

STATE OF NEW YORK

6738

2017-2018 Regular Sessions

IN ASSEMBLY

March 16, 2017

Introduced by M. of A. BARNWELL -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to mandatory training and qualifications of persons engaged in the construction and demolition of buildings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 23 of the labor law is amended by adding a new
2 section 819-a to read as follows:

3 § 819-a. Apprenticeship training and qualifications. 1. For purposes
4 of this section:

5 (a) "apprentice" shall mean a worker who is employed and registered to
6 learn a skilled trade through a department or United States department
7 of labor registered apprenticeship program;

8 (b) "apprenticeship program" shall mean a plan containing all terms
9 and conditions for the qualification, recruitment, selection, employment
10 and training of apprentices, and registered with the department or the
11 United States department of labor; and

12 (c) "bona fide construction site safety training program" shall mean a
13 training program authorized and approved by the commissioner for the
14 trade or craft for which a person is employed that provides a minimum
15 number of required hours for completion in safety related instruction
16 and a minimum number of required hours of on the job training commensu-
17 rate with, at least, one year of apprenticeship training in accordance
18 with the standards set forth in section eight hundred fifteen of this
19 article and paragraph (4) of subdivision (c) of section 601.5 of the New
20 York codes, rules and regulations.

21 2. (a) All workers before working at or on, a building site, or demo-
22 lition site, four or more stories, or forty or more feet (12 192 mm) in
23 height, must complete a bona fide construction site safety training
24 program, and either be a registered apprentice, or graduated from an

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

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1 apprenticeship program, or be an experienced, trained, and skilled
2 person that has received training commensurate with that required for
3 registered apprentices including related instruction and on the job
4 training in accordance with the standards set forth in section eight
5 hundred fifteen of this article and paragraph (4) of subdivision (c) of
6 section 601.5 of the New York codes, rules and regulations.

7 (b) All workers employed at a building site, or demolition site, four
8 or more stories, or forty or more feet (12 192 mm) in height, must have
9 successfully completed, within the previous five calendar years, a
10 course that is at least ten hours in length and approved by the United
11 States department of labor occupational safety and health administration
12 (OSHA) in construction industry safety and health, or by the commissioner
13 covering substantially the same material. However, a worker need not
14 take a subsequent course that is at least ten hours in length and
15 approved by OSHA in construction industry safety and health, or a subse-
16 quent course approved by the commissioner covering substantially the
17 same material, provided the worker has, within the previous five calen-
18 dar years, accumulated at least five safety education units (SEU) for
19 construction safety and health through training courses offered by a
20 safety training program conducted by a department approved training
21 provider registered apprenticeship program. A worker shall be credited
22 one SEU for every four hours of construction safety and health related
23 training completed, with a maximum of two SEUs assigned for any single
24 course. Such SEU courses shall be conducted by, or under the supervision
25 of OSHA authorized construction safety trainers. Instructors who are
26 not OSHA authorized construction trainers must be experienced in
27 presenting the related course subject matter, and use a curriculum
28 approved by their supervising OSHA authorized construction safety train-
29 er.

30 (c) Each worker who works at a building site, or at a demolition site,
31 that is four or more stories, or forty or more feet (12 192mm) in
32 height, and/or a site that satisfies other criteria as the commissioner
33 may establish by rule, must be:

34 (i) a registered apprentice as defined in this article or a graduate
35 of an apprenticeship program as defined in this article, registered by
36 the department or United States department of labor in the trade for
37 which such worker is employed, or

38 (ii) an experienced, trained, and skilled person that has received
39 training commensurate with that required for registered apprentices
40 including related instruction and on the job training in accordance with
41 the standards set forth in section eight hundred fifteen of this article
42 and paragraph (4) of subdivision (c) of section 601.5 of the New York
43 codes, rules and regulations.

44 (d) If at any time, any individual, contractor, sub-contractor, devel-
45 oper, limited liability company (LLC), limited liability partnership
46 (LLP), partnership, corporation, or any other legal entity employs
47 and/or hires any worker on a building site, demolition site, or any
48 project site, which is four or more stories, or forty or more feet (12
49 182 mm) in height, and such worker is not a registered apprentice, or
50 has not completed an apprenticeship program, or is not an experienced,
51 trained, and skilled person that has received training commensurate with
52 that required for registered apprentices including related instruction
53 and on the job training in accordance with the standards set forth in
54 section eight hundred fifteen of this article and paragraph (4) of
55 subdivision (c) of section 601.5 of the New York codes, rules and regu-
56 lations, and has not completed a bona fide construction site safety

1 training program or its equivalent approved by the commissioner, the
2 project shall immediately terminate, and all permits, contracts, or any
3 other legal documents allowing such construction, modification, or demo-
4 lition, will be revoked permanently, and such individual, and all
5 contractors, sub-contractors, developers, and all members, managers,
6 directors, or any authorized person of the LLC, LLP, partnership, devel-
7 oper, corporation, or any other legal entity responsible for the hiring
8 of such worker who hasn't completed such qualifications and requirements
9 as mandated by this article, shall be responsible for a violation of
10 this section.

