STATE OF NEW YORK

4663--B

2019-2020 Regular Sessions

IN SENATE

March 20, 2019

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to fire inspections of public and private schools

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

Section 1. Section 807-a of the education law, as added by chapter 871 of the laws of 1955, subdivision 1 as amended and subdivision 10 as added by chapter 981 of the laws of 1963, subdivisions 2 and 3 as amended by chapter 607 of the laws of 1964, subparagraphs 4 and 5 of paragraph a of subdivision 3 and paragraph a of subdivision 10 as amended by chapter 284 of the laws of 1971, paragraph b of subdivision 3 as amended by chapter 511 of the laws of 1974, subdivision 4 as amended by chapter 225 of the laws of 1979, subdivision 5 as amended by chapter 700 of the laws of 1971, paragraph a of subdivision 5 as amended by chapter 464 of the laws of 1975, subdivision 6 as amended by chapter 165 of the laws of 2006, subdivision 7 as amended by chapter 536 of the laws of 1981, and subdivision 11 as amended by chapter 380 of the laws of 1976, is amended to read as follows:

§ 807-a. Fire inspections. 1. It shall be the duty of the school authorities in general charge of the operation of any public or private school to cause the buildings of such school containing classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be inspected at least annually for fire hazards which might endanger the lives of students, teachers and employees therein.

2. The annual fire inspection shall be made prior to the first day of December of every school year and the report thereof shall be filed by

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

LBD01579-06-9

the school authorities in the places required by subdivision five of this section no later than the sixteenth day of December of every such year.

3. a. The school authorities shall cause any fire inspection pursuant to this section to be made by one of the following methods, or any combination of such methods:

(1) [~~Employing, either regularly or specially, persons who, in the judgment of the school authorities, are qualified to make such an inspection, or any phase thereof.~~

~~(2) Contracting for the making of such inspections, or any phase thereof, by persons who, in the judgment of the school authorities, are qualified.~~

~~(3)~~] Requesting inspection by the fire department of any city, town, village or fire district in which the building is located.

[~~(4)~~] **(2)** Requesting inspection by a fire corporation which is subject to the provisions of section fourteen hundred two of the not-for-profit corporation law, if such building is located within the area described in the certificate of incorporation of any such corporation.

[~~(5)~~] **(3)** Requesting inspection by the county fire coordinator, or the officer performing the powers and duties of a county fire coordinator pursuant to a local law, of the county in which the building is located, or by any deputy county fire coordinator or deputy of such other officer so performing the powers and duties of a county fire coordinator designated to make the inspection by the county fire coordinator or such other officer so performing the powers and duties of a county fire coordinator, if the building is located outside a city, town, village, or fire district, which has its own fire department and outside the area described in the certificate of incorporation of any fire corporation which is subject to the provisions of section fourteen hundred two of the not-for-profit corporation law.

(4) Requesting inspection by a fire inspector, who holds a valid certification.

b. [~~If any such inspection, or phase thereof, is to be made by either of the methods specified in subparagraphs (1) and (2) of paragraph a of this subdivision, the school authorities shall give reasonable notice of the date and time such inspection is to be made to the chief, or other comparable officer, of any fire department, or fire corporation, which has the regular duty of fighting fire in the building to be inspected. Such officer, or any subordinate designated by him, may be present during the inspection and may also file a report of inspection in the manner provided in this section.~~

~~c.~~] If any fire department**, certified fire inspector** or fire corporation described in subparagraphs [~~(3) and (4)~~] **one, two, and four** of paragraph a of this subdivision shall fail or refuse to make a fire inspection promptly after having been requested to do so by the school authorities, **the request shall be denied in writing to** the school authorities [~~may request the county fire coordinator, or the officer performing the powers and duties of a county fire coordinator pursuant to a local law, of the county in which the building is located to make such inspection. It shall be the duty of the county fire coordinator, or such other officer so performing the powers and duties of a county fire coordinator, in such case to make such inspection or cause it to be made by a deputy whom he shall designate~~] **with an explanation of why such request was denied. In no event may an authority who is otherwise required by law to conduct fire inspections in such municipality or a**

county fire coordinator refuse a request by a school authority for such inspection.

