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I N   S E N A T E

January 29, 2014

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

AN ACT to amend the public health law, in relation to protecting indoor air quality in state owned, leased or operated buildings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The public health law is amended by adding a new article  
2     49-A to read as follows:

3                             ARTICLE 49-A  
4                             INDOOR AIR QUALITY

5     SECTION 4920. PURPOSE.

6             4921. DEFINITIONS.

7             4922. INDOOR AIR QUALITY PLAN.

8             4923. INDOOR AIR QUALITY STANDARDS.

9             4924. INDOOR AIR INVESTIGATIONS.

10            4925. TRAINING COURSE.

11     S 4920. PURPOSE. IT IS THE PURPOSE OF THIS ARTICLE TO PROTECT PUBLIC  
12     HEALTH BY PROVIDING FOR ADEQUATE QUANTITY AND QUALITY OF INDOOR AIR IN  
13     STATE OWNED, LEASED OR OPERATED BUILDINGS. IN ORDER TO ACHIEVE THIS AIM  
14     IT IS NECESSARY TO PROVIDE THAT A STATE OWNED, LEASED OR OPERATED  
15     BUILDING'S HEATING, VENTILATION AND AIR CONDITIONING SYSTEM BE OPERATED  
16     AND MAINTAINED ACCORDING TO DESIGN. IT IS ALSO NECESSARY THAT PERSONS  
17     WHO ARE EXPERIENCING ADVERSE HEALTH EFFECTS BECAUSE OF INDOOR AIR PROB-  
18     LEMS HAVE MEANS TO COMMUNICATE THESE PROBLEMS AND HAVE THEM ADDRESSED.  
19     IN ORDER TO ENSURE A MINIMUM AND ADEQUATE SUPPLY OF FRESH AIR TO STATE  
20     OWNED, LEASED OR OPERATED BUILDING OCCUPANTS, IT IS FURTHER, ALSO THE  
21     PURPOSE OF THIS ARTICLE TO ADOPT ESTABLISHED STANDARDS FOR VENTILATION.

22     S 4921. DEFINITIONS. AS USED IN THIS ARTICLE:

23     1. "BUILDING" MEANS AN OCCUPIED STRUCTURE, OWNED, LEASED OR OPERATED  
24     BY THE STATE OF GREATER THAN TWENTY-FIVE THOUSAND SQUARE FEET OF FLOOR  
25     SPACE, USING MECHANICAL VENTILATION PROVIDING OUTDOOR AIR, RECIRCULATED  
26     AIR, OR A MIXTURE OF OUTDOOR AND RECIRCULATED AIR, EXCLUDING A RESIDEN-  
27     TIAL STRUCTURE CONTAINING SIX OR FEWER DWELLING UNITS OR ANY STRUCTURE  
28     OR PORTION OF A STRUCTURE WHERE STATE REGULATION OF INDOOR AIR QUALITY

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

LBD07022-01-3

1 WOULD BE PREEMPTED BY FEDERAL LAW. THIS DEFINITION SHALL EXCLUDE BARNs,  
2 WHICH FOR THE PURPOSES OF THIS ARTICLE SHALL MEAN A STRUCTURE THAT WAS  
3 DESIGNED AND USED FOR STORING FARM EQUIPMENT OR AGRICULTURAL PRODUCTS,  
4 OR FOR HOUSING LIVESTOCK.

5 2. "OWNER" MEANS THE STATE OR ANY STATE AGENCY.

