

STATE OF NEW YORK

7250

2019-2020 Regular Sessions

IN ASSEMBLY

April 18, 2019

Introduced by M. of A. FALL -- read once and referred to the Committee on Economic Development

AN ACT to amend the general business law, in relation to trampoline park safety

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 12-C to read as follows:

ARTICLE 12-C

TRAMPOLINE PARK SAFETY

Section 220. Definitions.

221. Business license required.

221-a. Exemptions.

222. License suspension or revocation.

223. Compliance with industry standards.

224. Trampoline park employee training, equipment and supervision.

225. Reporting of injuries; emergency response plan.

226. Annual certification to the department of state.

227. Inspection.

228. Insurance.

228-a. Claims for inherent risks.

§ 220. Definitions. As used in this article, the following words and phrases shall have the following meanings:

1. "commercial trampoline" shall mean a device that:

(a) incorporates a trampoline bed; and

(b) is used for recreational jumping, springing, bouncing, acrobatics, or gymnastics in a trampoline park.

2. "department" shall mean the department of state.

3. "emergency response plan" shall mean a written plan of action for the reasonable and appropriate contact, deployment, and coordination of

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

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1 services, agencies, and personnel to provide the earliest possible
2 response to an injury or emergency.

3 4. "inherent risk" shall mean a danger or condition that is an inte-
4 gral part of an activity occurring at a trampoline park.

5 5. "inspection" shall mean a procedure that an inspector conducts to:

6 (a) determine whether a trampoline park facility, including any device
7 or material, is constructed, assembled, maintained, tested, and operated
8 in accordance with this article and the manufacturer's recommendations;

9 (b) determine the operational safety of a trampoline park facility,
10 including any device or material; and

11 (c) determine whether the trampoline park's policies and procedures
12 comply with this article.

13 6. "inspector" shall mean an individual who:

14 (a) conducts an inspection of a trampoline park to certify compliance
15 with this article and industry safety standards; and

16 (b) (i) is certified by:

17 (A) an organization that develops and publishes consensus standards
18 for a wide range of materials, products, systems, and services that are
19 used for trampolines; or

20 (B) an organization that promotes trampoline park safety and adopts
21 the standards described in clause (A) of this subparagraph;

22 (ii) represents the insurer of the trampoline park;

23 (iii) represents or is certified by a department or agency, regardless
24 of whether the agency is located within the state, that:

25 (A) inspects amusement and recreational facilities and equipment; and

26 (B) certifies and trains professional private industry inspectors
27 through written testing and continuing education requirements; or

28 (iv) represents an organization that the United States Olympic Commit-
29 tee designates as the national governing body for gymnastics.

30 7. "operator" shall mean a person who owns, manages, or controls or
31 who has the duty to manage or control the operation of a trampoline
32 park.

33 8. "participant" shall mean an individual that uses trampoline park
34 equipment.

35 9. "trampoline bed" shall mean the flexible surface of a trampoline on
36 which a user jumps or bounces.

37 10. "trampoline court" shall mean an area of a trampoline park
38 comprising:

39 (a) multiple commercial trampolines; or

40 (b) at least one commercial trampoline and at least one associated
41 foam or inflatable bag pit.

42 11. "trampoline park" shall mean a place of business that offers the
43 recreational use of a trampoline court for a fee.

44 § 221. Business license required. 1. To operate a trampoline park in
45 this state, the operator of a trampoline park shall obtain and maintain
46 a license issued by the department pursuant to this section. The
47 department may, in its discretion, issue a license to operate a trampo-
48 line park, subject to the provisions hereof, to any person or corpo-
49 ration duly incorporated, or limited liability company authorized, under
50 the laws of the state of New York.

51 2. A prospective licensee shall submit to the department proof that it
52 can furnish suitable premises, as determined by the secretary of state,
53 in which such trampoline park may operate.

54 3. The department may impose fees on an operator to recover the
55 state's costs of regulation under this article.

56 § 221-a. Exemptions. This article shall not apply to:

1 1. a playground that a school or local government operates, if:
2 (a) the playground is an incidental amenity; and
3 (b) the operating entity does not primarily derive revenue from oper-
4 ating the playground for a fee;

5 2. a gymnastics, dance, cheer, or tumbling facility where:
6 (a) the majority of activities are based in training or rehearsal and
7 not recreation;

8 (b) the facility derives at least eighty percent of revenues through
9 supervised instruction or classes; and

10 (c) the student-coach or student-instructor ratio is based on age,
11 skill level, and number of students; or

12 3. equipment used exclusively for exercise, an inflatable ride, or an
13 inflatable bounce house.

14 § 222. License suspension or revocation. 1. Except as provided in this
15 section, a violation of this article is grounds for the department to
16 suspend or revoke the operator's business license.

17 2. The department may not suspend or revoke a license under subdivi-
18 sion one of this section unless:

19 (a) the department provides the operator with at least sixty days to
20 cure the violation that is the grounds for the action in accordance with
21 the policy described in subdivision three of this section; or

22 (b) regardless of the operator curing a violation as described in
23 paragraph (a) of this subdivision, the violation repeats.

