

2949

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. GABRYSZAK, DESTITO, WEISENBERG, SCHIMEL, JAFFEE, CONTE, CALHOUN, P. LOPEZ, RUSSELL, GUNTHER, BENEDETTO, GIBSON, MAISEL, LAVINE, ZEBROWSKI, M. MILLER, CASTELLI -- Multi-Sponsored by -- M. of A. AMEDORE, BARCLAY, BURLING, BUTLER, CAHILL, CROUCH, DUPREY, FINCH, GALEF, GIGLIO, GOTTFRIED, HAWLEY, HAYES, HEVESI, KOLB, LATIMER, LIFTON, LUPARDO, MAGEE, MAGNARELLI, McENENY, McKEVITT, MURRAY, OAKS, PHEFFER, RAIA, REILICH, REILLY, SAYWARD, SCHIMMINGER, SWEENEY, THIELE, TITONE -- read once and referred to the Committee on Labor

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2 law is REPEALED.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-

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

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1 ever such board finds (i) that no federal standard exists for the
2 particular condition being addressed and that such a standard is neces-
3 sary for the protection of the public employees at risk, or (ii) a
4 federal standard exists, but conditions in public workplaces in this
5 state require a different standard, and such state standard will be at
6 least as effective in providing safe and healthful places of employment
7 as the federal standard.

8 c. Except for an employer located in a city with a population of over
9 one million, any employer who employs a firefighter shall [provide safe-
10 ty ropes and system components for use by such firefighter] DEVELOP AND
11 IMPLEMENT A WRITTEN SAFETY PROGRAM THAT INCLUDES BUT IS NOT LIMITED TO
12 THE FOLLOWING: (1) A WRITTEN RISK ASSESSMENT TO DETERMINE THE PRESENCE
13 OF FACTORS OR SITUATIONS IN FIRE SUPPRESSION THAT MIGHT PLACE FIREFIGHT-
14 ERS AT RISK OF INJURY OR DEATH, (2) THE EQUIPMENT AND PROCEDURES NECES-
15 SARY FOR FIREFIGHTERS TO USE WHEN ENGAGED IN FIRE SUPPRESSION AT ABOVE
16 GRADE FLOORS DURING A STRUCTURE FIRE INCLUDING, WITHOUT LIMITATION,
17 EQUIPMENT AND PROCEDURES FOR RAPID SAFE EGRESS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 S 3. This act shall take effect on the one hundred twentieth day after
11 it shall have become a law except that the commissioner of labor shall
12 promulgate regulations required under this act within one hundred twenty
13 days of its effective date.