[~~d.~~] c. Regardless of the method or methods used to accomplish the inspection required by this section, the [~~person~~] authority making the inspection shall file the report thereof with the school authorities no later than the first day of December.

4. The state fire administrator shall prescribe the form of the fire inspection report and the commissioner [~~of education~~] shall furnish a supply of such form to school authorities annually, either by mail or electronically. In prescribing such form the state fire administrator shall consider standards for fire safety set forth in the state building construction code, the state building conservation and fire prevention code, the regulations of the commissioner [~~of education~~] and other safety standards.

5. a. The report of any fire inspection shall be filed in the office of the school authorities and with the commissioner [~~of education~~]. All such reports [~~so~~] filed in any public office shall be kept as public records for at least three years after which period they may be destroyed.

b. Within twenty days after the [~~filing of the~~] report is filed with the school authorities, the school authorities shall cause public notice of the filing of such report to be given in substantially the following form: "Notice is hereby given that the annual inspection for (year) of the school building (or of the and school buildings) of (name of school district or private school) for fire hazards which might endanger the lives of students, teachers and employees therein, has been completed and the report thereof is available at the office of (school district or private school) at for inspection by all interested persons". If the inspection was not made for the school authorities by the fire department or fire company responsible for fire protection of the building, such authorities shall cause a copy of such notice to be mailed or electronically transmitted to the chief of such fire department or company.

c. The school authorities of public schools shall cause such notice to be published on the school's website or at least once in the official newspaper, or if there is no official newspaper, in a newspaper having general circulation in the school district, and if there is no newspaper having general circulation in the district, shall cause such notice to be posted in ten conspicuous places in the district. Proof of publication or posting of such notice and of the mailing of a copy of such notice to the fire chief shall be filed in the office of the district.

d. The school authorities of private schools shall cause such notice to be published on the school's website or at least once in a newspaper having general circulation in the postal area in which the school building is located, and if there is no newspaper having general circulation in such postal area, shall cause such notice to be posted in ten conspicuous places in such postal area. Proof of posting or publication of such notice and of the mailing of a copy of such notice to the fire chief shall be filed in the school office.

e. If the report shows any alleged deficiencies, the school authorities shall [~~give at least five days notice by mail to the chief of the fire department or fire company responsible for fire protection of the school building of the date and place of a meeting of the trustees, board of education, or corresponding officers by whatever name known, to be held within thirty days following the publication or posting required~~

~~by this section, and shall at such meeting confer with the fire chief concerning the alleged deficiencies appearing on the inspection report and the measures proposed to be taken by the school authorities to correct such deficiencies.~~

~~f. In each such school district subject to the jurisdiction of a district superintendent under the provisions of article forty-five of the education law, such district superintendent shall ascertain that the notices required by this subdivision have been published or posted, and mailed, and any conference with the fire chief required by this subdivision has been had~~] **provide the details of such deficiencies and the proposed actions to be taken to correct such deficiencies to the local government that administers and enforces the uniform fire prevention and building code for the municipality in which the building is located**.

6. **a.** It shall be the duty of the commissioner to ascertain annually whether the inspections of school buildings required by this section have been made and the reports of the inspection have been filed in their respective offices. The commissioner shall review the reports of inspection filed pursuant to this section and may make recommendations to the school authorities with respect to any problems relating to school fire safety noted in such reports. The commissioner shall require a re-inspection of school buildings where a report of inspection identified violations [~~that, if uncorrected, would cause the department to~~] **until it is demonstrated to the satisfaction of the commissioner that said violations have been corrected. In the event that a public school fails to correct violations following a re-inspection, the commissioner may** deny an annual certificate of occupancy to such school building[~~, and shall require additional re-inspections until it is demonstrated to the satisfaction of the commissioner that said violations have been corrected~~]. The commissioner may inspect or cause to be inspected at any reasonable time for fire prevention and fire protection purposes the school buildings required to be inspected by this section.

