STATE OF NEW YORK

6600

2019-2020 Regular Sessions

IN SENATE

June 18, 2019

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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 permits.
221-a. Exemptions.
222. Permit 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 registration to the department.
227. Inspection.
228. Insurance.
228-a. Required posting of safety guidelines.
228-b. 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 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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3. "emergency response plan" shall mean a written plan of action for the reasonable and appropriate contact, deployment, and coordination of services, agencies, and personnel to provide the earliest possible response to an injury or emergency as approved by the department.

4. "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;

(c) determine whether the trampoline park complies with safety standards and protocols as determined by the department; and

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

5. "inspector" shall mean an individual who:

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

(b) (i) is certified by:

(A) an organization, approved by the department, 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, approved by the department, that promotes trampoline park safety and adopts the standards approved by the department;

(ii) represents the insurer of the trampoline park and is approved by the department;

(iii) represents or is certified by the department 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 and is approved by the department.

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

7. "owner" shall mean a person, corporation, partnership or association who owns a commercial 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 or charge for admission to the trampoline park.

§ 221. Business permits. No trampoline park may operate in the state 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;

(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 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. ensure that the trampoline park complies with departmental standards developed in conjunction with industry safety organizations regarding:

(a) signage and notification for proper use of the trampoline park, safety procedures, and education of risk as provided for in section two hundred twenty-eight-a of this article;

(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;

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

(i) appropriate insurance coverage; 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 owner and/or 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 as provided for in section two hundred twenty-eight-a of this article.

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

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

3. The owner and/or 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 registration to the department. A trampoline park owner shall provide the following information for annual certification at the time such owner applies to the department to renew a business permit to operate a trampoline park:

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. 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. 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;

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. 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.

§ 228-b. Actions relating to trampoline parks. 1. In any contract or agreement between the operator or owner of a trampoline park and a participant, or parent or guardian in the case of a minor, any portion of the contract or any clause which purports to designate, restrict, or

limit the venue in which a claim shall be adjudicated or arbitrated shall be deemed void as against public policy.

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

§ 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.