

6045

2009-2010 Regular Sessions

I N S E N A T E

June 22, 2009

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the labor law, in relation to requiring employers to provide safety ropes and system components to firefighters; and to repeal paragraph e of subdivision 1 of section 27-a of the labor law relating to the definition of system components

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

1 Section 1. Paragraph e of subdivision 1 of section 27-a of the labor  
2 law is REPEALED.  
3 S 2. Subdivision 4 of section 27-a of the labor law, as amended by  
4 chapter 433 of the laws of 2007, is amended to read as follows:  
5 4. Safety and health standards. a. The commissioner shall by rule  
6 adopt all safety and health standards promulgated under the United  
7 States Occupational Safety and Health Act of 1970 (Public Law, 91-596)  
8 which are in effect on the effective date of this section, in order to  
9 provide reasonable and adequate protection to the lives, safety and  
10 health of public employees and shall promulgate and repeal such rules  
11 and regulations as may be necessary to conform to the standards estab-  
12 lished pursuant to such act or pursuant to paragraph b of this subdivi-  
13 sion.  
14 b. Notwithstanding the provisions of paragraph a of this subdivision,  
15 the commissioner, in consultation with the state occupational safety and  
16 health hazard abatement board, shall promulgate rules and regulations  
17 recommended to him OR HER by such board which establish standards when-  
18 ever such board finds (i) that no federal standard exists for the  
19 particular condition being addressed and that such a standard is neces-  
20 sary for the protection of the public employees at risk, or (ii) a  
21 federal standard exists, but conditions in public workplaces in this  
22 state require a different standard, and such state standard will be at

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

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1 least as effective in providing safe and healthful places of employment  
2 as the federal standard.

3 c. Except for an employer located in a city with a population of over  
4 one million, any employer who employs a firefighter shall [provide safe-  
5 ty ropes and system components for use by such firefighter] DEVELOP AND  
6 IMPLEMENT A WRITTEN SAFETY PROGRAM THAT INCLUDES BUT IS NOT LIMITED TO  
7 THE FOLLOWING: (I) A WRITTEN RISK ASSESSMENT TO DETERMINE THE PRESENCE  
8 OF FACTORS OR SITUATIONS IN FIRE SUPPRESSION THAT MIGHT PLACE FIREFIGHT-  
9 ERS AT RISK OF INJURY OR DEATH, (II) THE EQUIPMENT AND PROCEDURES NECES-  
10 SARY FOR FIREFIGHTERS TO USE WHEN ENGAGED IN FIRE SUPPRESSION AT ABOVE  
11 GRADE FLOORS DURING A STRUCTURE FIRE INCLUDING, WITHOUT LIMITATION,  
12 EQUIPMENT AND PROCEDURES FOR RAPID SAFE EGRESS.

13 D. The commissioner shall [by rule adopt the codes, standards and  
14 recommended practices promulgated by the most recent edition of National  
15 Fire Protection Association 1983, Standard on Fire Service Life Safety  
16 Rope and System Components, and] PROMULGATE SUCH RULES AND REGULATIONS  
17 as are appropriate [to] FOR THE DEVELOPMENT AND IMPLEMENTATION OF WRIT-  
18 TEN SAFETY PROGRAMS, WHICH SHALL INCLUDE, WITHOUT LIMITATION, AN EVALU-  
19 ATION OF the nature of the risk to which the firefighter shall be  
20 exposed. Such [safety ropes and system components] EQUIPMENT AND PROCE-  
21 DURES shall be, IN THE DETERMINATION OF THE EMPLOYER, adequate to  
22 protect the health and safety of the firefighter.

23 E. The employer shall ensure that the firefighter is instructed in the  
24 proper use of the [safety ropes and system components] EQUIPMENT AND  
25 PROCEDURES AT THE TIME OF THEIR INITIAL ASSIGNMENT AND ANNUALLY THERE-  
26 AFTER. THE EMPLOYER SHALL ALSO ENSURE THAT: (1) A FIREFIGHTER SHALL BE  
27 INFORMED OF THE REQUIREMENTS OF THIS SECTION, THE RISKS OF FIRE  
28 SUPPRESSION AND THE LOCATION AND AVAILABILITY OF THE WRITTEN SAFETY  
29 PROGRAM UPON REQUEST, BY THE EMPLOYER OR THEIR DESIGNATED REPRESENT-  
30 ATIVES; AND (2) FIREFIGHTER TRAINING SHALL INCLUDE AT LEAST THE DETAILS  
31 OF THE WRITTEN SAFETY PROGRAM DEVELOPED BY THE EMPLOYER.

32 F. In order to ensure the adequacy of the [safety ropes and system  
33 components] EQUIPMENT AND PROCEDURES, the employer must routinely  
34 inspect and ensure that:

35 (1) Existing [safety ropes and system components] EQUIPMENT AND PROCE-  
36 DURES meet the codes, standards and recommended practices adopted by the  
37 commissioner.

38 (2) Existing [safety ropes and system components] EQUIPMENT AND PROCE-  
39 DURES still perform their function and to identify any of their limita-  
40 tions such as but not limited to:

41 (i) Checking the labels or stamps on the equipment; and

42 (ii) Checking any documentation or equipment specifications; and

43 (iii) Contacting the supplier or the [approval agency] MANUFACTURER;

44 (3) Firefighters are informed of the limitations of any [safety ropes  
45 and system components] EQUIPMENT AND PROCEDURES;

46 (4) Firefighters are not allowed or required to use any [safety ropes  
47 or system components] EQUIPMENT beyond their limitations;

48 (5) Existing and new [safety ropes and system components] EQUIPMENT  
49 have no visible defects that limit their safe use;

50 (6) [Safety ropes and system components are] ANY EQUIPMENT IS used,  
51 cleaned, maintained and stored according to manufacturer's instructions;

52 (7) The firefighter is instructed in identifying to the employer any  
53 defects that the firefighter may find in [safety ropes and system compo-  
54 nents] ANY EQUIPMENT; and

55 (8) Any identified defects are corrected or immediate action is taken  
56 by the employer to eliminate the use of this equipment.

1 [d.] G. Any person who may be adversely affected by a standard issued  
2 under this section may, within thirty days after the effective date of  
3 such standard, commence a proceeding for judicial review pursuant to  
4 article seventy-eight of the civil practice law and rules.

5 S 3. This act shall take effect immediately except that the commis-  
6 sioner of labor shall promulgate regulations required under this act  
7 within one hundred twenty days of its effective date.