

STATE OF NEW YORK

1948

2021-2022 Regular Sessions

IN ASSEMBLY

January 13, 2021

Introduced by M. of A. BARNWELL, COLTON, COOK, FERNANDEZ, MONTESANO, PHEFFER AMATO, SEAWRIGHT, STECK, TAYLOR, VANEL, WILLIAMS -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to mandatory training and qualifications of persons engaged in the construction and demolition of buildings

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 819-a to
2 read as follows:

3 § 819-a. Apprenticeship training and qualifications. 1. For purposes
4 of this section:

5 (a) "apprentice" shall mean a worker who is employed and registered to
6 learn a skilled trade through a department or United States department
7 of labor registered apprenticeship program;

8 (b) "apprenticeship program" shall mean a plan containing all terms
9 and conditions for the qualification, recruitment, selection, employment
10 and training of apprentices, and registered with the department or the
11 United States department of labor; and

12 (c) "bona fide construction site safety training program" shall mean a
13 training program authorized and approved by the commissioner for the
14 trade or craft for which a person is employed that provides a minimum
15 number of required hours for completion in safety related instruction
16 and a minimum number of required hours of on the job training commensu-
17 rate with, at least, one year of apprenticeship training in accordance
18 with the standards set forth in section eight hundred fifteen of this
19 article and paragraph (4) of subdivision (c) of section 601.5 of title
20 12 of the New York codes, rules and regulations.

21 2. (a) All workers before working at or on, a building site, or demo-
22 lition site, four or more stories, or forty or more feet (12 192 mm) in
23 height, must complete a bona fide construction site safety training

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

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1 program, and either be a registered apprentice, or graduated from an
2 apprenticeship program, or be an experienced, trained, and skilled
3 person that has received training commensurate with that required for
4 registered apprentices including related instruction and on the job
5 training in accordance with the standards set forth in section eight
6 hundred fifteen of this article and paragraph (4) of subdivision (c) of
7 section 601.5 of title 12 of the New York codes, rules and regulations.

8 (b) All workers employed at a building site, or demolition site, four
9 or more stories, or forty or more feet (12 192 mm) in height, must have
10 successfully completed, within the previous five calendar years, a
11 course that is at least ten hours in length and approved by the United
12 States department of labor occupational safety and health administration
13 (OSHA) in construction industry safety and health, or by the commis-
14 sioner covering substantially the same material. However, a worker need not
15 take a subsequent course that is at least ten hours in length and
16 approved by OSHA in construction industry safety and health, or a subse-
17 quent course approved by the commissioner covering substantially the
18 same material, provided the worker has, within the previous five calen-
19 dar years, accumulated at least five safety education units (SEU) for
20 construction safety and health through training courses offered by a
21 safety training program conducted by a department approved training
22 provider registered apprenticeship program. A worker shall be credited
23 one SEU for every four hours of construction safety and health related
24 training completed, with a maximum of two SEUs assigned for any single
25 course. Such SEU courses shall be conducted by, or under the supervision
26 of OSHA authorized construction safety trainers. Instructors who are
27 not OSHA authorized construction trainers must be experienced in
28 presenting the related course subject matter, and use a curriculum
29 approved by their supervising OSHA authorized construction safety train-
30 er.

31 (c) Each worker who works at a building site, or at a demolition site,
32 that is four or more stories, or forty or more feet (12 192 mm) in
33 height, and/or a site that satisfies other criteria as the commissioner
34 may establish by rule, must be:

35 (i) a registered apprentice as defined in this article or a graduate
36 of an apprenticeship program as defined in this article, registered by
37 the department or United States department of labor in the trade for
38 which such worker is employed, or

39 (ii) an experienced, trained, and skilled person that has received
40 training commensurate with that required for registered apprentices
41 including related instruction and on the job training in accordance with
42 the standards set forth in section eight hundred fifteen of this article
43 and paragraph (4) of subdivision (c) of section 601.5 of title 12 of the
44 New York codes, rules and regulations.

45 (d) If at any time, any individual, contractor, sub-contractor, devel-
46 oper, limited liability company (LLC), limited liability partnership
47 (LLP), partnership, corporation, or any other legal entity employs
48 and/or hires any worker on a building site, demolition site, or any
49 project site, which is four or more stories, or forty or more feet (12
50 192 mm) in height, and such worker is not a registered apprentice, or
51 has not completed an apprenticeship program, or is not an experienced,
52 trained, and skilled person that has received training commensurate with
53 that required for registered apprentices including related instruction
54 and on the job training in accordance with the standards set forth in
55 section eight hundred fifteen of this article and paragraph (4) of
56 subdivision (c) of section 601.5 of title 12 of the New York codes,

1 rules and regulations, and has not completed a bona fide construction
2 site safety training program or its equivalent approved by the commis-
3 sioner, the project shall immediately terminate, and all permits,
4 contracts, or any other legal documents allowing such construction,
5 modification, or demolition, will be revoked permanently, and such indi-
6 vidual, and all contractors, sub-contractors, developers, and all
7 members, managers, directors, or any authorized person of the LLC, LLP,
8 partnership, developer, corporation, or any other legal entity responsi-
9 ble for the hiring of such worker who hasn't completed such qualifica-
10 tions and requirements as mandated by this article, shall be responsible
11 for a violation of this section.

