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I N A S S E M B L Y

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Introduced by M. of A. LUPARDO, GOTTFRIED, SWEENEY, BRODSKY, DINOWITZ, GALEF, O'DONNELL, ORTIZ, MILLMAN, COLTON, BRADLEY, ROSENTHAL, KAVANAGH -- Multi-Sponsored by -- M. of A. BING, BOYLAND, BRENNAN, CANESTRARI, CLARK, COOK, ENGLEBRIGHT, GLICK, GREENE, HOOPER, HOYT, JACOBS, JOHN, KOON, LIFTON, V. LOPEZ, MAYERSOHN, McENENY, PERRY, PHEFFER, J. RIVERA, P. RIVERA, ROBINSON, TOWNS, WEISENBERG, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to protecting indoor air quality

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 ORDER TO ACHIEVE THIS AIM IT IS NECESSARY TO PROVIDE THAT A BUILDING'S
14 HEATING, VENTILATION AND AIR CONDITIONING SYSTEM BE OPERATED AND MAIN-
15 TAINED ACCORDING TO DESIGN. IT IS ALSO NECESSARY THAT PERSONS WHO ARE
16 EXPERIENCING ADVERSE HEALTH EFFECTS BECAUSE OF INDOOR AIR PROBLEMS HAVE
17 MEANS TO COMMUNICATE THESE PROBLEMS AND HAVE THEM ADDRESSED. IN ORDER
18 TO ENSURE A MINIMUM AND ADEQUATE SUPPLY OF FRESH AIR TO BUILDING OCCU-
19 PANTS, IT IS FURTHER, ALSO THE PURPOSE OF THIS ARTICLE TO ADOPT ESTAB-
20 LISHED STANDARDS FOR VENTILATION.

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

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

2 1. "BUILDING" MEANS AN OCCUPIED STRUCTURE OF GREATER THAN TWENTY-FIVE
3 THOUSAND SQUARE FEET OF FLOOR SPACE, USING MECHANICAL VENTILATION
4 PROVIDING OUTDOOR AIR, RECIRCULATED AIR, OR A MIXTURE OF OUTDOOR AND
5 RECIRCULATED AIR, EXCLUDING A RESIDENTIAL STRUCTURE CONTAINING SIX OR
6 FEWER DWELLING UNITS OR ANY STRUCTURE OR PORTION OF A STRUCTURE WHERE
7 STATE REGULATION OF INDOOR AIR QUALITY WOULD BE PREEMPTED BY FEDERAL
8 LAW. THIS DEFINITION SHALL EXCLUDE BARNs, WHICH FOR THE PURPOSES OF
9 THIS ARTICLE SHALL MEAN A STRUCTURE THAT WAS DESIGNED AND USED FOR STOR-
10 ING FARM EQUIPMENT OR AGRICULTURAL PRODUCTS, OR FOR HOUSING LIVESTOCK.

11 2. "OWNER" MEANS ANY INDIVIDUAL, PARTNERSHIP, CORPORATION, STATE,
12 COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT OR ANY OTHER POLITICAL
13 SUBDIVISION OR CIVIL DIVISION OF THE STATE, THAT OWNS THE FREEHOLD OF A
14 PREMISES OR ANY LESSER ESTATE THEREIN, A MORTGAGEE OR VENDEE IN
15 POSSESSION, A CONTRACT VENDEE, ASSIGNEE OF RENTS, RECEIVER, EXECUTOR,
16 TRUSTEE, LESSEE, OR ANY OTHER PERSON, FIRM OR CORPORATION IN CONTROL OF
17 A BUILDING.

18 S 4922. INDOOR AIR QUALITY PLAN. 1. RESPONSIBILITIES OF BUILDING
19 OWNER.

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

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

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

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

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

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

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

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

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

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

47 (III) A WRITTEN RECORD OF MODIFICATIONS AND RENOVATIONS TO THE BUILD-
48 ING, INCLUDING BUT NOT LIMITED TO MODIFICATION OF THE HEATING, VENTI-
49 LATION AND AIR CONDITIONING SYSTEM, CONSTRUCTION AND MODIFICATIONS OF
50 WALLS AND INTERIOR SPACE WHICH COULD AFFECT AIR FLOW TO BUILDING OCCU-
51 PANTS; AND

52 (IV) A LOG OF COMPLAINTS OF INDOOR AIR QUALITY PROBLEMS AND REPORTS OF
53 ADVERSE HEALTH EFFECTS AND ACTIONS AND RESPONSES TO COMPLAINTS AND
54 REPORTS.

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

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

6 (II) MAINTAINING THE INDOOR AIR QUALITY PLAN PURSUANT TO PARAGRAPH (A)
7 OF THIS SUBDIVISION; DEVELOPING AND MAINTAINING THE WRITTEN RECORDS AND
8 LOGS PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION; AND

9 (III) RECEIVING AND RESPONDING TO COMPLAINTS OF INDOOR AIR QUALITY
10 PROBLEMS AND REQUESTS FOR INFORMATION PURSUANT TO PARAGRAPH (D) OF THIS
11 SUBDIVISION.

