S T A T E O F N E W Y O R K

2198

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to providing for the regulation and practice of the industrial hygiene and safety professions

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

Section 1. The education law is amended by adding a new article 146 to read as follows:

ARTICLE 146
INDUSTRIAL HYGIENE AND SAFETY PROFESSIONALS

SECTION 7250. LEGISLATIVE INTENT.
7251. DEFINITIONS.
7252. PRACTICE OF THE INDUSTRIAL HYGIENE AND SAFETY PROFESSIONS.
7253. STATE BOARD FOR INDUSTRIAL HYGIENE AND SAFETY.
7254. REQUIREMENTS FOR LICENSE AS AN OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL.
7255. LIMITED PERMITS.
7256. EXEMPT PERSONS.
7257. SPECIAL PROVISIONS.

S 7250. LEGISLATIVE INTENT. IT IS THE LEGISLATURE'S INTENT AND THE PURPOSE OF THIS ARTICLE TO PROTECT PUBLIC HEALTH BY RECOGNIZING THAT EXPOSURES ARISING IN OR FROM THE WORK-PLACE MAY CAUSE ILLNESS, IMPAIRED HEALTH, INJURY, OR INEFFICIENCY AMONG EMPLOYEES AND THE PUBLIC. IT IS RECOGNIZED THAT IT IS THE PURPOSE OF THE INDUSTRIAL HYGIENE PROFESSION TO ANTICIPATE, RECOGNIZE, EVALUATE AND CONTROL SUCH EXPOSURES. IT IS RECOGNIZED THAT IT IS THE PURPOSE OF THE SAFETY PROFESSION TO PRESERVE HUMAN AND MATERIAL RESOURCES THROUGH SYSTEMATIC ANTICIPATION, IDENTIFICATION, AND IMPLEMENTING AND ADVISING OTHERS ON CONTROL OF IMMEDIATE

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

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PHYSICAL HAZARDS AND HAZARDOUS PRACTICES. IT IS RECOGNIZED THAT PUBLIC HEALTH WILL BE SERVED BY THE REGULATION OF THE ADMISSION TO AND PRACTICE OF THE INDUSTRIAL HYGIENE AND SAFETY PROFESSIONS AS PROVIDED FOR IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE. THIS ARTICLE APPLIES TO THE PROFESSIONS OF INDUSTRIAL HYGIENE AND SAFETY. THE GENERAL PROVISIONS CONTAINED IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE APPLY TO THIS ARTICLE.

S 7251. DEFINITIONS. AS USED IN THIS ARTICLE THE FOLLOWING TERMS SHALL MEAN AS FOLLOWS:

1. "INDUSTRIAL HYGIENE" SHALL MEAN THE SCIENCE AND PRACTICE DEVOTED TO THE ANTICIPATION, RECOGNITION, EVALUATION AND CONTROL OF THOSE ENVIRONMENTAL FACTORS AND STRESSES ARISING IN OR FROM THE WORKPLACE THAT MAY CAUSE SICKNESS, IMPAIRED HEALTH AND WELL-BEING, OR SIGNIFICANT DISCOMFORT AMONG WORKERS AND MAY ALSO IMPACT THE GENERAL COMMUNITY.

2. "CERTIFIED INDUSTRIAL HYGIENIST", "CIH", OR "C.I.H." SHALL MEAN A PERSON MEETING THE EDUCATION, EXPERIENCE, EXAMINATION, CONTINUING EDUCATION, AND CODE OF ETHICS REQUIREMENTS ESTABLISHED BY THE AMERICAN BOARD OF INDUSTRIAL HYGIENE, WHICH INCLUDES HAVING BEEN GRANTED A CERTIFICATION NUMBER AND A CERTIFICATE IN THE PRACTICE OF INDUSTRIAL HYGIENE.

3. "AMERICAN BOARD OF INDUSTRIAL HYGIENE", "ABIH" OR "A.B.I.H." SHALL MEAN THE PENNSYLVANIA NON-PROFIT CORPORATION PROVIDING NATIONAL CERTIFICATION TO CERTIFIED INDUSTRIAL HYGIENISTS, WHOSE PURPOSE IS TO IMPROVE THE PRACTICE AND EDUCATIONAL STANDARDS OF THE PROFESSION OF INDUSTRIAL HYGIENE.