24 3. The department shall define the reasonable opportunity to cure
25 violations described in paragraph (a) of subdivision two of this section
26 by creating a generally applicable policy that identifies a standard
27 timeline and process for curing a violation.

28 § 223. Compliance with industry standards. A trampoline park operator
29 shall:

30 1. ensure that the trampoline park complies with industry standards
31 regarding:

32 (a) signage and notification for proper use of the trampoline park,
33 safety procedures, and education of risk;

34 (b) equipment and facilities, including materials, layout, condition,
35 and maintenance;

36 (c) staff training, including safety procedures and emergency
37 response;

38 (d) participant activities and behaviors that should be restricted;

39 (e) separation of participants within the trampoline park based on
40 age, size, or other necessary factors;

41 (f) operational issues, including maintenance and injury logs and
42 emergency response plans;

43 (g) staff supervision and monitoring of activities; and

44 (h) statistical tracking of injuries in a manner that does not
45 personally identify the injured participant; and

46 2. notify the department within forty-eight hours of any changes in
47 status to any requirement under this section.

48 § 224. Trampoline park employee training, equipment and supervision.
49 An operator shall:

50 1. ensure that during all hours of operation the trampoline park has
51 an operable automated external defibrillator;

52 2. ensure that all employees are certified in first aid and CPR;

53 3. ensure that all participants are instructed by an employee about
54 the potential risks and safety guidelines;

55 4. require that trampoline park employees monitor the trampoline court
56 and participants during all hours of operation;

1 5. ensure that the number of trampoline park employees described in
2 subdivision four of this section is adequate to view each area of the
3 trampoline court; and

4 6. prominently display throughout the trampoline park contrasted safe-
5 ty, warning, advisory, and instructional signage reflecting the trampo-
6 line park's rules.

7 § 225. Reporting of injuries; emergency response plan. 1. An operator
8 shall develop, implement, and follow an in-house injury reporting and
9 emergency response plan for injuries.

10 2. The operator shall retain any records related to the injury report-
11 ing system and emergency response plan described in subdivision one of
12 this section.

13 3. The operator shall make available to the department of health or
14 the local health department, upon request:

15 (a) the information contained in the injury reporting system described
16 in subdivision one of this section; and

17 (b) the records described in subdivision two of this section.

18 § 226. Annual certification to the department. 1. A trampoline park
19 operator shall provide the certifications described in subdivision two
20 of this section:

21 (a) at the time a trampoline park operator applies to a department to
22 renew a business license to operate a trampoline park; and

23 (b) if the term of the license described in paragraph (a) of this
24 subdivision exceeds one year, at least once per calendar year.

25 2. In accordance with subdivision one of this section, a trampoline
26 park operator shall certify compliance with this article by submitting
27 to the department:

28 (a) an inspection certificate described in subdivision three of
29 section two hundred twenty-seven of this article; and

30 (b) the certification of insurance described in subdivision two of
31 section two hundred twenty-eight of this article.

32 § 227. Inspection. A trampoline park operator shall:

33 1. ensure that an inspector conducts an inspection of the facilities
34 and records of the trampoline park at least once per calendar year to
35 certify compliance with:

36 (a) industry safety standards, including each category of standards
37 described in section two hundred twenty-three of this article; and

38 (b) this article, including safety standards described in sections two
39 hundred twenty-four and two hundred twenty-five of this article;

40 2. during the inspection described in subdivision one of this section,
41 provide the inspector with:

42 (a) proof that the trampoline court is maintained in good repair;

43 (b) an emergency response plan; and

44 (c) maintenance, inspection, staff member training, and injury logs;
45 and

46 3. obtain from the inspector a written report documenting the
47 inspection and a certificate certifying that:

48 (a) the trampoline park has successfully passed the inspection
49 described in this section; and

50 (b) the trampoline park is in full compliance with this article.

51 § 228. Insurance. A trampoline park operator shall:

52 1. maintain insurance providing liability coverage of at least one
53 million dollars in the aggregate and five hundred thousand dollars per
54 incident to cover injuries to participants arising out of any negligence
55 or misconduct by the trampoline park operator or staff in the
56 construction, maintenance, or operation of the trampoline park;

1 2. maintain a certificate of insurance demonstrating compliance with
2 this section; and

3 3. notify the the department within twenty-four hours of the lapse,
4 expiration, or cancellation of the insurance described in subdivision
5 one of this section.

6 § 228-a. Claims for inherent risks. Notwithstanding anything in this
7 article to the contrary, if a participant makes a claim against an oper-
8 ator for an injury resulting from an inherent risk:

9 1. the operator may raise as a defense the operator's compliance with
10 sections two hundred twenty-three, two hundred twenty-four and two
11 hundred twenty-five of this article; and

12 2. the factfinder shall consider, in accordance with section fourteen
13 hundred eleven of the civil practice law and rules, the operator's
14 compliance described in subdivision one of this section.

15 § 2. This act shall take effect on the one hundred twentieth day after
16 it shall have become a law. Effective immediately, the addition, amend-
17 ment and/or repeal of any rule or regulation necessary for the implemen-
18 tation of this act on its effective date are directed to be made and
19 completed on or before such effective date.