

STATE OF NEW YORK

8954

IN ASSEMBLY

January 6, 2020

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. Article 12-C of the general business law, as added by a chapter of the laws of 2019, amending the general business law relating to trampoline park safety, as proposed in legislative bills numbers S. 6600 and A. 7250-B, is amended to read as follows:

ARTICLE 12-C

TRAMPOLINE PARK SAFETY

Section 220. Definitions.

221. [~~Business permits.~~

~~221-a.~~] Exemptions.

222. [~~Permit suspension or revocation.~~

~~223.~~] Compliance with industry standards.

[~~224~~] 223. Trampoline park employee training, equipment and supervision.

[~~225. Reporting of injuries~~] 224. Availability of information; emergency response plan.

[~~226. Annual registration to the department.~~

~~227~~] 225. Inspection.

[~~228~~] 226. Insurance.

[~~228-a~~] 227. Required posting of safety guidelines.

[~~228-b~~] 228. Actions relating to trampoline parks.

§ 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 entertainment or recreational jumping, springing, bouncing, acrobatics, or gymnastics in a trampoline park.

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

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

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1 ~~3.]~~ "emergency response plan" shall mean a written plan of action for
2 the reasonable and appropriate contact, deployment, and coordination of
3 services, agencies, and personnel to provide the earliest possible
4 response to an injury or emergency ~~[as approved by the department]~~.

5 ~~[4]~~ 3. "inspection" shall mean a procedure that an inspector conducts
6 to:

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

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

12 (c) determine whether the trampoline park complies with safety stand-
13 ards ~~[and protocols as determined by the department]~~; and

14 (d) determine whether the trampoline park's policies, safeguards, and
15 procedures comply with this article.

16 ~~[5]~~ 4. "inspector" shall mean an individual who:

17 (a) conducts an inspection of a trampoline park to certify compliance
18 with this article and industry safety standards ~~[as approved by the~~
19 ~~department]~~; and

20 (b) (i) is certified by:

21 (A) ~~[an]~~ a nationally accredited organization~~[, approved by the~~
22 ~~department,]~~ that develops and publishes consensus standards for a wide
23 range of materials, products, systems, and services that are used for
24 trampolines; or

25 (B) ~~[an]~~ a nationally accredited organization~~[, approved by the~~
26 ~~department,]~~ that promotes trampoline park safety ~~[and adopts the stand-~~
27 ~~ards approved by the department]~~;

28 (ii) represents the insurer of the trampoline park ~~[and is approved by~~
29 ~~the department]~~;

30 (iii) represents ~~[or is certified by the department]~~ a nationally
31 accredited organization that:

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

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

35 (iv) represents an organization that the United States Olympic Commit-
36 tee designates as the national governing body for gymnastics ~~[and is~~
37 ~~approved by the department]~~.

38 ~~[6]~~ 5. "operator" shall mean a person who manages, or controls or who
39 has the duty to manage or control the operation of a trampoline park.

40 ~~[7]~~ 6. "owner" shall mean a person, corporation, partnership, limited
41 liability company, or association who owns a commercial trampoline park.

42 ~~[8]~~ 7. "participant" shall mean an individual that uses trampoline
43 park equipment.

44 ~~[9]~~ 8. "trampoline bed" shall mean the flexible surface of a trampo-
45 line on which a user jumps or bounces.

46 ~~[10]~~ 9. "trampoline court" shall mean an area of a trampoline park
47 comprising:

48 (a) multiple commercial trampolines; or

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

51 ~~[11]~~ 10. "trampoline park" shall mean a place of business that offers
52 the recreational use of a trampoline court for a fee or charge for
53 admission to the trampoline park for entertainment or recreational
54 purposes.

55 § 221. ~~[Business permits. No trampoline park may operate in the state~~
56 ~~without a permit issued by the department except as provided in section~~

~~two hundred twenty one a of this article. Such permits are not transferable and if any permit holder voluntarily discontinues operation of the trampoline park, then all rights secured under the permit are terminated.~~

~~1. Before commencement of the operation of a trampoline park the owner shall make an application to the department for a permit to operate, which shall be accompanied by an annual nonrefundable fee of two hundred dollars. The permit shall be valid for a period of one year.~~

~~2. A permit to operate shall be issued to the owner of a trampoline park when:~~

~~(a) a completed application has been made to the department;~~
~~(b) the trampoline park has passed all required inspections; and~~
~~(c) the liability insurance or bond required by section two hundred twenty-eight of this article has been met in the amount prescribed.~~

~~3. The department may revoke any permit issued pursuant to this article if it is determined that a trampoline park is:~~

~~(a) being used or operated without the inspections required by this article;~~

~~(b) being used or operated without the insurance or other security of this article; or~~

~~(c) being used or operated in a manner not recommended by the manufacturer, or out of compliance with department approved trampoline park policies, safeguards and procedures which presents risk of serious injury to participants or members of the public.~~

~~4. The department shall maintain an on line statewide registry of permitted trampoline parks and a record of safety violations.~~

~~§ 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; and~~

~~(b) the facility derives [at least eighty percent of] revenues primarily through supervised instruction or classes; [and~~

~~(c) the student coach or student instructor ratio is based on age, skill level, and number of students as determined by the department;] or~~

