

# STATE OF NEW YORK

3292--B

Cal. No. 359

2019-2020 Regular Sessions

## IN SENATE

February 5, 2019

Introduced by Sens. RAMOS, ADDABBO, BIAGGI, GOUNARDES, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KENNEDY, MAY, MAYER, METZGER, MYRIE, PERSAUD, SANDERS, SKOUFIS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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

3 § 44. Workplace fatality registry. 1. Registry. The department shall  
4 create and maintain a registry of workplace fatalities. The registry  
5 shall include information regarding all incidents under which an employ-  
6 ee suffers a fatal injury at their workplace.

7 2. Definitions. For the purposes of this section:

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

14 b. "Employer" shall include a direct employer, contractor, or subcon-  
15 tractor. In the absence of a formal hiring agreement, the person who  
16 directs or provides compensation to the employee shall be considered the

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

LBD09276-04-9

1 employer unless such person is also directed and compensated by another.  
2 In such cases, the persons successively above the employee in the  
3 employment chain shall be considered the employer.

4 c. "Workplace" shall include, but not be limited to, an employee's  
5 location of direct employment, remote sites in the scope of performance  
6 of the employee's duties, or any other site where the employee may be as  
7 a result of employer direction.

8 3. Seventy-two-hour reports. a. Each county coroner, medical examiner  
9 or other authorized official whose role is to register deaths shall  
10 report all workplace fatalities to the department within seventy-two  
11 hours of declaration of death, including any fatalities resulting from  
12 earlier work place injuries.

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

15 (i) the name of the employee;  
16 (ii) the age of the employee;  
17 (iii) the occupation of the employee;  
18 (iv) the cause of death, if such cause of death has been determined  
19 within the seventy-two hours;

20 (v) the manner of death;  
21 (vi) the location of death;  
22 (vii) the name of the employer;  
23 (viii) the business address of the employer;  
24 (ix) the stated business purpose or industry of the employer;  
25 (x) the name of the official or medical personnel making the declara-  
26 tion of death;

27 (xi) the name of the person or persons charged with making the deter-  
28 mination of the cause and manner of death; and

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

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

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

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

43 (ii) the race of the employee;  
44 (iii) the ethnicity of the employee;  
45 (iv) the nationality of the employee;  
46 (v) the immigration status of the employee;  
47 (vi) the union status of the employee;

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

51 (1) the details of such criminal or civil charges including the charg-  
52 ing officer or agency; and

53 (2) the actual criminal or civil charge or charges;  
54 (viii) the name of the person charged with making the determinations  
55 and reporting the information required by this section; and

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

5 5. Reporting system. The department shall establish a telephone  
6 reporting system for the information required to be reported pursuant to  
7 this section within ninety days of the effective date of this section.  
8 The department shall also establish an online electronic information  
9 reporting system for the information required to be reported pursuant to  
10 this section within twelve months of the effective date of this section.

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

18 7. Accessibility of registry. The registry shall be published elec-  
19 tronically in a publicly accessible database on the department's  
20 website. The database shall be published in a manner by which all infor-  
21 mation required pursuant to subdivisions three and four of this section,  
22 except that the victim's name shall be replaced by a unique identifica-  
23 tion number generated by the department, is accessible and searchable.  
24 The department shall publish the information reported in seventy-two-  
25 hour and ninety-day reports within one business day of the receipt of  
26 such reports by the department.

27 § 2. This act shall take effect on the one hundred twentieth day after  
28 it shall have become a law; provided, however, that any death subject to  
29 the provisions of this act that occurs on or after the day on which this  
30 bill shall have become a law shall be subject to the reporting  
31 provisions of this act and shall be reported within thirty days after  
32 such death. Effective immediately, the addition, amendment and/or  
33 repeal of any rule or regulation necessary for the implementation of  
34 this act on its effective date are authorized to be made and completed  
35 on or before such effective date.