

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

4892--B

2011-2012 Regular Sessions

I N A S S E M B L Y

February 9, 2011

Introduced by M. of A. KAVANAGH, JAFFEE, P. RIVERA, WEPRIN, PAULIN --
Multi-Sponsored by -- M. of A. ARROYO, CALHOUN, CLARK, CORWIN,
LINARES, McDONOUGH, J. MILLER, SALADINO, SIMOTAS, WEISENBERG -- read
once and referred to the Committee on Judiciary -- recommitted to the
Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 --
committee discharged, bill amended, ordered reprinted as amended and
recommitted to said committee -- reported and referred to the Commit-
tee on Codes -- committee discharged, bill amended, ordered reprinted
as amended and recommitted to said committee

AN ACT to amend the general obligations law and the labor law, in
relation to the duties of skiers and snowboarders

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

1 Section 1. Section 18-102 of the general obligations law is amended by
2 adding a new subdivision 8 to read as follows:
3 8. "SNOWBOARDER" MEANS ANY PERSON WEARING A SNOWBOARD AND ACTUALLY ON
4 A SKI SLOPE OR A TRAIL LOCATED AT A SKI AREA, FOR THE PURPOSE OF SNOW-
5 BOARDING.
6 S 2. Subdivisions 13 and 14 of section 18-105 of the general obli-
7 gations law, as added by chapter 711 of the laws of 1988, are amended
8 and a new subdivision 15 is added to read as follows:
9 13. To report any personal injury to the ski area operator before
10 leaving the ski area; [and]
11 14. Not to willfully remove, deface, alter or otherwise damage
12 signage, warning devices or implements, or other safety devices placed
13 and maintained by the ski area operator pursuant to the requirements of
14 section 18-103 of this article[.]; AND
15 15. NOT TO ENGAGE IN DOWNHILL SKIING IN ANY AREA UNLESS HE OR SHE IS
16 WEARING A PROTECTIVE HELMET. THE PROVISIONS OF THIS SUBDIVISION SHALL
17 APPLY ONLY TO SKIERS UNDER EIGHTEEN YEARS OF AGE.

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

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1 S 3. The general obligations law is amended by adding a new section
2 18-105-a to read as follows:

3 S 18-105-A. SNOWBOARDERS; PROTECTIVE HELMETS. NO PERSON UNDER EIGHTEEN
4 YEARS OF AGE SHALL ENGAGE IN SNOWBOARDING IN ANY AREA UNLESS HE OR SHE
5 IS WEARING A PROTECTIVE HELMET.

6 S 4. The opening paragraph of section 18-106 of the general obli-
7 gations law, as added by chapter 711 of the laws of 1988, is amended to
8 read as follows:

9 It is recognized that skiing [is a] AND SNOWBOARDING ARE voluntary
10 [activity] ACTIVITIES that may be hazardous regardless of all feasible
11 safety measures that can be undertaken by ski area operators. Accord-
12 ingly:

13 S 5. Paragraphs c and d of subdivision 1 of section 18-106 of the
14 general obligations law, paragraph c as added by chapter 711 of the laws
15 of 1988 and paragraph d as amended by chapter 322 of the laws of 1989,
16 are amended and two new paragraphs e and f are added to read as follows:

17 c. To make available at reasonable fees, as required by subdivision
18 thirteen of section 18-103 of this article, instruction and education
19 for skiers relative to the risks inherent in the sport and the duties
20 prescribed for skiers by this article, and to conspicuously post notice
21 of the times and places of availability of such instruction and educa-
22 tion in locations where it is likely to be seen by skiers; [and]

23 d. To post notice to skiers of the right to a refund to the purchaser
24 in the form and amount paid in the initial sale of any lift ticket
25 returned to the ski area operator, intact and unused, upon declaration
26 by such purchaser that he or she is unprepared or unwilling to ski due
27 to the risks inherent in the sport or the duties imposed upon him or her
28 by this article[.];

29 E. TO OFFER FOR SALE OR RENTAL PROTECTIVE HEADGEAR AND PROHIBIT ANY
30 SKIER OR SNOWBOARDER UNDER EIGHTEEN YEARS OF AGE WHO IS NOT WEARING
31 PROTECTIVE HEADGEAR FROM SKIING OR SNOWBOARDING. SUCH HEADGEAR SHALL
32 MEET THE STANDARDS OF THE AMERICAN NATIONAL STANDARDS INSTITUTE AND
33 STANDARDS SET FORTH IN REGULATIONS PROMULGATED BY THE COMMISSIONER OF
34 LABOR IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE TWENTY-SIX OF THE
35 LABOR LAW; AND

36 F. TO POST NOTICE IN BOLD AND CONSPICUOUS TYPE AT THE POINT OR POINTS
37 OF TRANSACTION THE FOLLOWING: "NEW YORK STATE LAW REQUIRES THAT ALL
38 SKIERS AND SNOWBOARDERS UNDER EIGHTEEN YEARS OF AGE WEAR PROTECTIVE
39 HEADGEAR."

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

43 Safety [in skiing] ON THE SLOPES code. 1. The commissioner, on the
44 advice of the passenger tramway advisory council as created pursuant to
45 section twelve-c of this chapter, shall promulgate rules and regu-
46 lations, consistent with article eighteen of the general obligations
47 law, intended to guard against personal injuries to downhill skiers AND
48 SNOWBOARDERS which will, in view of such intent, define the duties and
49 responsibilities of downhill skiers AND SNOWBOARDERS and the duties and
50 responsibilities of ski area operators. SUCH DUTIES SHALL INCLUDE, BUT
51 NOT BE LIMITED TO, THE PROVISION BY SKI AREA OPERATORS OF PROTECTIVE
52 HEADGEAR, FOR PURCHASE OR RENTAL, AND THE REQUIREMENT THAT SKIERS AND
53 SNOWBOARDERS UNDER EIGHTEEN YEARS OF AGE WEAR PROTECTIVE HEADGEAR.

54 S 7. The labor law is amended by adding a new section 867-a to read as
55 follows:

1 S 867-A. PENALTIES. IF THE COMMISSIONER FINDS THAT A SKI AREA OPERATOR
2 HAS KNOWINGLY VIOLATED PARAGRAPH E OR F OF SUBDIVISION ONE OF SECTION
3 18-106 OF THE GENERAL OBLIGATIONS LAW, HE OR SHE SHALL IMPOSE A FINE OF
4 ONE HUNDRED DOLLARS FOR THE FIRST SUCH VIOLATION, TWO HUNDRED DOLLARS
5 FOR THE SECOND SUCH VIOLATION, AND FOR A THIRD OR ANY SUBSEQUENT SUCH
6 VIOLATION THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, AFTER A HEAR-
7 ING THEREON, SUSPEND THE LICENSE OF SUCH SKI AREA OPERATOR FOR A PERIOD
8 OF THREE DAYS.
9 S 8. This act shall take effect on the ninetieth day after it shall
10 have become a law.