4. "SAFETY PROFESSION" SHALL MEAN THE SCIENCE AND ART CONCERNED WITH THE PRESERVATION OF HUMAN AND MATERIAL RESOURCES THROUGH THE SYSTEMATIC APPLICATION OF PRINCIPALS DRAWN FROM SUCH DISCIPLINES AS ENGINEERING, EDUCATION, PSYCHOLOGY, PHYSIOLOGY, ENFORCEMENT, AND MANAGEMENT FOR ANTICIPATING, IDENTIFYING AND EVALUATING HAZARDOUS CONDITIONS AND PRACTICES; DEVELOPING HAZARD CONTROL DESIGNS, METHODS, PROCEDURES AND PROGRAMS; AND MEASURING, AUDITING, AND EVALUATING THE EFFECTIVENESS OF HAZARD CONTROLS AND HAZARD CONTROL PROGRAMS.

5. "CERTIFIED SAFETY PROFESSIONAL", "CSP" OR "C.S.P." SHALL MEAN A PERSON MEETING THE EDUCATION, EXPERIENCE, EXAMINATION, CONTINUING EDUCATION, AND CODE OF ETHICS REQUIREMENTS ESTABLISHED BY THE BOARD OF CERTIFIED SAFETY PROFESSIONALS, WHICH INCLUDES HAVING BEEN GRANTED A CERTIFICATION NUMBER AND A CERTIFICATE IN THE PRACTICE OF THE SAFETY PROFESSION.

6. "BOARD OF CERTIFIED SAFETY PROFESSIONALS", "BCSP", OR "B.C.S.P." SHALL MEAN THE NON-PROFIT CORPORATION PROVIDING NATIONAL CERTIFICATION TO CERTIFIED SAFETY PROFESSIONALS.

7. "OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL", "OSHP", OR "O.S.H.P." SHALL MEAN A PERSON LICENSED UNDER THIS ARTICLE TO PRACTICE THE INDUSTRIAL HYGIENE AND SAFETY PROFESSIONS.

S 7252. PRACTICE OF THE INDUSTRIAL HYGIENE AND SAFETY PROFESSIONS. ONLY PERSONS LICENSED OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE SHALL PRACTICE THE INDUSTRIAL HYGIENE AND SAFETY PROFESSIONS OR USE TITLES OR CERTIFICATIONS TO SUGGEST QUALIFICATION OR COMPETENCE AS AN INDUSTRIAL OR OCCUPATIONAL HYGIENIST OR OCCUPATIONAL SAFETY PROFESSIONAL.

S 7253. STATE BOARD FOR INDUSTRIAL HYGIENE AND SAFETY. A STATE BOARD FOR INDUSTRIAL HYGIENE AND SAFETY SHALL BE APPOINTED BY THE BOARD OF REGENTS ON RECOMMENDATION OF THE COMMISSIONER FOR THE PURPOSE OF ASSISTING THE BOARD OF REGENTS AND THE DEPARTMENT ON MATTERS OF PROFESSIONAL LICENSING AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH SECTION SIXTY-FIVE HUNDRED OF THIS TITLE. THE BOARD SHALL BE COMPOSED OF NOT LESS THAN FIVE LICENSED OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONALS. AN EXECUTIVE

SECRETARY TO THE BOARD SHALL BE APPOINTED BY THE BOARD OF REGENTS ON THE RECOMMENDATION OF THE COMMISSIONER, AND SHALL BE LICENSED AS AN OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL. BOARD MEMBERSHIP SHALL REPRESENT A BALANCE OF SAFETY AND INDUSTRIAL HYGIENE PRACTICE.

S 7254. REQUIREMENTS FOR LICENSE AS AN OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL. TO QUALIFY AS A LICENSED OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL, AN APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

1. APPLICATION. FILE AN APPLICATION WITH THE DEPARTMENT;

2. EDUCATION. HAVE RECEIVED AS A MINIMUM A BACHELORS DEGREE IN: INDUSTRIAL HYGIENE, SAFETY, OR CHEMISTRY, OR PHYSICS, OR CHEMICAL ENGINEERING, OR MECHANICAL ENGINEERING, OR SANITARY ENGINEERING, OR CIVIL ENGINEERING, OR BIOLOGY, OR TOXICOLOGY, OR EPIDEMIOLOGY OR OTHER APPROPRIATE DEGREE FROM AN INSTITUTION ACCREDITED BY ONE OF THE BODIES RECOGNIZED BY THE COMMISSION ON HIGHER EDUCATION AND ACCREDITATION, AND ACCEPTABLE TO THE BOARD IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

3. EXPERIENCE. DOCUMENT FIVE YEARS OF FULL TIME EMPLOYMENT AS AN INDUSTRIAL HYGIENIST AND/OR SAFETY PROFESSIONAL WHO BY VIRTUE OF HIS OR HER KNOWLEDGE, SKILL, EDUCATION AND TRAINING HAS ACQUIRED ACCEPTED COMPETENCY IN SAFETY AND HYGIENE IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