12 (D) THE OWNER OF THE BUILDING SHALL POST IN THE LOBBY OF THE BUILDING,
13 OR CONSPICUOUSLY WHERE BUILDING OCCUPANTS HAVE ACCESS TO IT, A NOTICE
14 STATING THE PROCEDURES FOR MAKING REQUESTS AND COMPLAINTS UNDER THIS
15 PARAGRAPH AND NAME AND TELEPHONE NUMBER OF THE PERSON OR PERSONS DESIG-
16 NATED PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

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

20 (F) A BUILDING OWNER SHALL PROVIDE BUILDING OCCUPANTS WITH REASONABLE
21 ACCESS TO THE INDOOR AIR QUALITY PLAN PURSUANT TO PARAGRAPH (A) OF THIS
22 SUBDIVISION; PROVIDED, HOWEVER, THAT A BUILDING OWNER MAY EXCLUDE FROM
23 THAT ACCESS ANY INFORMATION THE DISCLOSURE OF WHICH WOULD POSE A SECURI-
24 TY RISK.

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

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

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

33 S 4923. INDOOR AIR QUALITY STANDARDS. 1. WITHIN ONE YEAR AFTER THIS
34 SECTION SHALL TAKE EFFECT, THE DEPARTMENT, IN CONSULTATION WITH THE
35 DEPARTMENT OF LABOR, ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, AND THE
36 OFFICE OF FIRE PREVENTION, THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND
37 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SHALL ADOPT REGULATIONS
38 ESTABLISHING STANDARDS OF VENTILATION FOR NEW AND EXISTING BUILDINGS.
39 THE STANDARDS SHALL TAKE INTO EFFECT BUILDING ARRANGEMENT, STRUCTURE,
40 SIZE, USE, AGE, AND OCCUPANCY. THE DEPARTMENT MAY ISSUE DIFFERENT REGU-
41 LATIONS FOR NEW BUILDINGS, EXISTING BUILDINGS, AND BUILDINGS THAT ARE
42 BEING SUBSTANTIALLY RENOVATED. FOR SCHOOLS, STANDARDS SHALL BE APPROPRI-
43 ATE FOR CHILDREN. IN ESTABLISHING THE STANDARDS, THE DEPARTMENT SHALL
44 CONSIDER THE MOST CURRENT APPLICABLE STANDARDS OF A NATIONALLY-RECOG-
45 NIZED SOCIETY OR SOCIETIES OF HEATING, REFRIGERATION, AND AIR CONDITION-
46 ING ENGINEERS.

47 2. THE DEPARTMENT MAY ESTABLISH A PROCEDURE WHERE ANY PROVISION OR
48 REQUIREMENT OF THE INDOOR AIR QUALITY REGULATIONS MAY BE VARIED OR MODI-
49 FIED IN CASES WHERE STRICT COMPLIANCE WOULD ENTAIL PRACTICAL DIFFICUL-
50 TIES OR UNNECESSARY HARDSHIP OR WOULD OTHERWISE BE UNWARRANTED. THE
51 PROCEDURE SHALL BE DESIGNED TO INSURE THAT ANY VARIANCE OR MODIFICATION
52 SHALL NOT SUBSTANTIALLY ADVERSELY AFFECT PROVISIONS FOR HEALTH, SAFETY
53 AND SECURITY, AND THAT EQUALLY SAFE AND PROPER ALTERNATIVES MAY BE
54 PRESCRIBED. REQUESTS FOR A VARIANCE SHALL BE RESOLVED WITHIN SIXTY DAYS
55 OF THE DATE OF APPLICATION UNLESS A LONGER PERIOD IS REQUIRED FOR GOOD
56 CAUSE SHOWN.

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

9 2. IF THE COMPLAINANT IS DISSATISFIED WITH THE RESPONSE TO THE
10 COMPLAINT, THE COMPLAINANT MAY FILE A FORMAL COMPLAINT WITH THE COMMIS-
11 SIONER, WHO SHALL INITIATE AN INVESTIGATION OF THE COMPLAINT. THE
12 COMPLAINT SHALL BE IN WRITING AND INDICATE THE GROUNDS FOR THE COMPLAIN-
13 ANT AND SHALL BE SIGNED BY THE COMPLAINANT. A COPY SHALL BE PROVIDED BY
14 THE COMMISSIONER TO THE BUILDING OWNER OR THE PERSON DESIGNATED FOR SUCH
15 PURPOSES PROMPTLY, AND IN ANY EVENT PRIOR TO ANY INSPECTION BY THE
16 DEPARTMENT. ON THE REQUEST OF COMPLAINANT, THE COMPLAINANT'S NAME SHALL
17 BE WITHHELD. THE COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT
18 SHALL BE GIVEN THE OPPORTUNITY TO ACCOMPANY THE DEPARTMENT'S INSPECTOR
19 DURING AN INSPECTION FOR THE PURPOSE OF AIDING SUCH INSPECTION.

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

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

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