

3776

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. LENTOL -- read once and referred to the Committee  
on Codes

AN ACT to amend the civil practice law and rules, in relation to the  
recovery of damages

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

1 Section 1. Section 1411 of the civil practice law and rules, as added  
2 by chapter 69 of the laws of 1975, is amended to read as follows:  
3 S 1411. Damages recoverable when contributory negligence or assumption  
4 of risk is established. (A) In any action to recover damages for  
5 personal injury, injury to property, or wrongful death, the culpable  
6 conduct attributable to the claimant or to the decedent, including  
7 contributory negligence or assumption of risk, shall not bar recovery,  
8 but the amount of damages otherwise recoverable shall be diminished in  
9 the proportion which the culpable conduct attributable to the claimant  
10 or decedent bears to the culpable conduct which caused the damages.  
11 (B) IN ANY ACTION TO RECOVER DAMAGES FOR PERSONAL INJURY, INJURY TO  
12 PROPERTY, OR WRONGFUL DEATH, ARISING OUT OF THE VOLUNTARY PARTICIPATION  
13 IN COMPETITIVE ATHLETICS, THE CULPABLE CONDUCT ATTRIBUTABLE TO THE  
14 CLAIMANT OR TO THE DECEDENT, INCLUDING CONTRIBUTORY NEGLIGENCE OR  
15 ASSUMPTION OF RISK, SHALL NOT BAR RECOVERY, BUT THE AMOUNT OF DAMAGES  
16 OTHERWISE RECOVERABLE SHALL BE DIMINISHED IN THE PROPORTION WHICH THE  
17 CULPABLE CONDUCT ATTRIBUTABLE TO THE CLAIMANT OR DECEDENT BEARS TO THE  
18 CULPABLE CONDUCT WHICH CAUSED THE DAMAGES.  
19 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ACTION TO RECOVER  
20 DAMAGES FOR PERSONAL INJURY, PROPERTY DAMAGE OR WRONGFUL DEATH ARISING  
21 OUT OF THE VOLUNTARY PARTICIPATION IN COMPETITIVE ATHLETICS WHICH WAS  
22 OTHERWISE COMMENCED IN A TIMELY MANNER AND WHICH WAS DISMISSED BECAUSE  
23 SUBDIVISION (B) OF THIS SECTION WAS NOT IN EFFECT IS HEREBY REVIVED AND  
24 AN ACTION MAY BE COMMENCED WITHIN TWO YEARS OF THE EFFECTIVE DATE OF  
25 THIS SUBDIVISION.  
26 S 2. This act shall take effect immediately and shall apply to any  
27 actions commenced on or after such date.

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

LBD05868-01-9