4. EXAMINATION. PASS AN EXAMINATION ACCEPTABLE TO THE BOARD AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS. THE COMMISSIONER'S REGULATIONS SHALL ACCEPT CERTIFICATION FROM A NATIONALLY RECOGNIZED PROFESSIONAL SAFETY OR HYGIENE ORGANIZATION ACCREDITED BY THE NATIONAL COMMISSION ON CERTIFYING AGENCIES OR THE COUNCIL OF ENGINEERING AND SCIENTIFIC SPECIALTY BOARDS SUCH AS THE AMERICAN BOARD OF INDUSTRIAL HYGIENE AS A CERTIFIED INDUSTRIAL HYGIENIST OR CERTIFICATION BY THE BOARD OF CERTIFIED SAFETY PROFESSIONALS AS A CERTIFIED SAFETY PROFESSIONAL IN LIEU OF THE NEED FOR COMPLETION OF ANY OTHER EXAMINATION, EXPERIENCE, OR EDUCATIONAL REQUIREMENTS. ANY EXAMINATIONS ESTABLISHED BY THE BOARD AND THE COMMISSIONER SHALL BE EQUIVALENT TO THE CERTIFICATION EXAMINATIONS OF THE AMERICAN BOARD OF INDUSTRIAL HYGIENE AND THE BOARD OF CERTIFIED SAFETY PROFESSIONALS.

WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THE COMMISSIONER'S REGULATIONS, INDIVIDUALS PROVIDING DOCUMENTATION VERIFYING FIVE OR MORE YEARS OF INDUSTRIAL HYGIENE OR SAFETY PROFESSIONAL PRACTICE ACCEPTABLE TO THE BOARD IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS SHALL BE ACCEPTED AS HAVING FULFILLED THE EDUCATION, EXAMINATION, AND EXPERIENCE REQUIREMENTS FOR A LICENSE AS AN INDUSTRIAL HYGIENIST OR SAFETY PROFESSIONAL. FOLLOWING THIS TWO YEAR PERIOD ALL NEW APPLICANTS SHALL FULLY COMPLY WITH ALL EDUCATION AND EXAMINATION REQUIREMENTS OF THIS ARTICLE;

5. CONTINUING EDUCATION. DOCUMENT COMPLETION OF CONTINUING EDUCATION PROGRAMS IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS WHICH SHALL BE ADEQUATE TO MAINTAIN COMPETENCY IN THE AREA OF ACTUAL PRACTICE, AND WHICH SHALL BE EQUIVALENT TO THE CERTIFICATION MAINTENANCE PROCEDURES ESTABLISHED BY THE AMERICAN BOARD OF INDUSTRIAL HYGIENE OR THE BOARD OF CERTIFIED SAFETY PROFESSIONALS. MAINTENANCE OF A.B.I.H. CERTIFICATION AS A CERTIFIED INDUSTRIAL HYGIENIST, OR MAINTENANCE OF B.C.S.P. CERTIFICATION AS A CERTIFIED SAFETY PROFESSIONAL SHALL BE CONSIDERED ACCEPTABLE CONTINUING EDUCATION;

6. AGE. BE AT LEAST TWENTY-ONE YEARS OF AGE;

7. CHARACTER. BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT.

S 7255. LIMITED PERMITS. ON THE RECOMMENDATION OF THE BOARD, THE DEPARTMENT MAY ISSUE A LIMITED PERMIT TO PRACTICE INDUSTRIAL HYGIENE OR

AS A SAFETY PROFESSIONAL TO AN INDUSTRIAL HYGIENIST OR SAFETY PROFESSIONAL NOT A RESIDENT OF THIS STATE NOR HAVING ESTABLISHED PLACE OF PRACTICE IN THIS STATE, WHO IS A CERTIFIED INDUSTRIAL HYGIENIST OR CERTIFIED SAFETY PROFESSIONAL, OR WHO IS QUALIFIED TO PRACTICE IN HIS OR HER OWN COUNTRY OR STATE, AND WHO SUBMITS SATISFACTORY CERTIFICATIONS AS TO CHARACTER AND QUALIFICATIONS. LIMITED PERMITS SHALL BE ISSUED SOLELY IN CONNECTION WITH THE SPECIFIC PROJECT FOR WHICH SUCH A LIMITED PERMIT IS GRANTED.

1. A LIMITED PERMIT ISSUED UNDER THIS SECTION SHALL APPLY TO NO MORE THAN AN AGGREGATE OF THIRTY DAYS IN ANY CALENDAR YEAR, WHICH MAY COMMENCE ON THE DATE THE APPLICATION IS SUBMITTED UNLESS THE APPLICANT HAS HAD A PREVIOUS APPLICATION FOR A LIMITED PERMIT REJECTED OR A PREVIOUS LICENSE AS AN OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL REVOKED. THE PERMIT SHALL SPECIFY THE DATES WITHIN THE CALENDAR YEAR WHEN SUCH RIGHT MAY BE EXERCISED.

