park;

28 (iii) represents or is certified by the department or an agency that:

29 (A) inspects amusement and recreational facilities and equipment; and

30 (B) certifies and trains professional private industry inspectors
31 through written testing and continuing education requirements; or

32 (iv) represents an organization that the United States Olympic Commit-
33 tee designates as the national governing body for gymnastics and is
34 approved by the department.

35 7. "operator" shall mean a person who manages, or controls or who has
36 the duty to manage or control the operation of a trampoline park.

37 8. "owner" shall mean a person, corporation, partnership or associ-
38 ation who owns a commercial trampoline park.

39 9. "participant" shall mean an individual that uses trampoline park
40 equipment.

41 10. "trampoline bed" shall mean the flexible surface of a trampoline
42 on which a user jumps or bounces.

43 11. "trampoline court" shall mean an area of a trampoline park
44 comprising:

45 (a) multiple commercial trampolines; or

46 (b) at least one commercial trampoline and at least one associated
47 foam or inflatable bag pit.

48 12. "trampoline park" shall mean a place of business that offers the
49 recreational use of a trampoline court for a fee.

50 § 221. Business registration. 1. To operate a trampoline park in this
51 state, the owner of a trampoline park shall register with the department
52 pursuant to this section.

53 2. A prospective registrant shall submit to the department proof that
54 it can furnish suitable premises and insurance, as determined by the
55 secretary of state, in which such trampoline park may operate.

1 3. The department is authorized to impose a fee of not more than two
2 hundred dollars on an owner to recover the state's costs of regulation
3 under this article.

4 § 221-a. Exemptions. This article shall not apply to:

5 1. a playground that a school or local government operates, if:

6 (a) the playground is an incidental amenity; and

7 (b) the operating entity does not primarily derive revenue from oper-
8 ating the playground for a fee;

9 2. a gymnastics, dance, cheer, or tumbling facility where:

10 (a) the majority of activities are based in training or rehearsal and
11 not recreation;

12 (b) the facility derives at least eighty percent of revenues through
13 supervised instruction or classes; and

14 (c) the student-coach or student-instructor ratio is based on age,
15 skill level, and number of students as determined by the department; or

16 3. equipment used exclusively for exercise, an inflatable ride, or an
17 inflatable bounce house.

18 § 222. License suspension or revocation. 1. Except as provided in this
19 section, a violation of this article is grounds for the department to
20 suspend or revoke the operator's business license.

21 2. The department may not suspend or revoke a license under subdivi-
22 sion one of this section unless:

23 (a) the department provides the operator with at least sixty days to
24 cure the violation that is the grounds for the action in accordance with
25 the policy described in subdivision three of this section; or

26 (b) regardless of the operator curing a violation as described in
27 paragraph (a) of this subdivision, the violation repeats.

28 3. The department shall define the reasonable opportunity to cure
29 violations described in paragraph (a) of subdivision two of this section
30 by creating a generally applicable policy that identifies a standard
31 timeline and process for curing a violation.

32 § 223. Compliance with industry standards. A trampoline park owner
33 and/or operator shall:

34 1. ensure that the trampoline park complies with departmental stand-
35 ards developed in conjunction with industry safety organizations regard-
36 ing:

37 (a) signage and notification for proper use of the trampoline park,
38 safety procedures, and education of risk;

39 (b) equipment and facilities, including materials, layout, condition,
40 and maintenance;

41 (c) staff training, including safety procedures and emergency
42 response;

43 (d) participant activities and behaviors that should be restricted;

44 (e) separation of participants within the trampoline park based on
45 age, size, or other necessary factors;

46 (f) operational issues, including maintenance and injury logs and
47 emergency response plans;

48 (g) staff supervision and monitoring of activities;

49 (h) statistical tracking of injuries in a manner that does not
50 personally identify the injured participant; and

51 (i) appropriate insurance coverage; and

52 2. notify the department within forty-eight hours of any changes in
53 status to any requirement under this section.