11 (e) Before any building or demolition work occurs on projects in which
12 the site is four or more stories, or forty or more feet (12 192 mm) in
13 height, each individual person, contractor, sub-contractor, LLC, LLP,
14 corporation, partnership, developer, or any other legal entity responsi-
15 ble or involved on or with such building or demolition project, shall
16 disclose to the commissioner the names and residence addresses of all
17 members, managers, directors, and any authorized person of such LLC,
18 LLP, corporation, partnership, developer, partnership, and/or legal
19 entity.

20 (f) Any individual person, contractor, sub-contractor, developer, LLC,
21 LLP, partnership, corporation, or any other legal entity who knowingly
22 or intentionally hires a worker, or allows such worker, who is not a
23 registered apprentice as defined in this article, or who is not a worker
24 who has completed an apprenticeship program as defined in this article,
25 or who is not an experienced, trained, and skilled person that has
26 received training commensurate with that required for registered appren-
27 tices including related instruction and on the job training in accord-
28 ance with the standards set forth in section eight hundred fifteen of
29 this article and paragraph (4) of subdivision (c) of section 601.5 of
30 the New York codes, rules and regulations, and who has not completed a
31 bona fide construction site safety training program or its equivalent
32 approved by the commissioner pursuant to this article, to work on any
33 building project, demolition project, or any other type of project in
34 which the site is four or more stories, or forty or more feet (12 192
35 mm) in height, such individual, contractor, sub-contractor, developer,
36 LLC, LLP, partnership, corporation, or any other legal entity, shall
37 forever be barred from receiving, obtaining, or being granted a license,
38 application, permit, contract, right, or any other type of document,
39 legal or not, that allows such individual, contractor, sub-contractor,
40 developer, LLC, LLP, partnership, corporation, or any other legal entity
41 who violates this article from building, demolishing, modifying, working
42 on, overseeing, volunteering, hiring any individuals such as, but not
43 limited to, a contractor, or any sub-contractors, or profiting, on any
44 project in which the site is four or more stories, or forty or more feet
45 (12 192 mm) in height.

46 (g) No permit, contract, license, right, application, or any other
47 type of legal or non-legal document granting the right to build,
48 construct, modify, or demolish any building, for which work is done on a
49 site which is four or more stories, or forty or more feet (12 192 mm) in
50 height, shall be awarded to any person, contractor, sub-contractor,
51 developer, LLC, LLP, corporation, partnership, or any other legal enti-
52 ty, who has ever previously knowingly or intentionally hired or allowed
53 a worker, to work on any project in which the site was four or more
54 stories, or forty or more feet (12 192 mm) in height, who was not a
55 registered apprentice as defined in this article, or who was not a work-
56 er who has completed an apprenticeship program as defined in this arti-

cle, or who was not an experienced, trained, and skilled person that has received training commensurate with that required for registered apprentices including related instruction and on the job training in accordance with the standards set forth in section eight hundred fifteen of this article and paragraph (4) of subdivision (c) of section 601.5 of the New York codes, rules and regulations, and who had not completed a bona fide construction site safety training program or its equivalent approved by the commissioner pursuant to this article.

(h) At no time after a building, or demolition project begins in which the site is four or more stories, or forty or more feet (12 192 mm) in height, shall a person, contractor, sub-contractor, developer, LLC, LLP, corporation, partnership, or any other legal entity have an individual as manager, member, director, stock holder, or anyone authorized by such person, contractor, sub-contractor, developer, LLC, LLP, corporation, partnership, or any other legal entity who has ever been knowingly or intentionally hired, or allowed such an individual worker to work on, any project in which the site was four or more stories, or forty or more feet (12 192 mm) in height, when such worker did not have the proper qualifications and training pursuant to this article. If such an individual becomes a manager, member, director, stockholder or collects financial resources or any other financial benefit from such contractor, sub-contractor, developer, LLC, LLP, corporation, partnership, or any other legal entity, the project shall immediately be terminated and all permits, rights, applications, licenses, contracts, and any other legal or non-legal documents allowing the construction, modification, project, and/or demolition, shall be terminated.

(i) Upon completion of a bona fide construction site safety training program, and an apprenticeship program as required by the commissioner pursuant to the standards set forth in section eight hundred fifteen of this article and paragraph (4) of subdivision (c) of section 601.5 of the New York codes, rules and regulations, the worker shall receive and must be provided paperwork from the commissioner proving completion of such programs and requirements. The commissioner must provide documentation to an apprentice, proving such apprentice is a worker who is employed and registered to learn a skilled trade through a department or United States department of labor registered apprenticeship program. The commissioner must also provide documentation to other qualifying individuals, proving that such an individual is an experienced, trained, and skilled person that has received training commensurate with that required for registered apprentices including related instruction and on the job training in accordance with the standards set forth in section eight hundred fifteen of this article and paragraph (4) of subdivision (c) of section 601.5 of the New York codes, rules and regulations.

