

STATE OF NEW YORK

2214

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

Introduced by M. of A. BARNWELL -- Multi-Sponsored by -- M. of A. COLTON, COOK, D'URSO, FERNANDEZ, JAFFEE, LENTOL, MONTESANO, PHEFFER AMATO, SEAWRIGHT, SIMOTAS, STECK, TAYLOR, VANEL, WILLIAMS -- 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. The labor law is amended by adding a new section 819-a to
2 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 title
20 12 of the New 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

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

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1 height, must complete a bona fide construction site safety training
2 program, and either be a registered apprentice, or graduated from an
3 apprenticeship program, or be an experienced, trained, and skilled
4 person that has received training commensurate with that required for
5 registered apprentices including related instruction and on the job
6 training in accordance with the standards set forth in section eight
7 hundred fifteen of this article and paragraph (4) of subdivision (c) of
8 section 601.5 of title 12 of the New York codes, rules and regulations.

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

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

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

40 (ii) an experienced, trained, and skilled person that has received
41 training commensurate with that required for registered apprentices
42 including related instruction and on the job training in accordance with
43 the standards set forth in section eight hundred fifteen of this article
44 and paragraph (4) of subdivision (c) of section 601.5 of title 12 of the
45 New York codes, rules and regulations.

46 (d) If at any time, any individual, contractor, sub-contractor, devel-
47 oper, limited liability company (LLC), limited liability partnership
48 (LLP), partnership, corporation, or any other legal entity employs
49 and/or hires any worker on a building site, demolition site, or any
50 project site, which is four or more stories, or forty or more feet (12
51 192 mm) in height, and such worker is not a registered apprentice, or
52 has not completed an apprenticeship program, or is not an experienced,
53 trained, and skilled person that has received training commensurate with
54 that required for registered apprentices including related instruction
55 and on the job training in accordance with the standards set forth in
56 section eight hundred fifteen of this article and paragraph (4) of

1 subdivision (c) of section 601.5 of title 12 of the New York codes,
2 rules and regulations, and has not completed a bona fide construction
3 site safety training program or its equivalent approved by the commis-
4 sioner, the project shall immediately terminate, and all permits,
5 contracts, or any other legal documents allowing such construction,
6 modification, or demolition, will be revoked permanently, and such indi-
7 vidual, and all contractors, sub-contractors, developers, and all
8 members, managers, directors, or any authorized person of the LLC, LLP,
9 partnership, developer, corporation, or any other legal entity responsi-
10 ble for the hiring of such worker who hasn't completed such qualifica-
11 tions and requirements as mandated by this article, shall be responsible
12 for a violation of this section.

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

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

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

1 registered apprentice as defined in this article, or who was not a work-
2 er who has completed an apprenticeship program as defined in this arti-
3 cle, or who was not an experienced, trained, and skilled person that has
4 received training commensurate with that required for registered appren-
5 tices including related instruction and on the job training in accord-
6 ance with the standards set forth in section eight hundred fifteen of
7 this article and paragraph (4) of subdivision (c) of section 601.5 of
8 title 12 of the New York codes, rules and regulations, and who had not
9 completed a bona fide construction site safety training program or its
10 equivalent approved by the commissioner pursuant to this article.

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

29 (i) Upon completion of a bona fide construction site safety training
30 program, and an apprenticeship program as required by the commissioner
31 pursuant to the standards set forth in section eight hundred fifteen of
32 this article and paragraph (4) of subdivision (c) of section 601.5 of
33 title 12 of the New York codes, rules and regulations, the worker shall
34 receive and must be provided paperwork from the commissioner proving
35 completion of such programs and requirements. The commissioner must
36 provide documentation to an apprentice, proving such apprentice is a
37 worker who is employed and registered to learn a skilled trade through a
38 department or United States department of labor registered apprentice-
39 ship program. The commissioner must also provide documentation to other
40 qualifying individuals, proving that such an individual is an experi-
41 enced, trained, and skilled person that has received training commensu-
42 rate with that required for registered apprentices including related
43 instruction and on the job training in accordance with the standards set
44 forth in section eight hundred fifteen of this article and paragraph (4)
45 of subdivision (c) of section 601.5 of title 12 of the New York codes,
46 rules and regulations.

47 (j) Before the hiring of any worker on projects which the site is four
48 or more stories, or forty or more feet (12 192 mm) in height, the
49 person, contractor, sub-contractor, developer, LLC, LLP, corporation,
50 partnership, or any other legal entity, responsible for the hiring of
51 such individual worker must request from such worker, and be provided
52 paperwork from such worker, proving such worker completed a bona fide
53 construction site safety training program, and is either a registered
54 apprentice, or completed an apprenticeship program, or, is an experi-
55 enced, trained, and skilled person that has received training commensu-
56 rate with that required for registered apprentices including related

1 instruction and on the job training in accordance with the standards set
2 forth in section eight hundred fifteen of this article and paragraph (4)
3 of subdivision (c) of section 601.5 of title 12 of the New York codes,
4 rules and regulations. Only the documentation provided to the worker by
5 the commissioner shall be sufficient for proof of completion of the
6 requirements and qualifications of this article. If a worker does not
7 provide this documentary proof, the individual worker shall not be
8 hired.

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

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

1 ments and qualifications under this article, yet still hiring such work-
2 er, or allowing the worker to work on such a project, shall be treated
3 as the individual person, contractor, sub-contractor, developer, LLC,
4 LLP, corporation, partnership, or any other legal entity, knowingly or
5 intentionally hiring an individual worker, or allowing such worker to
6 work on such project, without being provided proof of the requirements
7 and qualifications of this article.

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

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

19 § 3. This act shall take effect immediately.