

5961

2015-2016 Regular Sessions

I N   A S S E M B L Y

March 9, 2015

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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

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:

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.  
18    S 3. The general obligations law is amended by adding a new section  
19    18-105-a to read as follows:  
20    S 18-105-A. SNOWBOARDERS; PROTECTIVE HELMETS. NO PERSON UNDER EIGHTEEN  
21    YEARS OF AGE SHALL ENGAGE IN SNOWBOARDING IN ANY AREA UNLESS HE OR SHE  
22    IS WEARING A PROTECTIVE HELMET.  
23    S 4. The opening paragraph of section 18-106 of the general obli-  
24    gations law, as added by chapter 711 of the laws of 1988, is amended to  
25    read as follows:  
26    It is recognized that skiing [is a] AND SNOWBOARDING ARE voluntary  
27    [activity] ACTIVITIES that may be hazardous regardless of all feasible

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

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1 safety measures that can be undertaken by ski area operators. According-  
2 ly:

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

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

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

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

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

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

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

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

46 S 867-A. PENALTIES. IF THE COMMISSIONER FINDS THAT A SKI AREA OPERATOR  
47 HAS KNOWINGLY VIOLATED PARAGRAPH E OR F OF SUBDIVISION ONE OF SECTION  
48 18-106 OF THE GENERAL OBLIGATIONS LAW, THE COMMISSIONER SHALL IMPOSE A  
49 FINE OF UP TO ONE HUNDRED DOLLARS FOR THE FIRST SUCH VIOLATION OR UP TO  
50 TWO HUNDRED DOLLARS FOR ANY VIOLATION THAT OCCURS WITHIN A YEAR AFTER A  
51 PRIOR VIOLATION.

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