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

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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general obligations law, in relation to enacting the "Steven Kovacs Law" to impose an affirmative duty upon a residential 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.

S 9-201. SOCIAL HOST RESPONSIBILITY. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "HOST" MEANS ANY PERSON OVER EIGHTEEN YEARS OF AGE HAVING CONTROL OVER A PRIVATE PREMISES.

(B) "CONTROL" MEANS THE ACTUAL AUTHORITY AND ABILITY TO REGULATE, DIRECT OR DOMINATE THE PRIVATE PREMISES.

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

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(C) "PRIVATE PREMISES" MEANS ANY HOME, APARTMENT, CONDOMINIUM, COOPERATIVE UNIT OR OTHER DWELLING UNIT OF ANY KIND, INCLUDING YARDS AND OPEN AREAS OVER WHICH THE HOST HAS CONTROL.

(D) "GUEST" MEANS A PERSON WHO IS PHYSICALLY PRESENT ON THE PRIVATE PREMISES OF A HOST, AS AN EXPRESSED INVITEE OF THE HOST.

2. A HOST WHO IS PRESENT AND HAS EXPRESSLY INVITED A GUEST TO BE PRESENT UPON THE PRIVATE PREMISES OVER WHICH THE HOST EXERCISES CONTROL, HAS A DUTY TO PROVIDE REASONABLE ASSISTANCE TO SAID INVITEE WHO IS SUFFERING OR HAS SUFFERED A MEDICAL EMERGENCY WHICH REASONABLY APPEARS TO THREATEN THE LIFE OF THE GUEST. UPON FAILURE TO GIVE REASONABLE ASSISTANCE TO SUCH GUEST AFTER A REQUEST FOR SUCH ASSISTANCE, AFTER HAVING OBTAINED KNOWLEDGE THAT SUCH ASSISTANCE WAS REASONABLY WARRANTED, SAID HOST SHALL BE LIABLE FOR DAMAGES FOR INJURIES SUSTAINED BY SUCH GUEST OR FOR DAMAGES FOR THE DEATH OF SUCH GUEST WHICH OCCURRED BY REASON OF SUCH FAILURE. SAID DUTY SHALL BE SATISFIED BY OBTAINING OR REASONABLY ATTEMPTING TO OBTAIN AID FROM LAW ENFORCEMENT OR MEDICAL PERSONNEL.

3. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, ONCE A HOST AT THE PRIVATE PREMISES HAS UNDERTAKEN TO RENDER REASONABLE ASSISTANCE TO A GUEST, IT SHALL BE A COMPLETE DEFENSE AGAINST ANY CLAIM FOR DAMAGES ALLEGEDLY CAUSED BY ACTS OR OMISSIONS OF SUCH PERSON IN RENDERING SUCH ASSISTANCE, UNLESS IT IS ESTABLISHED THAT SUCH INJURIES OR DEATH WERE CAUSED BY GROSS NEGLIGENCE ON THE PART OF SUCH PERSON.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.