

2070

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. BENJAMIN -- Multi-Sponsored by -- M. of A. CLARK,
MILLER -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law and the labor law, in
relation to safety and the use of helmets when skiing, sledding and
snowboarding

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

- 1 Section 1. Subdivisions 1, 4 and 7 of section 18-102 of the general
2 obligations law, as added by chapter 711 of the laws of 1988, are
3 amended and two new subdivisions 8 and 9 are added to read as follows:
4 1. "Lift ticket" means any item issued by a ski area operator to any
5 skier, SLEDDER OR SNOWBOARDER that is intended to be affixed to the
6 outerwear of the skier, SLEDDER OR SNOWBOARDER, or otherwise displayed
7 by a skier, SLEDDER OR SNOWBOARDER, to signify lawful entry upon and use
8 of the passenger tramways or ski slopes or trails maintained by the ski
9 area operator.
10 4. "Ski area" means all ski slopes, ski trails, SLEDDING SLOPES, SLED-
11 DING TRAILS, SNOWBOARD SLOPES, SNOWBOARD TRAILS and passenger tramways
12 administered as a single enterprise within this state.
13 7. "Ski slopes and trails" mean those areas designated by the ski area
14 operator for skiing, SLEDDING OR SNOWBOARDING.
15 8. "SNOWBOARDER" MEANS ANY PERSON WEARING A SNOWBOARD AND ANY PERSON
16 ACTUALLY ON A SKI SLOPE OR TRAIL LOCATED AT A SKI AREA, FOR THE PURPOSE
17 OF SNOWBOARDING.
18 9. "SLEDDER" MEANS ANY PERSON USING A SLED, WHICH IS ANY VEHICLE USED
19 FOR CARRYING PEOPLE OR LOADS OVER ICE AND SNOW, ACTUALLY ON A SLOPE OR
20 TRAIL LOCATED AT A SKI AREA, FOR THE PURPOSE OF SLEDDING.
21 S 2. Section 18-103 of the general obligations law is amended by
22 adding three new subdivisions 15, 16 and 17 to read as follows:
23 15. TO INCORPORATE AND APPLY ALL OF THE DUTIES AND RESPONSIBILITIES OF
24 THIS SECTION TO SLEDDING, SLEDDERS, SNOWBOARDING AND SNOWBOARDERS.

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

LBD05385-01-9

1 16. TO CONSPICUOUSLY POST AND MAINTAIN APPROPRIATE SIGNAGE REGARDING
2 THE HELMET REQUIREMENT, AS PROVIDED IN SECTION 18-106-A OF THIS ARTICLE.

3 17. TO MAKE AVAILABLE FOR SALE OR RENTAL, AT A REASONABLE FEE, PROTEC-
4 TIVE HEADGEAR FOR PERSONS UNDER FOURTEEN YEARS OF AGE TO WEAR WHILE
5 SKIING, SLEDDING OR SNOWBOARDING, AS PROVIDED IN SECTION 18-106-A OF
6 THIS ARTICLE.

7 S 3. The section heading and the opening paragraph of section 18-105
8 of the general obligations law, as added by chapter 711 of the laws of
9 1988, are amended to read as follows:

10 Duties of skiers, SLEDDERS AND SNOWBOARDERS. All skiers shall have
11 the following duties AND ALL SLEDDERS AND SNOWBOARDERS SHALL HAVE THE
12 SAME DUTIES AS APPLICABLE TO SNOWBOARDING AND SNOWBOARDING SLOPES AND
13 TRAILS:

14 S 4. The section heading and opening paragraph of section 18-106 of
15 the general obligations law, as added by chapter 711 of the laws of
16 1988, are amended to read as follows:

17 Duties of skiers, SLEDDERS, SNOWBOARDERS and ski area operators with
18 respect to inherent risks. It is recognized that skiing [is a], SLEDDING
19 AND SNOWBOARDING ARE voluntary [activity] ACTIVITIES that may be hazard-
20 ous regardless of all feasible safety measures that can be undertaken by
21 ski area operators. THEREFORE THE DUTIES IMPOSED UPON SKIERS AND SKI
22 AREA OPERATORS BY THIS SECTION, SHALL ALSO APPLY TO SLEDDERS, SLEDDING,
23 SNOWBOARDERS AND SNOWBOARDING. Accordingly:

