STATE OF NEW YORK

3292

2019-2020 Regular Sessions

IN SENATE

February 5, 2019

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to establishing a registry of workplace fatalities to record information pertaining to all incidents under which an employee suffers a fatal injury

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

Section 1. The labor law is amended by adding a new section 44 to read as follows:

§ 44. Workplace fatality registry. 1. Registry. The department shall create and maintain a registry of workplace fatalities. The registry shall include information regarding all incidents under which an employee suffers a fatal injury at their workplace.

2. Definitions. For the purposes of this section:

a. "Employee" shall include, but not be limited to, direct employees, contracted employees, subcontracted employees, independent contractors, temporary or contingency workers, incarcerated persons participating in work programs for remuneration or credit, apprentices, interns, volunteers, or any other persons who perform duties at the direction and discretion of an employer.

b. "Employer" shall include a direct employer, contractor, or subcontractor. In the absence of a formal hiring agreement, the person who directs or provides compensation to the employee shall be considered the employer unless such person is also directed and compensated by another. In such cases, the persons successively above the employee in the employment chain shall be considered the employer. In the instance of the death of an intern, apprentice or volunteer, the sponsoring company, corporation or not-for-profit shall be considered the employer.

c. "Workplace" shall include, but not be limited to, an employee's location of direct employment, remote sites in the scope of performance

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

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of the employee's duties, or any other site where the employee may be as a result of employer direction.

3. Seventy-two-hour reports. a. Each county coroner, medical examiner or other authorized official whose role is to register deaths shall report all workplace fatalities to the department within seventy-two hours of declaration of death.

b. Information to be reported within seventy-two hours shall include, but not be limited to:

(i) the name of the employee;

(ii) the age of the employee;

(iii) the occupation of the employee;

(iv) the cause of death, if such cause of death has been determined within the seventy-two hours;

(v) the manner of death;

(vi) the location of death;

(vii) the name of the employer;

(viii) the business address of the employer;

(ix) the stated business purpose or industry of the employer;

(x) the name of the official or medical personnel making the declaration of death;

(xi) the name of the person or persons charged with making the determination of the cause and manner of death; and

(xii) contact information for the office making notification to the department, including contact information for the person or persons making the declaration of death, the person or persons determining the cause of death, and the person or persons determining the manner of death.

4. Ninety-day reports. a. Information shall be reported to the department by the official of each county who is charged with investigating fatal incidents no later than ninety days after the declaration of death.

b. Information to be reported within ninety days shall include, but not be limited to:

(i) the cause of death of the employee, when such cause of death has not been previously determined and reported in the seventy-two-hour report;

(ii) the race of the employee;

(iii) the ethnicity of the employee;

(iv) the nationality of the employee;

(v) the immigration status of the employee;

(vi) the union status of the employee;

(vii) whether criminal or civil charges have been filed against the employer in the death of the employee and, for incidents where charges have been filed:

(1) the details of such criminal or civil charges including the charging officer or agency; and

(2) the actual criminal or civil charge or charges;

(viii) the name of the person charged with making the determinations and reporting the information required by this section; and

(ix) contact information for the office making notification to the department, including contact information for the person or persons charged with making the determinations and reporting the information required by this section.

5. Reporting system. The department shall establish a telephone reporting system for the information required to be reported pursuant to this section within ninety days of the effective date of this section.

The department shall also establish an online electronic information reporting system for the information required to be reported pursuant to this section within twelve months of the effective date of this section.

6. Failure to report. Failure by a county coroner, medical examiner, other authorized official whose role is to register deaths, or county official charged with investigating fatal incidents to make seventy-two-hour or ninety-day reports in a timely manner shall be subject to a fine of not less than one thousand dollars nor more than two thousand five hundred dollars per failure to make such seventy-two-hour or ninety-day report.

7. Accessibility of registry. The registry shall be published electronically in a publicly accessible database on the department's website. The database shall be published in a manner by which all information required pursuant to subdivisions three and four of this section is accessible and searchable. The department shall publish the information reported in seventy-two-hour and ninety-day reports within one business day of the receipt of such reports by the department.

§ 2. This act shall take effect immediately.