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

3776--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1411 of the civil practice law and rules, as added by chapter 69 of the laws of 1975, is amended to read as follows:

S 1411. Damages recoverable when contributory negligence or assumption of risk is established. (A) In any action to recover damages for personal injury, injury to property, or wrongful death, the culpable conduct attributable to the claimant or to the decedent, including contributory negligence or assumption of risk, shall not bar recovery, but the amount of damages otherwise recoverable shall be diminished in the proportion which the culpable conduct attributable to the claimant or decedent bears to the culpable conduct which caused the damages.

(B) IN ANY ACTION TO RECOVER DAMAGES FOR PERSONAL INJURY, INJURY TO PROPERTY, OR WRONGFUL DEATH, ARISING OUT OF THE VOLUNTARY PARTICIPATION IN COMPETITIVE ATHLETICS, THE CULPABLE CONDUCT ATTRIBUTABLE TO THE CLAIMANT OR TO THE DECEDENT, INCLUDING CONTRIBUTORY NEGLIGENCE OR ASSUMPTION OF RISK, SHALL NOT BAR RECOVERY, BUT THE AMOUNT OF DAMAGES OTHERWISE RECOVERABLE SHALL BE DIMINISHED IN THE PROPORTION WHICH THE CULPABLE CONDUCT ATTRIBUTABLE TO THE CLAIMANT OR DECEDENT BEARS TO THE CULPABLE CONDUCT WHICH CAUSED THE DAMAGES.

S 2. This act shall take effect immediately and shall apply to any actions commenced on or after such date.

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

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