12 (e) Before any building or demolition work occurs on projects in which
13 the site is four or more stories, or forty or more feet (12 192 mm) in
14 height, each individual person, contractor, sub-contractor, LLC, LLP,
15 corporation, partnership, developer, or any other legal entity responsi-
16 ble or involved on or with such building or demolition project, shall
17 disclose to the commissioner the names and residence addresses of all
18 members, managers, directors, and any authorized person of such LLC,
19 LLP, corporation, partnership, developer, partnership, and/or legal
20 entity.

21 (f) Any individual person, contractor, sub-contractor, developer, LLC,
22 LLP, partnership, corporation, or any other legal entity who knowingly
23 or intentionally hires a worker, or allows such worker, who is not a
24 registered apprentice as defined in this article, or who is not a worker
25 who has completed an apprenticeship program as defined in this article,
26 or who is not an experienced, trained, and skilled person that has
27 received training commensurate with that required for registered appren-
28 tices including related instruction and on the job training in accord-
29 ance with the standards set forth in section eight hundred fifteen of
30 this article and paragraph (4) of subdivision (c) of section 601.5 of
31 title 12 of the New York codes, rules and regulations, and who has not
32 completed a bona fide construction site safety training program or its
33 equivalent approved by the commissioner pursuant to this article, to
34 work on any building project, demolition project, or any other type of
35 project in which the site is four or more stories, or forty or more
36 feet (12 192 mm) in height, such individual, contractor, sub-contractor,
37 developer, LLC, LLP, partnership, corporation, or any other legal enti-
38 ty, shall forever be barred from receiving, obtaining, or being granted
39 a license, application, permit, contract, right, or any other type of
40 document, legal or not, that allows such individual, contractor, sub-
41 contractor, developer, LLC, LLP, partnership, corporation, or any other
42 legal entity who violates this article from building, demolishing, modi-
43 fying, working on, overseeing, volunteering, hiring any individuals such
44 as, but not limited to, a contractor, or any sub-contractors, or profit-
45 ing, on any project in which the site is four or more stories, or forty
46 or more feet (12 192 mm) in height.

47 (g) No permit, contract, license, right, application, or any other
48 type of legal or non-legal document granting the right to build,
49 construct, modify, or demolish any building, for which work is done on a
50 site which is four or more stories, or forty or more feet (12 192 mm) in
51 height, shall be awarded to any person, contractor, sub-contractor,
52 developer, LLC, LLP, corporation, partnership, or any other legal enti-
53 ty, who has ever previously knowingly or intentionally hired or allowed
54 a worker, to work on any project in which the site was four or more
55 stories, or forty or more feet (12 192 mm) in height, who was not a
56 registered apprentice as defined in this article, or who was not a work-

er who has completed an apprenticeship program as defined in this article, or who was not an experienced, trained, and skilled person that has received training commensurate with that required for registered apprentices including related instruction and on the job training in accordance with the standards set forth in section eight hundred fifteen of this article and paragraph (4) of subdivision (c) of section 601.5 of title 12 of the New York codes, rules and regulations, and who had not completed a bona fide construction site safety training program or its equivalent approved by the commissioner pursuant to this article.

(h) At no time after a building, or demolition project begins in which the site is four or more stories, or forty or more feet (12 192 mm) in height, shall a person, contractor, sub-contractor, developer, LLC, LLP, corporation, partnership, or any other legal entity have an individual as manager, member, director, stockholder, or anyone authorized by such person, contractor, sub-contractor, developer, LLC, LLP, corporation, partnership, or any other legal entity who has ever been knowingly or intentionally hired, or allowed such an individual worker to work on, any project in which the site was four or more stories, or forty or more feet (12 192 mm) in height, when such worker did not have the proper qualifications and training pursuant to this article. If such an individual becomes a manager, member, director, stockholder or collects financial resources or any other financial benefit from such contractor, sub-contractor, developer, LLC, LLP, corporation, partnership, or any other legal entity, the project shall immediately be terminated and all permits, rights, applications, licenses, contracts, and any other legal or non-legal documents allowing the construction, modification, project, and/or demolition, shall be terminated.

(i) Upon completion of a bona fide construction site safety training program, and an apprenticeship program as required by the commissioner pursuant to the standards set forth in section eight hundred fifteen of this article and paragraph (4) of subdivision (c) of section 601.5 of title 12 of the New York codes, rules and regulations, the worker shall receive and must be provided paperwork from the commissioner proving completion of such programs and requirements. The commissioner must provide documentation to an apprentice, proving such apprentice is a worker who is employed and registered to learn a skilled trade through a department or United States department of labor registered apprenticeship program. The commissioner must also provide documentation to other qualifying individuals, proving that such an individual is an experienced, trained, and skilled person that has received training commensurate with that required for registered apprentices including related instruction and on the job training in accordance with the standards set forth in section eight hundred fifteen of this article and paragraph (4) of subdivision (c) of section 601.5 of title 12 of the New York codes, rules and regulations.

