

BILL TEXT:

STATE OF NEW YORK

797

2005-2006 Regular Sessions

IN ASSEMBLY

January 18, 2005

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to the recovery of damages

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

1 Section 1. Section 1411 of the civil practice law and rules, as added
2 by chapter 69 of the laws of 1975, is amended to read as follows:

3 § 1411. Damages recoverable when contributory negligence or assumption
4 of risk is established. (a) In any action to recover damages for
5 personal injury, injury to property, or wrongful death, the culpable
6 conduct attributable to the claimant or to the decedent, including
7 contributory negligence or assumption of risk, shall not bar recovery,
8 but the amount of damages otherwise recoverable shall be diminished in
9 the proportion which the culpable conduct attributable to the claimant
10 or decedent bears to the culpable conduct which caused the damages.

11 (b) In any action to recover damages for personal injury, injury to
12 property, or wrongful death, arising out of the voluntary participation
13 in competitive athletics, the culpable conduct attributable to the
14 claimant or to the decedent, including contributory negligence or
15 assumption of risk, shall not bar recovery, but the amount of damages
16 otherwise recoverable shall be diminished in the proportion which the
17 culpable conduct attributable to the claimant or decedent bears to the
18 culpable conduct which caused the damages.

19 (c) Notwithstanding any other provision of law, an action to recover
20 damages for personal injury, property damage or wrongful death arising
21 out of the voluntary participation in competitive athletics which was
22 otherwise commenced in a timely manner and which was dismissed because
23 subdivision (b) of this section was not in effect is hereby revived and
24 an action may be commenced within two years of the effective date of
25 this subdivision.

26 § 2. This act shall take effect immediately and shall apply to any
27 actions commenced on or after such date.

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

LBD04833-01-5

SPONSORS MEMO:

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)

BILL NUMBER: A797

SPONSOR: Lentol

TITLE OF BILL: An act to amend the civil practice law and rules, in relation to the recovery of damages

PURPOSE OR GENERAL IDEA OF BILL: To make the concept of contributory negligence applicable to those injured while participating in competitive sports.

SUMMARY OF SPECIFIC PROVISIONS: Amends CPLR 1411 to modify Court decisions making assumption of risk rather than contributory negligence applicable to lawsuits based upon injuries sustained in competitive sports.

JUSTIFICATION: The legislature by enacting CPLR 1411 intended that comparative negligence should apply in all lawsuits. The courts have carved out an exception for those who, while participating in competitive sports, sustain injury as a direct result of the negligent conduct of others. In these cases the doctrine of assumption of risk has been applied by the Courts to bar recovery.

PRIOR LEGISLATIVE HISTORY: A.10158 of 1998
A.125/S.569 of 1999-2000
A.3436/S.2027 of 2001-02
A.231 of 2003-04

FISCAL IMPLICATIONS: None

EFFECTIVE DATE: Immediately