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

~~§ 222. [Permit 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 owner's business permit.~~

~~2. The department may not suspend or revoke a permit under subdivision one of this section unless:~~

~~(a) the department provides the operator with at least thirty 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 owner shall[+]~~

1 ~~1-~~ ensure that the trampoline park complies with ~~[departmental]~~ stan-
2 dards developed in conjunction with industry safety organizations
3 regarding:

4 ~~[(a)]~~ 1. signage and notification for proper use of the trampoline
5 park, safety procedures, and education of risk as provided for in
6 section two hundred ~~[twenty-eight-a]~~ twenty-seven of this article;

7 ~~[(b)]~~ 2. equipment and facilities, including materials, layout, condi-
8 tion, and maintenance;

9 ~~[(c)]~~ 3. staff training, including safety procedures and emergency
10 response;

11 ~~[(d)]~~ 4. participant activities and behaviors that should be
12 restricted;

13 ~~[(e)]~~ 5. separation of participants within the trampoline park based
14 on age, size, or other necessary factors;

15 ~~[(f)]~~ 6. operational issues, including maintenance and injury logs and
16 emergency response plans;

17 ~~[(g)]~~ 7. staff supervision and monitoring of activities;

18 ~~[(h)]~~ 8. statistical tracking of injuries in a manner that does not
19 personally identify the injured participant; and

20 ~~[(i)]~~ 9. appropriate insurance coverage~~, and~~
21 ~~2. notify the department within forty-eight hours of any changes in~~
22 ~~status to any requirement under this section].~~

23 § ~~[224]~~ 223. Trampoline park employee training, equipment and super-
24 vision. An owner and/or operator shall:

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

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

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

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

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

35 6. prominently display throughout the trampoline park contrasted safe-
36 ty, warning, advisory, and instructional signage reflecting the trampo-
37 line park's rules as provided for in section two hundred
38 ~~[twenty-eight-a]~~ twenty-seven of this article.

39 § ~~[225. Reporting of injuries]~~ 224. Availability of information; emer-
40 gency response plan. 1. An owner and/or operator shall develop, imple-
41 ment, and follow an in-house injury reporting and emergency response
42 plan for injuries to employees and participants.

43 2. The owner and/or operator shall retain any records for a period of
44 at least two years related to the injury reporting system and emergency
45 response plan described in subdivision one of this section.

46 3. The owner and/or operator shall make available to the department of
47 health or the local health department, upon request:

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

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

51 ~~§ 226. Annual registration to the department. A trampoline park owner~~
52 ~~shall provide the following information for annual certification at the~~
53 ~~time such owner applies to the department to renew a business permit to~~
54 ~~operate a trampoline park:~~

55 ~~1. an inspection certificate described in this article; and~~

~~2. the certification of insurance described in section two hundred twenty-eight of this article.~~

~~§ 227]~~ § 225. Inspection. A trampoline park owner and/or 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 this article; and

(b) safety standards described in this article;

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

(d) an emergency response plan is in place and up-to-date;

(e) maintenance, inspection, staff member training, and up-to-date injury logs; and

(f) an up-to-date insurance policy is in place; and

2. 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] 226. Insurance. [Before the department may issue a permit to the owner of a trampoline park, the owner and/or the trampoline park shall furnish the department with proof that they have purchased insurance.]~~ A trampoline park owner 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 owner, operator or staff in the construction, maintenance, or operation of the trampoline park; and

2. maintain a certificate of insurance demonstrating compliance with this section~~[- and~~

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

~~§ [228-a] 227.~~ Required posting of safety guidelines. 1. The owner and/or operator of a trampoline park shall conspicuously post a sign containing safety and instructional rules and guidelines to be followed by participants while at the trampoline park or using a commercial trampoline. Such sign shall include appropriate behavior and activities at the trampoline park to minimize potential risks to participants.

2. Such signs shall be ~~[approved by the department and shall]~~ conspicuously ~~[be]~~ displayed near all entrances.

3. Such signs shall contain warnings that there are inherent risks in the participation in or on the commercial trampoline, since it is recognized that participation in or on the trampoline may be hazardous regardless of all feasible safety measures that can be undertaken by the device owner and/or operator; and that there is a duty for the participants, or parent or guardian in the case of a minor, to become apprised of the warnings and the risks inherent in participation in or on a commercial trampoline if the warnings are not obeyed.

4. Prior to participating in or on such commercial trampolines, participants and parents or guardians in the case of a minor, shall familiarize themselves with the posted safety warnings so that they may make an informed decision of whether to participate in or on the trampoline notwithstanding the risks.

1 § [~~228-B~~] 228. Actions relating to trampoline parks. 1. In any
2 contract or agreement between the operator or owner of a trampoline park
3 and a participant, or parent or guardian in the case of a minor, any
4 portion of the contract or any clause which purports to designate,
5 restrict, or limit the venue in which a claim shall be adjudicated or
6 arbitrated shall be deemed void as against public policy.

7 2. Nothing in this section shall be deemed to affect the validity of
8 any other aspect of a contract.

9 § 2. This act shall take effect on the same date and in the same
10 manner as a chapter of the laws of 2019, amending the general business
11 law relating to trampoline park safety, as proposed in legislative bills
12 numbers S. 6600 and A. 7250-B, takes effect.