

5623

2009-2010 Regular Sessions

I N S E N A T E

May 22, 2009

Introduced by Sen. OPPENHEIMER -- 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 ASSEM-
BLY, 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

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

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AIR, OR A MIXTURE OF OUTDOOR AND RECIRCULATED AIR, EXCLUDING A RESIDENTIAL STRUCTURE CONTAINING SIX OR FEWER DWELLING UNITS OR ANY STRUCTURE OR PORTION OF A STRUCTURE WHERE STATE REGULATION OF INDOOR AIR QUALITY WOULD BE PREEMPTED BY FEDERAL LAW. THIS DEFINITION SHALL EXCLUDE BARNs, WHICH FOR THE PURPOSES OF THIS ARTICLE SHALL MEAN A STRUCTURE THAT WAS DESIGNED AND USED FOR STORING FARM EQUIPMENT OR AGRICULTURAL PRODUCTS, OR FOR HOUSING LIVESTOCK.

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

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

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

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

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

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

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

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

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

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

(I) A WRITTEN RECORD OF MAINTENANCE PERFORMED ON THE BUILDING'S HEATING, VENTILATION, AND AIR CONDITIONING SYSTEM;

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

(III) A WRITTEN RECORD OF MODIFICATIONS AND RENOVATIONS TO THE BUILDING, INCLUDING BUT NOT LIMITED TO MODIFICATION OF THE HEATING, VENTILATION AND AIR CONDITIONING SYSTEM, CONSTRUCTION AND MODIFICATIONS OF WALLS AND INTERIOR SPACE WHICH COULD AFFECT AIR FLOW TO BUILDING OCCUPANTS; AND

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

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

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

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

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

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

(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.

(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.

(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.

(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.

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

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.

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.

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.

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

1 COMPLAINT SHALL BE IN WRITING AND INDICATE THE GROUNDS FOR THE COMPLAIN-
2 ANT AND SHALL BE SIGNED BY THE COMPLAINANT. A COPY SHALL BE PROVIDED BY
3 THE COMMISSIONER TO THE BUILDING OWNER OR THE PERSON DESIGNATED FOR SUCH
4 PURPOSES PROMPTLY, AND IN ANY EVENT PRIOR TO ANY INSPECTION BY THE
5 DEPARTMENT. ON THE REQUEST OF COMPLAINANT, THE COMPLAINANT'S NAME SHALL
6 BE WITHHELD. THE COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT
7 SHALL BE GIVEN THE OPPORTUNITY TO ACCOMPANY THE DEPARTMENT'S INSPECTOR
8 DURING AN INSPECTION FOR THE PURPOSE OF AIDING SUCH INSPECTION.

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

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

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