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

4706

2009-2010 Regular Sessions

I N A S S E M B L Y

February 5, 2009

Introduced by M. of A. BRENNAN, GREENE, COLTON, HOOPER, MAISEL -- Multi-Sponsored by -- M. of A. ABBATE, COOK, GLICK, GOTTFRIED, HEASTIE, JACOBS, JOHN, NOLAN, ORTIZ, PHEFFER, SWEENEY -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to protecting metropolitan transportation authority employees from its possible negligence

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

Section 1. Legislative intent. This legislative body recognizes that metropolitan transportation authority workers face dangerous and sometimes fatal circumstances daily due to the nature of their work. This body also recognizes that given the dangerous nature of the occupation, there is a need for competent supervision and precise up-to-date information on the possible dangerous conditions facing the employees on their assignment. In order to ensure proper supervision, there must be an avenue of redress for employees or their representatives to use when they are not being given appropriate and adequate supervision or are subject to conditions where safety markers or designations mandated by law or regulation are not present. Therefore, it is the intent of this legislative body to protect these metropolitan transportation authority employees from such negligence by enacting the following legislation.

S 2. Subdivisions 5 and 6 of section 1276 of the public authorities law are renumbered subdivisions 6 and 7 and a new subdivision 5 is added to read as follows:

5. (A) IN ADDITION TO ANY OTHER RIGHT OF ACTION OR RECOVERY UNDER ANY OTHER PROVISION OF LAW, IN THE EVENT ANY ACCIDENT CAUSING INJURY, DEATH OR DISEASE WHICH RESULTS IN DEATH OCCURS DIRECTLY OR INDIRECTLY AS A RESULT OF ANY NEGLECT, OMISSION, WILLFUL OR CULPABLE NEGLIGENCE OF ANY PERSON OR PERSONS EMPLOYED BY THE METROPOLITAN TRANSPORTATION AUTHORITY IN PERMITTING TO BE VIOLATED, OR FAILING TO COMPLY WITH, ANY SAFETY

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

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STANDARDS AUTHORIZED PURSUANT TO ANY LAW, RULE OR REGULATION OF ANY FEDERAL OR STATE AGENCY CONCERNED WITH OCCUPATIONAL SAFETY AND HEALTH, THE PERSON OR PERSONS GUILTY OF SAID NEGLECT, OMISSION, WILLFUL OR CULPABLE NEGLIGENCE AT THE TIME OF SUCH INJURY OR DEATH SHALL BE LIABLE TO PAY ANY EMPLOYEE SO INJURED, OR WHOSE LIFE MAY BE LOST WHILE IN THE DISCHARGE OF ANY DUTY IMPOSED BY THE METROPOLITAN TRANSPORTATION AUTHORITY, ITS OFFICERS AND EMPLOYEES, OR TO PAY TO THE SPOUSE AND CHILDREN, OR TO PAY THE PARENTS, OR TO PAY THE BROTHERS AND SISTERS, BEING THE SURVIVING HEIRS-AT-LAW OF ANY DECEASED PERSON THUS HAVING LOST HIS OR HER LIFE, A SUM OF MONEY, IN CASE OF INJURY TO PERSON, NOT LESS THAN ONE THOUSAND DOLLARS AND, IN THE CASE OF DEATH, NOT LESS THAN FIVE THOUSAND DOLLARS, SUCH LIABILITY TO BE DETERMINED AND SUCH SUMS RECOVERED IN AN ACTION TO BE INSTITUTED BY ANY PERSON INJURED OR THE FAMILY OR RELATIVES OF ANY PERSON KILLED AS AFORESAID PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL BE DEEMED TO EXPAND OR RESTRICT ANY RIGHT AFFORDED TO OR LIMITATION IMPOSED UPON AN EMPLOYER, AN EMPLOYEE OR HIS OR HER REPRESENTATIVE BY VIRTUE OF ANY PROVISIONS OF THE WORKERS' COMPENSATION LAW.

(B) WITH RESPECT TO ANY RECOVERY, THERE SHALL BE OFFSET AGAINST SUCH RECOVERY ANY AMOUNTS PAID PURSUANT TO THE WORKERS' COMPENSATION LAW AND COLLECTIVE BARGAINING AGREEMENTS.

S 3. This act shall take effect immediately.