(j) Before the hiring of any worker on projects which the site is four or more stories, or forty or more feet (12 192 mm) in height, the person, contractor, sub-contractor, developer, LLC, LLP, corporation, partnership, or any other legal entity, responsible for the hiring of such individual worker must request from such worker, and be provided paperwork from such worker, proving such worker completed a bona fide construction site safety training program, and is either a registered apprentice, or completed an apprenticeship program, or, is an experienced, trained, and skilled person that has received training commensurate with that required for registered apprentices including related instruction and on the job training in accordance with the standards set

1 forth in section eight hundred fifteen of this article and paragraph (4)
2 of subdivision (c) of section 601.5 of title 12 of the New York codes,
3 rules and regulations. Only the documentation provided to the worker by
4 the commissioner shall be sufficient for proof of completion of the
5 requirements and qualifications of this article. If a worker does not
6 provide this documentary proof, the individual worker shall not be
7 hired.

8 (k) On projects which the site is four or more stories, or forty or
9 more feet (12 192 mm) in height, any individual person, contractor,
10 sub-contractor, developer, LLC, LLP, corporation, partnership, or any
11 other legal entity, who knowingly or intentionally hires a worker, or
12 allows a worker, who has not completed a bona fide construction site
13 safety training program and who is not a registered apprentice, or who
14 has not completed an apprenticeship program, or who is not an experi-
15 enced, trained, and skilled person that has received training commensu-
16 rate with that required for registered apprentices including related
17 instruction and on the job training in accordance with the standards set
18 forth in section eight hundred fifteen of this article and paragraph (4)
19 of subdivision (c) of section 601.5 of title 12 of the New York codes,
20 rules and regulations, to work on such a project, such individual,
21 contractor, sub-contractor, developer, LLC, LLP, corporation, partner-
22 ship, or any other legal entity shall be fined by the commissioner twen-
23 ty-five thousand dollars per violation of hiring such a worker who has
24 not completed the requirements or qualifications in this article. The
25 individual, contractor, sub-contractor, developer, LLC, LLP, corpo-
26 ration, partnership, or any other legal entity, responsible for the
27 hiring and/or supervision of the workers on the project shall be fined
28 fifty thousand dollars, per day, per worker, if such worker is allowed
29 to work on a project four or more stories, or forty or more feet (12 192
30 mm) in height, who has not completed a bona fide construction site safe-
31 ty training program and who is not a registered apprentice, or who has
32 not completed an apprenticeship program, or who is not an experienced,
33 trained, and skilled person that has received training commensurate with
34 that required for registered apprentices including related instruction
35 and on the job training in accordance with the standards set forth in
36 section eight hundred fifteen of this article and paragraph (4) of
37 subdivision (c) of section 601.5 of title 12 of the New York codes,
38 rules and regulations.

39 (l) On projects which the site is four or more stories, or forty or
40 more feet (12 192 mm) in height, it shall not be a defense for any indi-
41 vidual person, contractor, sub-contractor, developer, LLC, LLP, corpo-
42 ration, partnership, or any other legal entity, responsible for hiring,
43 or supervising workers, to maintain they did not know such worker did
44 not complete a bona fide construction site safety training program, and
45 that the worker was not a registered apprentice; that the worker had not
46 completed an apprenticeship program; or that the worker did not have the
47 experience, training, and skill as a person that has received training
48 commensurate with that required for registered apprentices including
49 related instruction and on the job training in accordance with the stan-
50 dards set forth in section eight hundred fifteen of this article and
51 paragraph (4) of subdivision (c) of section 601.5 of title 12 of the New
52 York codes, rules and regulations, because the individual or entity in
53 charge of hiring and/or supervision did not ask, or was not provided
54 such proof of completion of such requirements and qualifications by the
55 worker. Not asking the worker for proof of compliance with such require-
56 ments and qualifications under this article, yet still hiring such work-

1 er, or allowing the worker to work on such a project, shall be treated
2 as the individual person, contractor, sub-contractor, developer, LLC,
3 LLP, corporation, partnership, or any other legal entity, knowingly or
4 intentionally hiring an individual worker, or allowing such worker to
5 work on such project, without being provided proof of the requirements
6 and qualifications of this article.

7 (m) Nothing in this article, shall prevent additional fines or prose-
8 cution of any individual person, contractor, sub-contractor, developer,
9 LLC, LLP, corporation, partnership, or any other legal entity, for any
10 violation of this section, or any other section under this article.

11 § 2. Severability. If any clause, sentence, paragraph, section or part
12 of this act shall be adjudged by any court of competent jurisdiction to
13 be invalid and after exhaustion of all further judicial review, the
14 judgment shall not affect, impair or invalidate the remainder thereof,
15 but shall be confined in its operation to the clause, sentence, para-
16 graph, section or part of this act directly involved in the controversy
17 in which the judgment shall have been rendered.

18 § 3. This act shall take effect immediately.