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

1795

2009-2010 Regular Sessions

I N A S S E M B L Y

January 12, 2009

Introduced by M. of A. CALHOUN, CROUCH, THIELE, TEDISCO -- Multi-Sponsored by -- M. of A. FINCH, MILLER -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to limiting liability of public entities for injuries sustained on or in public recreational facilities

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

Section 1. The general municipal law is amended by adding a new article 4-A to read as follows:

ARTICLE 4-A

LIABILITY OF PUBLIC ENTITIES

SECTION 60. DEFINITIONS.
61. APPLICATION.
62. LIABILITY OF PUBLIC ENTITIES FOR INJURIES SUSTAINED ON OR IN PUBLIC RECREATIONAL FACILITIES.

S 60. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "PUBLIC ENTITY" MEANS (A) A COUNTY, CITY, TOWN, VILLAGE OR ANY OTHER POLITICAL SUBDIVISION OR CIVIL DIVISION OF THE STATE; (B) A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES OR ANY OTHER GOVERNMENTAL ENTITY OR COMBINATION OR ASSOCIATION OF GOVERNMENTAL ENTITIES OPERATING A PUBLIC SCHOOL, COLLEGE OR COMMUNITY COLLEGE OR UNIVERSITY, EXCEPT A STATE UNIVERSITY; (C) A PUBLIC IMPROVEMENT OR SPECIAL DISTRICT OR DISTRICT CORPORATION; (D) A PUBLIC BENEFIT CORPORATION; (E) A MUNICIPAL HOUSING AUTHORITY; OR (F) ANY OTHER PUBLIC CORPORATION OR POLITICAL SUBDIVISION OF THE STATE.

2. "OPERATOR" MEANS A PERSON OR PERSONS UNDER CONTRACT WITH A PUBLIC ENTITY TO PROVIDE FOR THE OPERATION, MAINTENANCE OR BOTH OF A PUBLIC RECREATIONAL FACILITY.

3. "PUBLIC RECREATIONAL FACILITY" MEANS A FACILITY OWNED BY A PUBLIC ENTITY FOR THE USE OF THE GENERAL PUBLIC AS SPECTATORS OR PARTICIPANTS

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

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IN RECREATION ACTIVITIES INCLUDING, BUT NOT LIMITED TO, SKIING, GOLFING, SWIMMING, TENNIS, ICE SKATING OR ICE HOCKEY FACILITIES, TOGETHER WITH ALL BUILDINGS, STRUCTURES, MACHINERY, EQUIPMENT, FACILITIES AND APPURTENANCES THERETO.

S 61. APPLICATION. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO ALL CAUSES OF ACTION FOR PERSONAL INJURY, INJURY TO PROPERTY OR WRONGFUL DEATH AGAINST A PUBLIC ENTITY.

S 62. LIABILITY OF PUBLIC ENTITIES FOR INJURIES SUSTAINED ON OR IN PUBLIC RECREATIONAL FACILITIES. IN ORDER TO ENCOURAGE THE GRANTING OF ACCESS TO PUBLIC RECREATIONAL FACILITIES, IT IS HEREBY DECLARED THAT USE BY THE PUBLIC OF SUCH FACILITIES INCLUDES AN ASSUMPTION OF RISK BY THE USER. NOTWITHSTANDING THE PROVISIONS OF SECTION 5-326 OF THE GENERAL OBLIGATIONS LAW, ACTIONS FOR INJURIES SUSTAINED ON OR IN PUBLIC RECREATIONAL FACILITIES, INCLUDING EQUIPMENT, DEVICES, ATTRACTIONS, RIDES OR OTHERWISE, SHALL BE ALLOWED ONLY IF SUCH INJURIES AROSE FROM WILLFUL, WANTON OR GROSS NEGLIGENCE ON THE PART OF THE PUBLIC ENTITY OR OPERATOR.

S 2. This act shall take effect immediately and shall apply to all causes of action commenced on or after such effective date.