7560

IN SENATE

June 4, 2012

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to enacting the Steven Kovacs Law to impose an affirmative duty upon a social host to render assistance to a guest on private premises in the event of a medical emergency

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

Section 1. This act shall be known and may be cited as the "Steven Kovacs Law".

S 2. Article 9 of the general obligations law is amended by adding a new title 2 to read as follows:

TITLE 2

SOCIAL HOST RESPONSIBILITY

SECTION 9-201. SOCIAL HOST RESPONSIBILITY.

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- S 9-201. SOCIAL HOST RESPONSIBILITY. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
- (A) "SOCIAL HOST" MEANS ANY PERSON HAVING CONTROL OVER A PRIVATE PREMISES.
- (B) "CONTROL" MEANS THE ACTUAL OR APPARENT AUTHORITY AND ABILITY TO REGULATE, DIRECT OR DOMINATE PRIVATE PREMISES, INCLUDING, BUT NOT LIMITED TO THE CONTROL EXERCISED BY TENANTS, LESSEES, OWNERS AND/OR LANDLORDS WHO HAVE NOTICE OF THE PRESENCE OF A GUEST OR GUESTS ON THE PREMISES.
- (C) "PRIVATE PREMISES" MEANS ANY HOME, APARTMENT, CONDOMINIUM, COOPERATIVE UNIT OR OTHER DWELLING UNIT OF ANY KIND, INCLUDING YARDS AND OPEN AREAS ADJACENT THERETO.
- (D) "GUEST" MEANS A PERSON WHO IS PHYSICALLY PRESENT ON THE PRIVATE PREMISES OF A SOCIAL HOST WITH THE CONSENT OF SUCH SOCIAL HOST.
- 21 2. A SOCIAL HOST WHO IS AWARE OR WHO SHOULD BE AWARE THAT A GUEST ON THE PRIVATE PREMISES OVER WHICH THE SOCIAL HOST EXERCISES CONTROL IS SUFFERING OR HAS SUFFERED A MEDICAL EMERGENCY AND WHO FAILS TO GIVE REASONABLE ASSISTANCE TO SUCH GUEST, ALTHOUGH THERE EXISTS NO DANGER OR PERIL TO THE SOCIAL HOST OR OTHERS AS A RESULT AND ALTHOUGH SUCH ASSIST-ANCE OR CARE HAS NOT BEEN UNDERTAKEN BY ANOTHER OR OTHERS, SHALL BE

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

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LIABLE FOR DAMAGES FOR INJURIES ALLEGED TO HAVE BEEN SUSTAINED BY SUCH GUEST OR FOR DAMAGES FOR THE DEATH OF SUCH GUEST ALLEGED TO HAVE OCCURRED BY REASON OF SUCH FAILURE. REASONABLE ASSISTANCE MAY INCLUDE OBTAINING OR ATTEMPTING TO OBTAIN AID FROM LAW ENFORCEMENT OR MEDICAL PERSONNEL.

- 3. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, ONCE A SOCIAL HOST HAS UNDERTAKEN TO RENDER REASONABLE ASSISTANCE TO A GUEST, WITHOUT EXPECTATION OF MONETARY COMPENSATION, SUCH SOCIAL HOST SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES AS A RESULT OF ACTS OR OMISSIONS BY THAT PERSON IN RENDERING SUCH ASSISTANCE, UNLESS IT IS ESTABLISHED THAT SUCH INJURIES WERE OR SUCH DEATH WAS CAUSED BY GROSS NEGLIGENCE ON THE PART OF SUCH PERSON.
- 13 S 3. This act shall take effect on the sixtieth day after it shall 14 have become a law.