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

3322

2009-2010 Regular Sessions

I N S E N A T E

March 16, 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

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

Section 1. The public health law is amended by adding a new article 49-A to read as follows:

ARTICLE 49-A
INDOOR AIR QUALITY

SECTION 4920. PURPOSE.
4921. DEFINITIONS.
4922. INDOOR AIR QUALITY PLAN.
4923. INDOOR AIR QUALITY STANDARDS.
4924. INDOOR AIR INVESTIGATIONS.
4925. TRAINING COURSE.

S 4920. PURPOSE. IT IS THE PURPOSE OF THIS ARTICLE TO PROTECT PUBLIC HEALTH BY PROVIDING FOR ADEQUATE QUANTITY AND QUALITY OF INDOOR AIR. IN ORDER TO ACHIEVE THIS AIM IT IS NECESSARY TO PROVIDE THAT A BUILDING'S HEATING, VENTILATION AND AIR CONDITIONING SYSTEM BE OPERATED AND MAINTAINED ACCORDING TO DESIGN. IT IS ALSO NECESSARY THAT PERSONS WHO ARE EXPERIENCING ADVERSE HEALTH EFFECTS BECAUSE OF INDOOR AIR PROBLEMS HAVE MEANS TO COMMUNICATE THESE PROBLEMS AND HAVE THEM ADDRESSED. IN ORDER TO ENSURE A MINIMUM AND ADEQUATE SUPPLY OF FRESH AIR TO BUILDING OCCUPANTS, IT IS FURTHER, ALSO THE PURPOSE OF THIS ARTICLE TO ADOPT ESTABLISHED STANDARDS FOR VENTILATION.

S 4921. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "BUILDING" MEANS AN OCCUPIED STRUCTURE OF GREATER THAN TWENTY-FIVE THOUSAND SQUARE FEET OF FLOOR SPACE, USING MECHANICAL VENTILATION PROVIDING OUTDOOR AIR, RECIRCULATED AIR, OR A MIXTURE OF OUTDOOR AND RECIRCULATED AIR, EXCLUDING A RESIDENTIAL STRUCTURE CONTAINING SIX OR

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

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FEWER DWELLING UNITS OR ANY STRUCTURE OR PORTION OF A STRUCTURE WHERE STATE REGULATION OF INDOOR AIR QUALITY WOULD BE PREEMPTED BY FEDERAL LAW.

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

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) 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 TAKE EFFECT, THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LABOR, ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, AND THE OFFICE OF FIRE PREVENTION AND CONTROL, 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. 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 MAY INITIATE AN INVESTIGATION OF THE COMPLAINT. THE COMPLAINT SHALL BE IN WRITING AND INDICATE THE GROUNDS FOR THE COMPLAIN-

ANT AND SHALL BE SIGNED BY THE COMPLAINANT. A COPY SHALL BE PROVIDED BY THE COMMISSIONER TO THE BUILDING OWNER OR THE PERSON DESIGNATED FOR SUCH PURPOSES PROMPTLY, AND IN ANY EVENT PRIOR TO ANY INSPECTION BY THE DEPARTMENT. ON THE REQUEST OF COMPLAINANT, THE COMPLAINANT'S NAME SHALL BE WITHHELD. THE COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT SHALL BE GIVEN THE OPPORTUNITY TO ACCOMPANY THE DEPARTMENT'S INSPECTOR DURING AN INSPECTION FOR THE PURPOSE OF AIDING SUCH INSPECTION.

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

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

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