24 S 5. The general obligations law is amended by adding a new section
25 18-106-A to read as follows:

26 S 18-106-A. SKIERS, SLEDDERS AND SNOWBOARDERS UNDER FOURTEEN YEARS OF
27 AGE TO WEAR PROTECTIVE HEADGEAR. 1. NO SKIER, SLEDDER OR SNOWBOARDER ONE
28 OR MORE YEARS OF AGE AND LESS THAN FOURTEEN YEARS OF AGE, SHALL SKI,
29 SLED OR SNOWBOARD UNLESS SUCH PERSON IS WEARING A HELMET MEETING SAFETY
30 STANDARDS ESTABLISHED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION
31 TWO HUNDRED TWO-C OR EIGHT HUNDRED SIXTY-SEVEN OF THE LABOR LAW. FOR THE
32 PURPOSES OF THIS SECTION WEARING A HELMET MEANS HAVING A HELMET OF GOOD
33 FIT FASTENED SECURELY UPON THE HEAD WITH THE HELMET STRAPS.

34 2. (A) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION ONE OF
35 THIS SECTION SHALL PAY A CIVIL FINE NOT TO EXCEED FIFTY DOLLARS.

36 (B) THE COURT SHALL WAIVE ANY FINE FOR WHICH A PERSON WHO VIOLATES THE
37 PROVISIONS OF SUBDIVISION ONE OF THIS SECTION WOULD BE LIABLE IF SUCH
38 PERSON SUPPLIES THE COURT WITH PROOF THAT BETWEEN THE DATE OF VIOLATION
39 AND THE APPEARANCE DATE FOR SUCH VIOLATION SUCH PERSON PURCHASED OR
40 RENTED A HELMET.

41 (C) THE COURT MAY WAIVE ANY FINE FOR WHICH A PERSON WHO VIOLATES THE
42 PROVISIONS OF SUBDIVISION ONE OF THIS SECTION WOULD BE LIABLE IF THE
43 COURT FINDS THAT DUE TO REASONS OF ECONOMIC HARDSHIP SUCH PERSON WAS
44 UNABLE TO PURCHASE A HELMET.

45 3. THE FAILURE OF ANY PERSON TO COMPLY WITH THE PROVISIONS OF THIS
46 SECTION SHALL NOT CONSTITUTE CONTRIBUTORY NEGLIGENCE OR ASSUMPTION OF
47 RISK, AND SHALL NOT IN ANY WAY BAR, PRECLUDE OR FORECLOSE AN ACTION FOR
48 PERSONAL INJURY OR WRONGFUL DEATH BY OR ON BEHALF OF SUCH PERSON, NOR IN
49 ANY WAY DIMINISH OR REDUCE THE DAMAGES RECOVERABLE IN ANY SUCH ACTION.

50 4. A POLICE OFFICER SHALL ONLY ISSUE A SUMMONS FOR A VIOLATION OF
51 SUBDIVISION ONE OF THIS SECTION BY A PERSON LESS THAN FOURTEEN YEARS OF
52 AGE TO THE PARENT OR GUARDIAN OF SUCH PERSON IF THE VIOLATION BY SUCH
53 PERSON OCCURS IN THE PRESENCE OF SUCH PERSON'S PARENT OR GUARDIAN AND
54 WHERE SUCH PARENT OR GUARDIAN IS EIGHTEEN YEARS OF AGE OR MORE. SUCH
55 SUMMONS SHALL ONLY BE ISSUED TO SUCH PARENT OR GUARDIAN, AND SHALL NOT
56 BE ISSUED TO THE PERSON LESS THAN FOURTEEN YEARS OF AGE.

1 S 6. The section heading and subdivision 1 of section 867 of the labor
2 law, as amended by chapter 711 of the laws of 1988, are amended to read
3 as follows:

4 Safety in skiing, SLEDDING AND SNOWBOARDING code. 1. The commissioner,
5 on the advice of the passenger tramway advisory council as created
6 pursuant to section twelve-c of this chapter, shall promulgate rules and
7 regulations, consistent with article eighteen of the general obligations
8 law, intended to guard against personal injuries to downhill skiers,
9 SLEDDERS AND SNOWBOARDERS which will, in view of such intent, define the
10 duties and responsibilities of downhill skiers, SLEDDERS AND SNOWBOARD-
11 ERS and the duties and responsibilities of ski area operators.

12 S 7. This act shall take effect on the one hundred eightieth day after
13 it shall have become a law. Effective immediately, the addition, amend-
14 ment and/or repeal of any rule or regulation necessary for the implemen-
15 tation of this act on its effective date are authorized and directed to
16 be made and completed on or before such effective date.