6 S 4922. INDOOR AIR QUALITY PLAN. 1. RESPONSIBILITIES OF BUILDING  
7 OWNER.

8 (A) THE OWNER OF A BUILDING SHALL BE RESPONSIBLE FOR DEVELOPING AND  
9 MAINTAINING AN INDOOR AIR QUALITY PLAN FOR THE BUILDING; THE PLAN SHALL  
10 CONTAIN THE FOLLOWING COMPONENTS:

11 (I) A DETAILED DESCRIPTION OF THE BUILDING'S HEATING, VENTILATION AND  
12 AIR CONDITIONING SYSTEM, ITS OPERATION, AND PROCEDURES AND SCHEDULES FOR  
13 NECESSARY MAINTENANCE;

14 (II) AN INVENTORY OF TOXIC SUBSTANCES USED IN THE BUILDING, INCLUDING  
15 COPIES OF APPLICABLE MATERIAL SAFETY DATA SHEETS;

16 (III) A PLAN DETAILING MODIFICATIONS AND RENOVATIONS TO THE BUILDING,  
17 INCLUDING AN ASSESSMENT OF THE EFFECTS OF RENOVATION ON INDOOR AIR QUAL-  
18 ITY VENTILATION AND OTHER FACTORS RELEVANT TO AIR QUALITY;

19 (IV) PRIOR TO COMMENCING CONSTRUCTION OR RENOVATION PROJECTS, A PLAN  
20 TO MINIMIZE EXPOSURE TO CONTAMINANTS AND MITIGATE ADVERSE EFFECTS ON  
21 BUILDING OCCUPANTS DURING AND AFTER CONSTRUCTION OR RENOVATION;

22 (V) A PROCEDURE FOR MAINTAINING AND PROVIDING ACCESS (INCLUDING  
23 INSPECTION AND COPYING) TO WRITTEN RECORDS OR LOGS PURSUANT TO PARAGRAPH  
24 (B) OF THIS SUBDIVISION; AND

25 (VI) A SYSTEM TO RESPOND TO REQUESTS FOR INFORMATION, INVESTIGATE AND  
26 RESPOND TO COMPLAINTS OF INDOOR AIR QUALITY PROBLEMS AND ADVERSE HEALTH  
27 EFFECTS BY OCCUPANTS CONSISTENT WITH PARAGRAPH (D) OF THIS SUBDIVISION.

28 (B) THE OWNER OF A BUILDING SHALL BE RESPONSIBLE FOR DEVELOPING AND  
29 MAINTAINING THE FOLLOWING RECORDS AND LOGS AS PART OF THE INDOOR AIR  
30 QUALITY PLAN:

31 (I) A WRITTEN RECORD OF MAINTENANCE PERFORMED ON THE BUILDING'S HEAT-  
32 ING, VENTILATION, AND AIR CONDITIONING SYSTEM;

33 (II) A LOG OF PESTICIDE USE AND APPLICATION, INCLUDING COPIES OF  
34 APPLICABLE MATERIAL SAFETY DATA SHEETS;

35 (III) A WRITTEN RECORD OF MODIFICATIONS AND RENOVATIONS TO THE BUILD-  
36 ING, INCLUDING BUT NOT LIMITED TO MODIFICATION OF THE HEATING, VENTI-  
37 LATION AND AIR CONDITIONING SYSTEM, CONSTRUCTION AND MODIFICATIONS OF  
38 WALLS AND INTERIOR SPACE WHICH COULD AFFECT AIR FLOW TO BUILDING OCCU-  
39 PANTS; AND

40 (IV) A LOG OF COMPLAINTS OF INDOOR AIR QUALITY PROBLEMS AND REPORTS OF  
41 ADVERSE HEALTH EFFECTS AND ACTIONS AND RESPONSES TO COMPLAINTS AND  
42 REPORTS.

43 (C) THE OWNER OF A BUILDING SHALL DESIGNATE A PERSON OR GROUP OF  
44 PERSONS WHO SHALL BE RESPONSIBLE FOR COORDINATING THE INDOOR AIR QUALITY  
45 PLAN INCLUDING:

46 (I) OPERATING AND MAINTAINING THE BUILDING'S HEATING, VENTILATION, AND  
47 AIR CONDITIONING SYSTEM;

48 (II) MAINTAINING THE INDOOR AIR QUALITY PLAN PURSUANT TO PARAGRAPH (A)  
49 OF THIS SUBDIVISION; DEVELOPING AND MAINTAINING THE WRITTEN RECORDS AND  
50 LOGS PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION; AND

51 (III) RECEIVING AND RESPONDING TO COMPLAINTS OF INDOOR AIR QUALITY  
52 PROBLEMS AND REQUESTS FOR INFORMATION PURSUANT TO PARAGRAPH (D) OF THIS  
53 SUBDIVISION.