2. IN LIEU OF A LIMITED PERMIT, A NON-RESIDENT OF THE STATE MAY CHOOSE TO SUBMIT A FULL APPLICATION FOR PRACTICE AS AN OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL.

S 7256. EXEMPT PERSONS. THIS ARTICLE SHALL NOT BE CONSTRUED TO AFFECT OR PREVENT THE FOLLOWING, PROVIDED THAT NO TITLE, SIGN, CARD OR DEVICE SHALL BE USED IN SUCH MANNER AS TO TEND TO CONVEY THE IMPRESSION THAT THE PERSON RENDERING SUCH SERVICE IS A LICENSED OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL.

1. PRACTICE OF INDUSTRIAL HYGIENE OR SAFETY AS AN EMPLOYEE OF A FEDERAL, STATE, COUNTY OR MUNICIPAL AGENCY OR PUBLIC EMPLOYER, PROVIDED THAT SUCH PRACTICE IS LIMITED TO WORK PERFORMED FOR THESE EMPLOYERS.

2. PRACTICE OF INDUSTRIAL HYGIENE OR SAFETY BY AN EMPLOYEE OF A PRIVATE COMPANY PROVIDED THAT SUCH PRACTICE INVOLVES ONLY WORK PERFORMED FOR THAT COMPANY AND THAT COMPANY'S EMPLOYEES.

3. USE OF TITLES OR DEGREE INITIALS BY INDIVIDUALS HAVING COMPLETED PROGRAMS FROM ACCREDITED ACADEMIC INSTITUTIONS OR OTHER PROGRAMS ACCEPTABLE TO THE BOARD AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS.

4. EMPLOYMENT OF ANY PERSON AS A JUNIOR ASSISTANT, OR INDUSTRIAL HYGIENIST IN TRAINING, OR ASSOCIATE SAFETY PROFESSIONAL, PROVIDED THAT SUCH INDIVIDUALS ACT UNDER THE GENERAL DIRECTION OF, AND ARE SUBJECT TO REGULAR TECHNICAL PERFORMANCE REVIEW BY, A LICENSED OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL.

5. PRACTICE OF INDUSTRIAL HYGIENE OR SAFETY BY INDIVIDUALS AS AN OFFICER OR EMPLOYEE OF A CORPORATION SOLELY ENGAGED IN INTERSTATE COMMERCE.

6. PRACTICE AS AN OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL IN THIS STATE BY ANY PERSON NOT A RESIDENT, NOR HAVING ESTABLISHED PLACE OF PRACTICE IN THIS STATE, OR ANY PERSON RESIDENT IN THIS STATE BUT WHO HAS ARRIVED IN THIS STATE WITHIN SIX MONTHS, PROVIDED, HOWEVER, SUCH A PERSON HAS FILED AN APPLICATION FOR A LICENSE AS AN OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL, AND WHO IS A CERTIFIED INDUSTRIAL HYGIENIST OR A CERTIFIED SAFETY PROFESSIONAL OR WHO IS LEGALLY QUALIFIED TO PRACTICE IN THE STATE OR COUNTRY IN WHICH HE OR SHE HAD A PLACE OF RESIDENCE OR PRACTICE, AND HAS NOT HAD A PREVIOUS APPLICATION FOR LICENSURE OR A LIMITED PERMIT REJECTED OR A PREVIOUS LICENSE AS AN OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL REVOKED. SUCH EXEMPTION SHALL CONTINUE ONLY FOR SUCH REASONABLE TIME AS THE BOARD REQUIRES TO GRANT OR DENY THE APPLICATION FOR LICENSE. A PERSON INTENDING TO PRACTICE UNDER THIS SUBDIVISION SHALL SO STATE ON THE APPLICATION.

S 7257. SPECIAL PROVISIONS. 1. NO ACT, REGULATION OR ORDER SHALL RESTRICT THE PRACTICE OF THE INDUSTRIAL OR OCCUPATIONAL HYGIENE OR SAFETY PROFESSIONS AS AUTHORIZED BY THIS ARTICLE.

2. EVERY LICENSED OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL SHALL HAVE A SEAL WHICH SHALL CONTAIN THE WORDS "OCCUPATIONAL SAFETY AND HYGIENE PROFESSIONAL" AND SUCH OTHER WORDS OR FIGURES AS THE BOARD MAY DEEM NECESSARY. THE SEAL MAY BE USED TO STAMP REPORTS AND DRAWINGS WHICH RELATE TO THE PRACTICE OF THE INDUSTRIAL HYGIENE AND SAFETY PROFESSIONS.

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