

STATE OF NEW YORK

2201

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, HYNDMAN, LENTOL, MONTESANO, PHEFFER AMATO, 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 in a city with a population of one million or more

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. This section
4 shall apply to cities with a population of one million or more.

5 2. For purposes of this section:

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

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

13 (c) "bona fide construction site safety training program" shall mean a
14 training program authorized and approved by the commissioner for the
15 trade or craft for which a person is employed that provides a minimum
16 number of required hours for completion in safety related instruction
17 and a minimum number of required hours of on the job training commensu-
18 rate with, at least, one year of apprenticeship training in accordance
19 with the standards set forth in section eight hundred fifteen of this
20 article and paragraph (4) of subdivision (c) of section 601.5 of title
21 12 of the New York codes, rules and regulations.

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

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1 3. (a) All workers before working at or on, a building site, or demo-
2 lition site, four or more stories, or forty or more feet (12 192 mm) in
3 height, must complete a bona fide construction site safety training
4 program, and either be a registered apprentice, or graduated from an
5 apprenticeship program, or be an experienced, trained, and skilled
6 person that has received training commensurate with that required for
7 registered apprentices including related instruction and on the job
8 training in accordance with the standards set forth in section eight
9 hundred fifteen of this article and paragraph (4) of subdivision (c) of
10 section 601.5 of title 12 of the New York codes, rules and regulations.

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

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

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

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

48 (d) If at any time, any individual, contractor, sub-contractor, devel-
49 oper, limited liability company (LLC), limited liability partnership
50 (LLP), partnership, corporation, or any other legal entity employs
51 and/or hires any worker on a building site, demolition site, or any
52 project site, which is four or more stories, or forty or more feet (12
53 182 mm) in height, and such worker is not a registered apprentice, or
54 has not completed an apprenticeship program, or is not an experienced,
55 trained, and skilled person that has received training commensurate with
56 that required for registered apprentices including related instruction

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

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

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

50 (g) No permit, contract, license, right, application, or any other
51 type of legal or non-legal document granting the right to build,
52 construct, modify, or demolish any building, for which work is done on a
53 site which is four or more stories, or forty or more feet (12 192 mm) in
54 height, shall be awarded to any person, contractor, sub-contractor,
55 developer, LLC, LLP, corporation, partnership, or any other legal enti-
56 ty, who has ever previously knowingly or intentionally hired or allowed

1 a worker, to work on any project in which the site was four or more
2 stories, or forty or more feet (12 192 mm) in height, who was not a
3 registered apprentice as defined in this article, or who was not a work-
4 er who has completed an apprenticeship program as defined in this arti-
5 cle, or who was not an experienced, trained, and skilled person that has
6 received training commensurate with that required for registered appren-
7 tices including related instruction and on the job training in accord-
8 ance with the standards set forth in section eight hundred fifteen of
9 this article and paragraph (4) of subdivision (c) of section 601.5 of
10 title 12 of the New York codes, rules and regulations, and who had not
11 completed a bona fide construction site safety training program or its
12 equivalent approved by the commissioner pursuant to this article.

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

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

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

1 enced, trained, and skilled person that has received training commensu-
2 rate with that required for registered apprentices including related
3 instruction and on the job training in accordance with the standards set
4 forth in section eight hundred fifteen of this article and paragraph (4)
5 of subdivision (c) of section 601.5 of title 12 of the New York codes,
6 rules and regulations. Only the documentation provided to the worker by
7 the commissioner shall be sufficient for proof of completion of the
8 requirements and qualifications of this article. If a worker does not
9 provide this documentary proof, the individual worker shall not be
10 hired.

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

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

1 such proof of completion of such requirements and qualifications by the
2 worker. Not asking the worker for proof of compliance with such require-
3 ments and qualifications under this article, yet still hiring such work-
4 er, or allowing the worker to work on such a project, shall be treated
5 as the individual person, contractor, sub-contractor, developer, LLC,
6 LLP, corporation, partnership, or any other legal entity, knowingly or
7 intentionally hiring an individual worker, or allowing such worker to
8 work on such project, without being provided proof of the requirements
9 and qualifications of this article.

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

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

21 § 3. This act shall take effect immediately.