

3599

2013-2014 Regular Sessions

I N A S S E M B L Y

January 28, 2013

Introduced by M. of A. LUPARDO, GOTTFRIED, PAULIN, DINOWITZ, BENEDETTO, GABRYSZAK, ROSENTHAL, BROOK-KRASNY, ROBINSON, COLTON -- Multi-Sponsored by -- M. of A. BOYLAND, CAHILL, CLARK, GALEF, HOOPER, JAFFEE, MAISEL, MILLMAN, PERRY, RIVERA, SWEENEY, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to protecting indoor air quality in state owned, leased or operated buildings

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 STATE OWNED, LEASED OR OPERATED BUILDINGS. IN ORDER TO ACHIEVE THIS AIM IT IS NECESSARY TO PROVIDE THAT A STATE OWNED, LEASED OR OPERATED 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 STATE OWNED, LEASED OR OPERATED 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:

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

LBD07022-01-3

1 1. "BUILDING" MEANS AN OCCUPIED STRUCTURE, OWNED, LEASED OR OPERATED
2 BY THE STATE OF GREATER THAN TWENTY-FIVE THOUSAND SQUARE FEET OF FLOOR
3 SPACE, USING MECHANICAL VENTILATION PROVIDING OUTDOOR AIR, RECIRCULATED
4 AIR, OR A MIXTURE OF OUTDOOR AND RECIRCULATED AIR, EXCLUDING A RESIDEN-
5 TIAL STRUCTURE CONTAINING SIX OR FEWER DWELLING UNITS OR ANY STRUCTURE
6 OR PORTION OF A STRUCTURE WHERE STATE REGULATION OF INDOOR AIR QUALITY
7 WOULD BE PREEMPTED BY FEDERAL LAW. THIS DEFINITION SHALL EXCLUDE BARNs,
8 WHICH FOR THE PURPOSES OF THIS ARTICLE SHALL MEAN A STRUCTURE THAT WAS
9 DESIGNED AND USED FOR STORING FARM EQUIPMENT OR AGRICULTURAL PRODUCTS,
10 OR FOR HOUSING LIVESTOCK.

11 2. "OWNER" MEANS THE STATE OR ANY STATE AGENCY.

12 S 4922. INDOOR AIR QUALITY PLAN. 1. RESPONSIBILITIES OF BUILDING
13 OWNER.

14 (A) THE OWNER OF A BUILDING SHALL BE RESPONSIBLE FOR DEVELOPING AND
15 MAINTAINING AN INDOOR AIR QUALITY PLAN FOR THE BUILDING; THE PLAN SHALL
16 CONTAIN THE FOLLOWING COMPONENTS:

17 (I) A DETAILED DESCRIPTION OF THE BUILDING'S HEATING, VENTILATION AND
18 AIR CONDITIONING SYSTEM, ITS OPERATION, AND PROCEDURES AND SCHEDULES FOR
19 NECESSARY MAINTENANCE;

20 (II) AN INVENTORY OF TOXIC SUBSTANCES USED IN THE BUILDING, INCLUDING
21 COPIES OF APPLICABLE MATERIAL SAFETY DATA SHEETS;

22 (III) A PLAN DETAILING MODIFICATIONS AND RENOVATIONS TO THE BUILDING,
23 INCLUDING AN ASSESSMENT OF THE EFFECTS OF RENOVATION ON INDOOR AIR QUAL-
24 ITY VENTILATION AND OTHER FACTORS RELEVANT TO AIR QUALITY;

25 (IV) PRIOR TO COMMENCING CONSTRUCTION OR RENOVATION PROJECTS, A PLAN
26 TO MINIMIZE EXPOSURE TO CONTAMINANTS AND MITIGATE ADVERSE EFFECTS ON
27 BUILDING OCCUPANTS DURING AND AFTER CONSTRUCTION OR RENOVATION;

28 (V) A PROCEDURE FOR MAINTAINING AND PROVIDING ACCESS (INCLUDING
29 INSPECTION AND COPYING) TO WRITTEN RECORDS OR LOGS PURSUANT TO PARAGRAPH
30 (B) OF THIS SUBDIVISION; AND

31 (VI) A SYSTEM TO RESPOND TO REQUESTS FOR INFORMATION, INVESTIGATE AND
32 RESPOND TO COMPLAINTS OF INDOOR AIR QUALITY PROBLEMS AND ADVERSE HEALTH
33 EFFECTS BY OCCUPANTS CONSISTENT WITH PARAGRAPH (D) OF THIS SUBDIVISION.

