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

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

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

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

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

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

6. "inspector" shall mean an individual who:

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

(b) (i) is certified by:

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

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

(ii) represents the insurer of the trampoline park;

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

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

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

(iv) represents an organization that the United States Olympic Committee designates as the national governing body for gymnastics.

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

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

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

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

(a) multiple commercial trampolines; or

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

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

§ 221. Business license required. 1. To operate a trampoline park in this state, the operator of a trampoline park shall obtain and maintain a license issued by the department pursuant to this section. The department may, in its discretion, issue a license to operate a trampoline park, subject to the provisions hereof, to any person or corporation duly incorporated, or limited liability company authorized, under the laws of the state of New York.

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

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

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

1. a playground that a school or local government operates, if:
(a) the playground is an incidental amenity; and
(b) the operating entity does not primarily derive revenue from operating the playground for a fee;
2. a gymnastics, dance, cheer, or tumbling facility where:
(a) the majority of activities are based in training or rehearsal and not recreation;
(b) the facility derives at least eighty percent of revenues through supervised instruction or classes; and
(c) the student-coach or student-instructor ratio is based on age, skill level, and number of students; or
3. equipment used exclusively for exercise, an inflatable ride, or an inflatable bounce house.
§ 222. License suspension or revocation. 1. Except as provided in this section, a violation of this article is grounds for the department to suspend or revoke the operator's business license.
2. The department may not suspend or revoke a license under subdivision one of this section unless:
(a) the department provides the operator with at least sixty days to cure the violation that is the grounds for the action in accordance with the policy described in subdivision three of this section; or
(b) regardless of the operator curing a violation as described in paragraph (a) of this subdivision, the violation repeats.
3. The department shall define the reasonable opportunity to cure violations described in paragraph (a) of subdivision two of this section by creating a generally applicable policy that identifies a standard timeline and process for curing a violation.
§ 223. Compliance with industry standards. A trampoline park operator shall:
1. ensure that the trampoline park complies with industry standards regarding:
(a) signage and notification for proper use of the trampoline park, safety procedures, and education of risk;
(b) equipment and facilities, including materials, layout, condition, and maintenance;
(c) staff training, including safety procedures and emergency response;
(d) participant activities and behaviors that should be restricted;
(e) separation of participants within the trampoline park based on age, size, or other necessary factors;
(f) operational issues, including maintenance and injury logs and emergency response plans;
(g) staff supervision and monitoring of activities; and
(h) statistical tracking of injuries in a manner that does not personally identify the injured participant; and
2. notify the department within forty-eight hours of any changes in status to any requirement under this section.
§ 224. Trampoline park employee training, equipment and supervision. An operator shall:
1. ensure that during all hours of operation the trampoline park has an operable automated external defibrillator;
2. ensure that all employees are certified in first aid and CPR;
3. ensure that all participants are instructed by an employee about the potential risks and safety guidelines;
4. require that trampoline park employees monitor the trampoline court and participants during all hours of operation;

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

6. prominently display throughout the trampoline park contrasted safety, warning, advisory, and instructional signage reflecting the trampoline park's rules.

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

2. The operator shall retain any records related to the injury reporting system and emergency response plan described in subdivision one of this section.

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

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

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

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

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

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

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

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

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

§ 227. Inspection. A trampoline park operator shall:

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

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

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

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

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

(b) an emergency response plan; and

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

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

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

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

§ 228. Insurance. A trampoline park operator shall:

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

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

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

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

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

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

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are directed to be made and completed on or before such effective date.