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

260--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KAVANAGH, JAFFEE, WEPRIN, PAULIN -- Multi-Sponsored by -- M. of A. ARROYO, CLARK, CORWIN, McDONOUGH, MILLER, SALADINO, SIMOTAS -- read once and referred to the Committee on Judiciary -- reported 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 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 18-102 of the general obligations law is amended by adding a new subdivision 8 to read as follows:

8. "SNOWBOARDER" MEANS ANY PERSON WEARING A SNOWBOARD AND ACTUALLY ON A SKI SLOPE OR A TRAIL LOCATED AT A SKI AREA, FOR THE PURPOSE OF SNOWBOARDING.

S 2. Subdivisions 13 and 14 of section 18-105 of the general obligations law, as added by chapter 711 of the laws of 1988, are amended and a new subdivision 15 is added to read as follows:

13. To report any personal injury to the ski area operator before leaving the ski area; [and]

14. Not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements, or other safety devices placed and maintained by the ski area operator pursuant to the requirements of section 18-103 of this article[.]; AND

15. NOT TO ENGAGE IN DOWNHILL SKIING IN ANY AREA UNLESS HE OR SHE IS WEARING A PROTECTIVE HELMET. THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY ONLY TO SKIERS UNDER EIGHTEEN YEARS OF AGE.

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

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

LBD02176-02-3

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

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

It is recognized that skiing [is a] AND SNOWBOARDING ARE voluntary [activity] ACTIVITIES that may be hazardous regardless of all feasible safety measures that can be undertaken by ski area operators. Accordingly:

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

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

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

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

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

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

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

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

S 867-A. PENALTIES. IF THE COMMISSIONER FINDS THAT A SKI AREA OPERATOR HAS KNOWINGLY VIOLATED PARAGRAPH E OR F OF SUBDIVISION ONE OF SECTION 18-106 OF THE GENERAL OBLIGATIONS LAW, THE COMMISSIONER SHALL IMPOSE A

FINE OF UP TO ONE HUNDRED DOLLARS FOR THE FIRST SUCH VIOLATION OR UP TO TWO HUNDRED DOLLARS FOR ANY VIOLATION THAT OCCURS WITHIN A YEAR AFTER A PRIOR VIOLATION.

S 8. This act shall take effect on the ninetieth day after it shall have become a law.