54 (D) THE OWNER OF THE BUILDING SHALL POST IN THE LOBBY OF THE BUILDING,  
55 OR CONSPICUOUSLY WHERE BUILDING OCCUPANTS HAVE ACCESS TO IT, A NOTICE  
56 STATING THE PROCEDURES FOR MAKING REQUESTS AND COMPLAINTS UNDER THIS

1 PARAGRAPH AND NAME AND TELEPHONE NUMBER OF THE PERSON OR PERSONS DESIGNATED PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

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3 (E) A BUILDING OWNER MAY CONTRACT WITH A MANAGEMENT COMPANY, LESSEE OR OTHER PARTY RESPONSIBLE FOR THE BUILDING'S OPERATION AND MAINTENANCE TO CARRY OUT THE RESPONSIBILITIES OF THIS SUBDIVISION.

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6 (F) A BUILDING OWNER SHALL PROVIDE BUILDING OCCUPANTS WITH REASONABLE ACCESS TO THE INDOOR AIR QUALITY PLAN PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION; PROVIDED, HOWEVER, THAT A BUILDING OWNER MAY EXCLUDE FROM THAT ACCESS ANY INFORMATION THE DISCLOSURE OF WHICH WOULD POSE A SECURITY RISK.

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11 (G) A BUILDING OWNER SHALL SUBMIT A COPY OF THE INDOOR AIR QUALITY PLAN PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION TO THE DEPARTMENT UPON REQUEST BY THE DEPARTMENT.

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14 (H) WHERE THE OWNER OPERATES MORE THAN ONE SIMILAR BUILDING ON A CONTIGUOUS SITE, THE OWNER MAY PREPARE A PLAN WHICH INCLUDES MORE THAN ONE BUILDING.

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17 2. THE DEPARTMENT SHALL PROMULGATE REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

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19 S 4923. INDOOR AIR QUALITY STANDARDS. 1. WITHIN ONE YEAR AFTER THIS SECTION SHALL HAVE TAKEN EFFECT, THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LABOR, ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, AND THE OFFICE OF FIRE PREVENTION, THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SHALL ADOPT REGULATIONS ESTABLISHING STANDARDS OF VENTILATION FOR NEW AND EXISTING BUILDINGS. THE STANDARDS SHALL TAKE INTO EFFECT BUILDING ARRANGEMENT, STRUCTURE, SIZE, USE, AGE, AND OCCUPANCY. THE DEPARTMENT MAY ISSUE DIFFERENT REGULATIONS FOR NEW BUILDINGS, EXISTING BUILDINGS, AND BUILDINGS THAT ARE BEING SUBSTANTIALLY RENOVATED. FOR SCHOOLS, STANDARDS SHALL BE APPROPRIATE FOR CHILDREN. IN ESTABLISHING THE STANDARDS, THE DEPARTMENT SHALL CONSIDER THE MOST CURRENT APPLICABLE STANDARDS OF A NATIONALLY-RECOGNIZED SOCIETY OR SOCIETIES OF HEATING, REFRIGERATION, AND AIR CONDITIONING ENGINEERS.

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33 2. THE DEPARTMENT MAY ESTABLISH A PROCEDURE WHERE ANY PROVISION OR REQUIREMENT OF THE INDOOR AIR QUALITY REGULATIONS MAY BE VARIED OR MODIFIED IN CASES WHERE STRICT COMPLIANCE WOULD ENTAIL PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIP OR WOULD OTHERWISE BE UNWARRANTED. THE PROCEDURE SHALL BE DESIGNED TO INSURE THAT ANY VARIANCE OR MODIFICATION SHALL NOT SUBSTANTIALLY ADVERSELY AFFECT PROVISIONS FOR HEALTH, SAFETY AND SECURITY, AND THAT EQUALLY SAFE AND PROPER ALTERNATIVES MAY BE PRESCRIBED. REQUESTS FOR A VARIANCE SHALL BE RESOLVED WITHIN SIXTY DAYS OF THE DATE OF APPLICATION UNLESS A LONGER PERIOD IS REQUIRED FOR GOOD CAUSE SHOWN.