b. In the event a private school has failed to file an annual fire safety report with the department within ninety days of the sixteenth of December, the commissioner shall inspect or request an appropriate local authority, described in subdivision seven of this section, to inspect the school. If a private school either refuses access for an inspection pursuant to this paragraph, or does not correct violations identified in such report in a timely manner, the commissioner shall immediately notify, in writing, the local government who issues the certificate of occupancy for the school of their failure to file a fire safety report.

7. a. Every public or private school required to be inspected as hereinabove provided may be inspected for fire prevention and fire protection purposes at any reasonable time by:

(1) the chief of the fire department of the city, town, village or fire district in which the school is located,

(2) the chief of a fire corporation having its headquarters outside a village or fire district, if the school is located in the area described in the certificate of incorporation of such company,

(3) the chief of the fire department or fire company affording fire protection to a fire district, fire protection district, or fire alarm district pursuant to a contract, if the school is located in any such district,

(4) the member of any fire department or fire company listed in subparagraph one, two or three of this paragraph assigned by the chief thereof the duty of inspecting school buildings[~~.~~]~~,~~

(5) the fire inspector, who holds a valid certification, of any city, town, village or fire district in which the building is located.

b. In no event shall the school authorities of any public or private school, required to be inspected as hereinabove provided, refuse access at any reasonable time to any person described in subparagraphs one, two, three [~~and~~], four **or five** of paragraph a of this subdivision, who appears for the purpose of conducting an inspection for fire prevention or fire protection purposes; provided, however, that the administrator or the designee of the administrator of the school to be inspected shall be given the opportunity to be present during the inspection.

8. [~~Any person, or any public or other corporation for which any such person acts, shall not be liable for any error, omission or lack of thoroughness in the making of the inspection and report required or permitted by this section.~~

~~9.~~] The term "school authorities", as used in this section, means, in relation to public schools, the trustees, or board of education, or corresponding officers, whether one or more, and by whatever name known of a city school district, or other school district however created, or, in relation to private schools, the board of trustees, board of directors, or other governing board in general charge of the operation of any such school.

[~~10.~~] **9.** The term "private school", as used in this section, means:

a. Any nursery school or kindergarten attended by six or more pupils three years of age or older which may apply for registration by the New York state education department pursuant to part one hundred twenty-five of title eight of the official compilation of codes, rules and regulations of the state of New York; provided, however, that this section shall not apply to day care facilities possessing a valid permit as required by section three hundred ninety of the social services law; or

b. Any establishment, other than a public school, attended by twenty-five or more pupils for the purpose of receiving the instruction of academic grade at the elementary or secondary level required by part one of article sixty-five of this chapter.

[~~11.~~] **10.** This section shall not apply to the school authorities in the cities of New York, Buffalo, Rochester, Syracuse and Yonkers or to colleges and universities.

§ 2. Subdivision 1 of section 807-c of the education law, as amended by chapter 1015 of the laws of 1974, is amended to read as follows:

1. The school authorities designated in subdivision [~~nine~~] **eight** of section eight hundred seven-a of this [~~chapter~~] **article** in charge of the operation of any public school or of any private school designated in subdivision [~~ten~~] **nine** of such section, located in an area within which a fire department or fire company is responsible for fire protection and within which there is no electrically or electronically operated fire alarm reporting system provided for public use may cause the internal fire alarm, fire detection, or fire extinguishing system of each building in which is contained classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be interconnected with the fire alarm reporting location or system which is provided for such fire department or fire company to receive alarms from the public so that upon activation of such internal fire alarm, fire detection, or fire extinguishing system a signal will be automatically transmitted to such fire alarm reporting location or system.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law.