

STATE OF NEW YORK

3292--A

2019-2020 Regular Sessions

IN SENATE

February 5, 2019

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to establishing a registry of workplace fatalities to record information pertaining to all incidents under which an employee suffers a fatal injury

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

1 Section 1. The labor law is amended by adding a new section 44 to read
2 as follows:

3 § 44. Workplace fatality registry. 1. Registry. The department shall
4 create and maintain a registry of workplace fatalities. The registry
5 shall include information regarding all incidents under which an employ-
6 ee suffers a fatal injury at their workplace.

7 2. Definitions. For the purposes of this section:

8 a. "Employee" shall include, but not be limited to, direct employees,
9 contracted employees, subcontracted employees, independent contractors,
10 temporary or contingency workers, incarcerated persons participating in
11 work programs for remuneration or credit, apprentices, interns, volun-
12 teers, or any other persons who perform duties at the direction and
13 discretion of an employer.

14 b. "Employer" shall include a direct employer, contractor, or subcon-
15 tractor. In the absence of a formal hiring agreement, the person who
16 directs or provides compensation to the employee shall be considered the
17 employer unless such person is also directed and compensated by another.
18 In such cases, the persons successively above the employee in the
19 employment chain shall be considered the employer. In the instance of
20 the death of an intern, apprentice or volunteer, the sponsoring company,
21 corporation or not-for-profit shall be considered the employer.

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

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1 c. "Workplace" shall include, but not be limited to, an employee's
2 location of direct employment, remote sites in the scope of performance
3 of the employee's duties, or any other site where the employee may be as
4 a result of employer direction.

5 3. Seventy-two-hour reports. a. Each county coroner, medical examiner
6 or other authorized official whose role is to register deaths shall
7 report all workplace fatalities to the department within seventy-two
8 hours of declaration of death.

9 b. Information to be reported within seventy-two hours shall include,
10 but not be limited to:

- 11 (i) the name of the employee;
- 12 (ii) the age of the employee;
- 13 (iii) the occupation of the employee;
- 14 (iv) the cause of death, if such cause of death has been determined
15 within the seventy-two hours;
- 16 (v) the manner of death;
- 17 (vi) the location of death;
- 18 (vii) the name of the employer;
- 19 (viii) the business address of the employer;
- 20 (ix) the stated business purpose or industry of the employer;
- 21 (x) the name of the official or medical personnel making the declara-
22 tion of death;
- 23 (xi) the name of the person or persons charged with making the deter-
24 mination of the cause and manner of death; and
- 25 (xii) contact information for the office making notification to the
26 department, including contact information for the person or persons
27 making the declaration of death, the person or persons determining the
28 cause of death, and the person or persons determining the manner of
29 death.

30 4. Ninety-day reports. a. Information shall be reported to the depart-
31 ment by the official of each county who is charged with investigating
32 fatal incidents no later than ninety days after the declaration of
33 death.

34 b. Information to be reported within ninety days shall include, but
35 not be limited to:

- 36 (i) the cause of death of the employee, when such cause of death has
37 not been previously determined and reported in the seventy-two-hour
38 report;
- 39 (ii) the race of the employee;
- 40 (iii) the ethnicity of the employee;
- 41 (iv) the nationality of the employee;
- 42 (v) the immigration status of the employee;
- 43 (vi) the union status of the employee;
- 44 (vii) whether criminal or civil charges have been filed against the
45 employer in the death of the employee and, for incidents where charges
46 have been filed:
 - 47 (1) the details of such criminal or civil charges including the charg-
48 ing officer or agency; and
 - 49 (2) the actual criminal or civil charge or charges;
- 50 (viii) the name of the person charged with making the determinations
51 and reporting the information required by this section; and
- 52 (ix) contact information for the office making notification to the
53 department, including contact information for the person or persons
54 charged with making the determinations and reporting the information
55 required by this section.

1 5. Reporting system. The department shall establish a telephone
2 reporting system for the information required to be reported pursuant to
3 this section within ninety days of the effective date of this section.
4 The department shall also establish an online electronic information
5 reporting system for the information required to be reported pursuant to
6 this section within twelve months of the effective date of this section.

7 6. Failure to report. Failure by a county coroner, medical examiner,
8 other authorized official whose role is to register deaths, or county
9 official charged with investigating fatal incidents to make seventy-two-
10 hour or ninety-day reports in a timely manner shall be subject to a fine
11 of not less than one thousand dollars nor more than two thousand five
12 hundred dollars per failure to make such seventy-two-hour or ninety-day
13 report.

14 7. Accessibility of registry. The registry shall be published elec-
15 tronically in a publicly accessible database on the department's
16 website. The database shall be published in a manner by which all infor-
17 mation required pursuant to subdivisions three and four of this section
18 is accessible and searchable. The department shall publish the informa-
19 tion reported in seventy-two-hour and ninety-day reports within one
20 business day of the receipt of such reports by the department.

21 § 2. This act shall take effect on the one hundred twentieth day after
22 it shall have become a law; provided, however, that any death subject to
23 the provisions of this act that occurs on or after the day on which this
24 bill shall have become a law shall be subject to the reporting
25 provisions of this act and shall be reported within thirty days after
26 such death. Effective immediately, the addition, amendment and/or
27 repeal of any rule or regulation necessary for the implementation of
28 this act on its effective date are authorized to be made and completed
29 on or before such effective date.