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43 S 4924. INDOOR AIR INVESTIGATIONS. 1. UPON RECEIPT OF A COMPLAINT OR COMPLAINTS EXCLUDING COMPLAINTS IN RELATION TO TEMPERATURE OF INDOOR AIR QUALITY RELATING TO A BUILDING FROM THREE OR MORE OCCUPANTS OF THE BUILDING OR, FROM A TENANT OF ALL OR PART OF THE BUILDING, THE BUILDING OWNER OR DESIGNEE SHALL INITIATE AN INVESTIGATION OF THE COMPLAINT OR COMPLAINTS. THE BUILDING OWNER SHALL RESPOND IN WRITING WITHIN THIRTY DAYS INDICATING THE RESULTS OF THE INITIAL INVESTIGATION AND ANY CORRECTIVE ACTIONS TAKEN OR PENDING.

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51 2. IF THE COMPLAINANT IS DISSATISFIED WITH THE RESPONSE TO THE COMPLAINT, THE COMPLAINANT MAY FILE A FORMAL COMPLAINT WITH THE COMMISSIONER, WHO SHALL INITIATE AN INVESTIGATION OF THE COMPLAINT. THE COMPLAINT SHALL BE IN WRITING AND INDICATE THE GROUNDS FOR THE COMPLAINANT AND SHALL BE SIGNED BY THE COMPLAINANT. A COPY SHALL BE PROVIDED BY THE COMMISSIONER TO THE BUILDING OWNER OR THE PERSON DESIGNATED FOR SUCH

PURPOSES PROMPTLY, AND IN ANY EVENT PRIOR TO ANY INSPECTION BY THE DEPARTMENT. ON THE REQUEST OF COMPLAINANT, THE COMPLAINANT'S NAME SHALL BE WITHHELD. THE COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT SHALL BE GIVEN THE OPPORTUNITY TO ACCOMPANY THE DEPARTMENT'S INSPECTOR DURING AN INSPECTION FOR THE PURPOSE OF AIDING SUCH INSPECTION.

3. IF THE COMMISSIONER DETERMINES THAT AN INDOOR AIR QUALITY PROBLEM EXISTS IN A BUILDING, SUCH COMMISSIONER SHALL ISSUE IN WRITING TO THE BUILDING OWNER AND COMPLAINANT SUCH FINDINGS AND ANY PROPOSED MEANS OF CORRECTING SUCH PROBLEMS. THE BUILDING OWNER OR REPRESENTATIVE SHALL RESPOND TO THE FINDINGS WITHIN THIRTY DAYS INCLUDING ANY PLANS FOR CORRECTING THE INDOOR AIR QUALITY PROBLEM. THE BUILDING OWNER OR REPRESENTATIVE SHALL NOTIFY THE COMMISSIONER OF ACTIONS TAKEN TO CORRECT SUCH PROBLEMS.

S 4925. TRAINING COURSE. THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LABOR, AND NATIONALLY RECOGNIZED SOCIETIES OF INDUSTRIAL HYGIENE, FIRE PREVENTION AND HEATING, REFRIGERATION, AND AIR CONDITIONING, SHALL DEVELOP MODEL COURSES IN THE OPERATION AND MAINTENANCE OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS. THE COMMISSIONER SHALL HAVE AUTHORITY TO APPROVE PROGRAMS IN HEATING, VENTILATION AND AIR CONDITIONING OPERATION AND MAINTENANCE AND SHALL MAINTAIN A LIST OF APPROVED PROGRAMS, WHICH SHALL BE MADE AVAILABLE TO INTERESTED PARTIES UPON REQUEST. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS SETTING FORTH THE CRITERIA FOR APPROVAL OF SUCH PROGRAMS.

S 2. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.