(j) Before the hiring of any worker on projects which the site is four or more stories, or forty or more feet (12 192 mm) in height, the person, contractor, sub-contractor, developer, LLC, LLP, corporation, partnership, or any other legal entity, responsible for the hiring of such individual worker must request from such worker, and be provided paperwork from such worker, proving such worker completed a bona fide construction site safety training program, and is either a registered apprentice, or completed an apprenticeship program, or, is an experienced, trained, and skilled person that has received training commensurate with that required for registered apprentices including related instruction and on the job training in accordance with the standards set forth in section eight hundred fifteen of this article and paragraph (4) of subdivision (c) of section 601.5 of the New York codes, rules and

1 regulations. Only the documentation provided to the worker by the
2 commissioner shall be sufficient for proof of completion of the require-
3 ments and qualifications of this article. If a worker does not provide
4 this documentary proof, the individual worker shall not be hired.

5 (k) On projects which the site is four or more stories, or forty or
6 more feet (12 192 mm) in height, any individual person, contractor,
7 sub-contractor, developer, LLC, LLP, corporation, partnership, or any
8 other legal entity, who knowingly or intentionally hires a worker, or
9 allows a worker, who has not completed a bona fide construction site
10 safety training program and who is not a registered apprentice, or who
11 has not completed an apprenticeship program, or who is not an experi-
12 enced, trained, and skilled person that has received training commensu-
13 rate with that required for registered apprentices including related
14 instruction and on the job training in accordance with the standards set
15 forth in section eight hundred fifteen of this article and paragraph (4)
16 of subdivision (c) of section 601.5 of the New York codes, rules and
17 regulations, to work on such a project, such individual, contractor,
18 sub-contractor, developer, LLC, LLP, corporation, partnership, or any
19 other legal entity shall be fined by the commissioner twenty-five thou-
20 sand dollars per violation of hiring such a worker who has not completed
21 the requirements or qualifications in this article. The individual,
22 contractor, sub-contractor, developer, LLC, LLP, corporation, partner-
23 ship, or any other legal entity, responsible for the hiring and/or
24 supervision of the workers on the project shall be fined fifty thousand
25 dollars, per day, per worker, if such worker is allowed to work on a
26 project four or more stories, or forty or more feet (12 192 mm) in
27 height, who has not completed a bona fide construction site safety
28 training program and who is not a registered apprentice, or who has not
29 completed an apprenticeship program, or who is not an experienced,
30 trained, and skilled person that has received training commensurate with
31 that required for registered apprentices including related instruction
32 and on the job training in accordance with the standards set forth in
33 section eight hundred fifteen of this article and paragraph (4) of
34 subdivision (c) of section 601.5 of the New York codes, rules and regu-
35 lations.

36 (l) On projects which the site is four or more stories, or forty or
37 more feet (12 192 mm) in height, it shall not be a defense for any indi-
38 vidual person, contractor, sub-contractor, developer, LLC, LLP, corpo-
39 ration, partnership, or any other legal entity, responsible for hiring,
40 or supervising workers, to maintain they did not know such worker did
41 not complete a bona fide construction site safety training program, and
42 that the worker was not a registered apprentice; that the worker had not
43 completed an apprenticeship program; or that the worker did not have the
44 experience, training, and skill as a person that has received training
45 commensurate with that required for registered apprentices including
46 related instruction and on the job training in accordance with the stan-
47 dards set forth in section eight hundred fifteen of this article and
48 paragraph (4) of subdivision (c) of section 601.5 of the New York codes,
49 rules and regulations, because the individual or entity in charge of
50 hiring and/or supervision did not ask, or was not provided such proof of
51 completion of such requirements and qualifications by the worker. Not
52 asking the worker for proof of compliance with such requirements and
53 qualifications under this article, yet still hiring such worker, or
54 allowing the worker to work on such a project, shall be treated as the
55 individual person, contractor, sub-contractor, developer, LLC, LLP,
56 corporation, partnership, or any other legal entity, knowingly or inten-

1 tionally hiring an individual worker, or allowing such worker to work on
2 such project, without being provided proof of the requirements and qual-
3 ifications of this article.

4 (m) Nothing in this article, shall prevent additional fines or prose-
5 cution of any individual person, contractor, sub-contractor, developer,
6 LLC, LLP, corporation, partnership, or any other legal entity, for any
7 violation of this section, or any other section under this article.

8 § 2. Severability. If any clause, sentence, paragraph, section or part
9 of this act shall be adjudged by any court of competent jurisdiction to
10 be invalid and after exhaustion of all further judicial review, the
11 judgment shall not affect, impair or invalidate the remainder thereof,
12 but shall be confined in its operation to the clause, sentence, para-
13 graph, section or part of this act directly involved in the controversy
14 in which the judgment shall have been rendered.

15 § 3. This act shall take effect immediately.