34 (B) THE OWNER OF A BUILDING SHALL BE RESPONSIBLE FOR DEVELOPING AND
35 MAINTAINING THE FOLLOWING RECORDS AND LOGS AS PART OF THE INDOOR AIR
36 QUALITY PLAN:

37 (I) A WRITTEN RECORD OF MAINTENANCE PERFORMED ON THE BUILDING'S HEAT-
38 ING, VENTILATION, AND AIR CONDITIONING SYSTEM;

39 (II) A LOG OF PESTICIDE USE AND APPLICATION, INCLUDING COPIES OF
40 APPLICABLE MATERIAL SAFETY DATA SHEETS;

41 (III) A WRITTEN RECORD OF MODIFICATIONS AND RENOVATIONS TO THE BUILD-
42 ING, INCLUDING BUT NOT LIMITED TO MODIFICATION OF THE HEATING, VENTI-
43 LATION AND AIR CONDITIONING SYSTEM, CONSTRUCTION AND MODIFICATIONS OF
44 WALLS AND INTERIOR SPACE WHICH COULD AFFECT AIR FLOW TO BUILDING OCCU-
45 PANTS; AND

46 (IV) A LOG OF COMPLAINTS OF INDOOR AIR QUALITY PROBLEMS AND REPORTS OF
47 ADVERSE HEALTH EFFECTS AND ACTIONS AND RESPONSES TO COMPLAINTS AND
48 REPORTS.

49 (C) THE OWNER OF A BUILDING SHALL DESIGNATE A PERSON OR GROUP OF
50 PERSONS WHO SHALL BE RESPONSIBLE FOR COORDINATING THE INDOOR AIR QUALITY
51 PLAN INCLUDING:

52 (I) OPERATING AND MAINTAINING THE BUILDING'S HEATING, VENTILATION, AND
53 AIR CONDITIONING SYSTEM;

54 (II) MAINTAINING THE INDOOR AIR QUALITY PLAN PURSUANT TO PARAGRAPH (A)
55 OF THIS SUBDIVISION; DEVELOPING AND MAINTAINING THE WRITTEN RECORDS AND
56 LOGS PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION; AND

1 (III) RECEIVING AND RESPONDING TO COMPLAINTS OF INDOOR AIR QUALITY
2 PROBLEMS AND REQUESTS FOR INFORMATION PURSUANT TO PARAGRAPH (D) OF THIS
3 SUBDIVISION.

4 (D) THE OWNER OF THE BUILDING SHALL POST IN THE LOBBY OF THE BUILDING,
5 OR CONSPICUOUSLY WHERE BUILDING OCCUPANTS HAVE ACCESS TO IT, A NOTICE
6 STATING THE PROCEDURES FOR MAKING REQUESTS AND COMPLAINTS UNDER THIS
7 PARAGRAPH AND NAME AND TELEPHONE NUMBER OF THE PERSON OR PERSONS DESIG-
8 NATED PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

9 (E) A BUILDING OWNER MAY CONTRACT WITH A MANAGEMENT COMPANY, LESSEE OR
10 OTHER PARTY RESPONSIBLE FOR THE BUILDING'S OPERATION AND MAINTENANCE TO
11 CARRY OUT THE RESPONSIBILITIES OF THIS SUBDIVISION.

12 (F) A BUILDING OWNER SHALL PROVIDE BUILDING OCCUPANTS WITH REASONABLE
13 ACCESS TO THE INDOOR AIR QUALITY PLAN PURSUANT TO PARAGRAPH (A) OF THIS
14 SUBDIVISION; PROVIDED, HOWEVER, THAT A BUILDING OWNER MAY EXCLUDE FROM
15 THAT ACCESS ANY INFORMATION THE DISCLOSURE OF WHICH WOULD POSE A SECURI-
16 TY RISK.

17 (G) A BUILDING OWNER SHALL SUBMIT A COPY OF THE INDOOR AIR QUALITY
18 PLAN PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION TO THE DEPARTMENT
19 UPON REQUEST BY THE DEPARTMENT.

20 (H) WHERE THE OWNER OPERATES MORE THAN ONE SIMILAR BUILDING ON A
21 CONTIGUOUS SITE, THE OWNER MAY PREPARE A PLAN WHICH INCLUDES MORE THAN
22 ONE BUILDING.

23 2. THE DEPARTMENT SHALL PROMULGATE REGULATIONS NECESSARY TO CARRY OUT
24 THE PROVISIONS OF THIS SECTION.