54 § 224. Trampoline park employee training, equipment and supervision.
55 An owner and/or operator shall:

- 1 1. ensure that during all hours of operation the trampoline park has
- 2 an operable automated external defibrillator;
- 3 2. ensure that all employees are certified in first aid and CPR;
- 4 3. ensure that all participants are instructed by an employee about
- 5 the potential risks and safety guidelines;
- 6 4. require that trampoline park employees monitor the trampoline court
- 7 and participants during all hours of operation;
- 8 5. ensure that the number of trampoline park employees described in
- 9 subdivision four of this section is adequate to view each area of the
- 10 trampoline court; and
- 11 6. prominently display throughout the trampoline park contrasted safe-
- 12 ty, warning, advisory, and instructional signage reflecting the trampo-
- 13 line park's rules.

14 § 225. Reporting of injuries; emergency response plan. 1. An owner

15 and/or operator shall develop, implement, and follow an in-house injury

16 reporting and emergency response plan for injuries.

17 2. The owner and/or operator shall retain any records related to the

18 injury reporting system and emergency response plan described in subdivi-

19 vision one of this section.

20 3. The owner and/or operator shall make available to the department of

21 health or the local health department, upon request:

22 (a) the information contained in the injury reporting system described

23 in subdivision one of this section; and

24 (b) the records described in subdivision two of this section.

25 § 226. Annual registration to the department. A trampoline park owner

26 shall provide the following information for annual certification at the

27 time such owner applies to the department to renew a business registra-

28 tion to operate a trampoline park:

29 1. an inspection certificate described in this article; and

30 2. the certification of insurance described in subdivision two of

31 section two hundred twenty-eight of this article.

32 § 227. Inspection. A trampoline park owner and/or operator shall:

33 1. ensure that an inspector conducts an inspection of the facilities

34 and records of the trampoline park at least once per calendar year to

35 certify compliance with:

36 (a) industry safety standards, including each category of standards

37 described in this article; and

38 (b) safety standards described in this article;

39 (c) proof that the trampoline court is maintained in good repair;

40 (d) an emergency response plan is in place and up-to-date;

41 (e) maintenance, inspection, staff member training, and injury logs;

42 and

43 (f) an up-to-date insurance policy is in place; and

44 2. obtain from the inspector a written report documenting the

45 inspection and a certificate certifying that:

46 (a) the trampoline park has successfully passed the inspection

47 described in this section; and

48 (b) the trampoline park is in full compliance with this article.

49 § 228. Insurance. A trampoline park owner shall:

50 1. maintain insurance providing liability coverage of at least one

51 million dollars in the aggregate and five hundred thousand dollars per

52 incident to cover injuries to participants arising out of any negligence

53 or misconduct by the trampoline park owner, operator or staff in the

54 construction, maintenance, or operation of the trampoline park;

55 2. maintain a certificate of insurance demonstrating compliance with

56 this section; and

1 3. notify the the department within twenty-four hours of the lapse,
2 expiration, or cancellation of the insurance described in subdivision
3 one of this section.

4 § 228-a. Claims for inherent risks. Notwithstanding anything in this
5 article to the contrary, if a participant makes a claim against an owner
6 for an injury resulting from an inherent risk:

7 1. the owner may raise as a defense the owner's compliance with
8 sections two hundred twenty-three, two hundred twenty-four and two
9 hundred twenty-five of this article; and

10 2. the factfinder shall consider, in accordance with section fourteen
11 hundred eleven of the civil practice law and rules, the operator's
12 compliance described in subdivision one of this section.

13 § 2. This act shall take effect on the one hundred twentieth day after
14 it shall have become a law. Effective immediately, the addition, amend-
15 ment and/or repeal of any rule or regulation necessary for the implemen-
16 tation of this act on its effective date are directed to be made and
17 completed on or before such effective date.