

# STATE OF NEW YORK

1974

2021-2022 Regular Sessions

## IN ASSEMBLY

January 14, 2021

Introduced by M. of A. BARNWELL, COLTON, COOK, HYNDMAN, MONTESANO, PHEFER AMATO, 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.

22 3. (a) All workers before working at or on, a building site, or demo-  
23 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.

LBD06914-01-1

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 192mm) 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 relate 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  
51 182 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, stock holder, 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.