25 S 4923. INDOOR AIR QUALITY STANDARDS. 1. WITHIN ONE YEAR AFTER THIS
26 SECTION SHALL HAVE TAKEN EFFECT, THE DEPARTMENT, IN CONSULTATION WITH
27 THE DEPARTMENT OF LABOR, ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, AND
28 THE OFFICE OF FIRE PREVENTION, THE DEPARTMENT OF ECONOMIC DEVELOPMENT
29 AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SHALL ADOPT REGU-
30 LATIONS ESTABLISHING STANDARDS OF VENTILATION FOR NEW AND EXISTING
31 BUILDINGS. THE STANDARDS SHALL TAKE INTO EFFECT BUILDING ARRANGEMENT,
32 STRUCTURE, SIZE, USE, AGE, AND OCCUPANCY. THE DEPARTMENT MAY ISSUE
33 DIFFERENT REGULATIONS FOR NEW BUILDINGS, EXISTING BUILDINGS, AND BUILD-
34 INGS THAT ARE BEING SUBSTANTIALLY RENOVATED. FOR SCHOOLS, STANDARDS
35 SHALL BE APPROPRIATE FOR CHILDREN. IN ESTABLISHING THE STANDARDS, THE
36 DEPARTMENT SHALL CONSIDER THE MOST CURRENT APPLICABLE STANDARDS OF A
37 NATIONALLY-RECOGNIZED SOCIETY OR SOCIETIES OF HEATING, REFRIGERATION,
38 AND AIR CONDITIONING ENGINEERS.

39 2. THE DEPARTMENT MAY ESTABLISH A PROCEDURE WHERE ANY PROVISION OR
40 REQUIREMENT OF THE INDOOR AIR QUALITY REGULATIONS MAY BE VARIED OR MODI-
41 FIED IN CASES WHERE STRICT COMPLIANCE WOULD ENTAIL PRACTICAL DIFFICUL-
42 TIES OR UNNECESSARY HARDSHIP OR WOULD OTHERWISE BE UNWARRANTED. THE
43 PROCEDURE SHALL BE DESIGNED TO INSURE THAT ANY VARIANCE OR MODIFICATION
44 SHALL NOT SUBSTANTIALLY ADVERSELY AFFECT PROVISIONS FOR HEALTH, SAFETY
45 AND SECURITY, AND THAT EQUALLY SAFE AND PROPER ALTERNATIVES MAY BE
46 PRESCRIBED. REQUESTS FOR A VARIANCE SHALL BE RESOLVED WITHIN SIXTY DAYS
47 OF THE DATE OF APPLICATION UNLESS A LONGER PERIOD IS REQUIRED FOR GOOD
48 CAUSE SHOWN.

49 S 4924. INDOOR AIR INVESTIGATIONS. 1. UPON RECEIPT OF A COMPLAINT OR
50 COMPLAINTS EXCLUDING COMPLAINTS IN RELATION TO TEMPERATURE OF INDOOR AIR
51 QUALITY RELATING TO A BUILDING FROM THREE OR MORE OCCUPANTS OF THE
52 BUILDING OR, FROM A TENANT OF ALL OR PART OF THE BUILDING, THE BUILDING
53 OWNER OR DESIGNEE SHALL INITIATE AN INVESTIGATION OF THE COMPLAINT OR
54 COMPLAINTS. THE BUILDING OWNER SHALL RESPOND IN WRITING WITHIN THIRTY
55 DAYS INDICATING THE RESULTS OF THE INITIAL INVESTIGATION AND ANY CORREC-
56 TIVE ACTIONS TAKEN OR PENDING.

1 2. IF THE COMPLAINANT IS DISSATISFIED WITH THE RESPONSE TO THE
2 COMPLAINT, THE COMPLAINANT MAY FILE A FORMAL COMPLAINT WITH THE COMMIS-
3 SIONER, WHO SHALL INITIATE AN INVESTIGATION OF THE COMPLAINT. THE
4 COMPLAINT SHALL BE IN WRITING AND INDICATE THE GROUNDS FOR THE COMPLAIN-
5 ANT AND SHALL BE SIGNED BY THE COMPLAINANT. A COPY SHALL BE PROVIDED BY
6 THE COMMISSIONER TO THE BUILDING OWNER OR THE PERSON DESIGNATED FOR SUCH
7 PURPOSES PROMPTLY, AND IN ANY EVENT PRIOR TO ANY INSPECTION BY THE
8 DEPARTMENT. ON THE REQUEST OF COMPLAINANT, THE COMPLAINANT'S NAME SHALL
9 BE WITHHELD. THE COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT
10 SHALL BE GIVEN THE OPPORTUNITY TO ACCOMPANY THE DEPARTMENT'S INSPECTOR
11 DURING AN INSPECTION FOR THE PURPOSE OF AIDING SUCH INSPECTION.

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

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

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