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

1102

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. SAYWARD, P. LOPEZ -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and the general obligations law, in relation to the use of lands for recreational activities and an income tax deduction for certain landowners

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

Section 1. Subsection (d) of section 615 of the tax law is amended by adding a new paragraph 5 to read as follows:

(5) ONE HUNDRED DOLLARS PLUS AN ADDITIONAL TWO HUNDRED DOLLARS FOR EACH 0.5 MILES OF TRAIL ON TAXPAYER OWNED LAND WHICH SUCH TAXPAYER MAKES AVAILABLE FOR RECREATIONAL USE AS PART OF A LOCAL, NATIONAL, STATE OR REGIONAL TRAIL SYSTEM PURSUANT TO SECTION 9-103 OF THE GENERAL OBLIGATIONS LAW.

S 2. Section 9-103 of the general obligations law, as amended by chapter 408 of the laws of 1979, paragraph a of subdivision 1 as separately amended by chapters 141 and 286 of the laws of 1984 and paragraph c of subdivision 1 as added by chapter 174 of the laws of 1980, is amended to read as follows:

S 9-103. No duty to keep premises safe for certain uses; responsibility for acts of such users. 1. Except as provided in subdivision two,

a. an owner, lessee or occupant of premises, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, organized gleaning as defined in section seventy-one-y of the agriculture and markets law, canoeing, boating, trapping, hiking, cross-country skiing, tobogganing, sledding, speleological activities, horseback riding, bicycle riding, hang gliding, motorized vehicle operation for recreational purposes, snowmobile operation, cutting or gathering of wood for non-commercial purposes [or], training of dogs, OR MADE

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

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AVAILABLE ANNUALLY FOR RECREATIONAL USE AS PART OF A LOCAL, NATIONAL, STATE, OR REGIONAL TRAIL SYSTEM, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes;

b. an owner, lessee or occupant of premises who gives permission to another to pursue any such activities upon such premises does not thereby (1) extend any assurance that the premises are safe for such purpose, or (2) constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

c. an owner, lessee or occupant of a farm, as defined in section six hundred seventy-one of the labor law, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep such farm safe for entry or use by a person who enters or remains in or upon such farm without consent or privilege, or to give warning of any hazardous condition or use of or structure or activity on such farm to persons so entering or remaining. This shall not be interpreted, or construed, as a limit on liability for acts of gross negligence in addition to those other acts referred to in subdivision two of this section.

2. This section does not limit the liability which would otherwise exist

a. for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity NOT RELATED TO ACTIVITY PERMITTED PURSUANT TO PARAGRAPH FIVE OF SUBSECTION (D) OF SECTION SIX HUNDRED FIFTEEN OF THE TAX LAW WHEREIN SUCH LIABILITY WOULD BE LIMITED TO WILLFUL OR MALICIOUS CREATION OR PERPETUATION OF A DANGEROUS CONDITION, USE OR STRUCTURE; or

b. for injury suffered in any case where permission to pursue any of the activities enumerated in this section was granted for a consideration other than the consideration, if any, paid to said landowner by the state or federal government OTHER THAN A DEDUCTION PURSUANT TO PARAGRAPH FIVE OF SUBSECTION (D) OF SECTION SIX HUNDRED FIFTEEN OF THE TAX LAW, or permission to train dogs was granted for a consideration other than that provided for in section 11-0925 of the environmental conservation law; or

c. for injury caused, by acts of persons to whom permission to pursue any of the activities enumerated in this section was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

3. Nothing in this section creates a duty of care or ground of liability for injury to person or property.

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