

STATE OF NEW YORK

1664

2009-2010 Regular Sessions

IN SENATE

February 4, 2009

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

AN ACT to amend the administrative code of the city of New York, in relation to adding civil penalties for failure to certify correction of immediately hazardous violations that pose a threat of imminent danger and creating a duty to reinspect and abate hazardous activities in violation of the New York city building code

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

1 Section 1. Legislative findings. The legislature hereby finds and
2 declares that the purpose of the New York city building code is to
3 ensure construction and building safety as well as to preserve the
4 integrity of the individual neighborhoods in the city of New York.
5 Furthermore, the health and safety of the population living in and
6 around the many construction projects within such a densely populated
7 city is a matter of state concern as pressure mounts to build more and
8 more while completing projects in the shortest time possible.

9 § 2. Chapter 2 of title 28 of the administrative code of the city of
10 New York is amended by adding a new article 217 to read as follows:

ARTICLE 217

FAILURE TO CERTIFY CORRECTION OF CERTAIN IMMEDIATELY HAZARDOUS VIOLATIONS

14 § 28-217.1 Department penalty for failure to certify correction. In
15 addition to any penalties otherwise authorized by law pursuant to arti-
16 cle 202 and the rules of the department, whenever any person fails to
17 submit certification of correction of an immediately hazardous violation
18 that poses a threat of imminent danger to public safety or property, as
19 required by an order issued pursuant to section 28-204.2, a penalty
20 shall be paid to the department in the amount of not less than one thou-
21 sand five hundred dollars or more than five thousand dollars. No permit
22 or certificate of occupancy shall be issued and no stop work order may

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

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1 be rescinded at the property named in the order until such penalty is
2 paid to the department.

3 § 28-217.2 Reinspection. Where an immediately hazardous condition has
4 been identified as posing a threat of imminent danger to public safety
5 or property and a violation has been issued, the commissioner shall
6 re-inspect the condition that gave rise to the violation within sixty
7 days of the date of the notice of a violation, unless:

8 1. a certification of the correction of the condition has been filed
9 in the manner and form prescribed by the department; or

10 2. the person to whom the violation has been directed has obtained an
11 extension of time for filing the certificate of correction of the
12 violation from the commissioner in accordance with section 28-204.4 and
13 with any applicable rules of the department, and said extension of time
14 to file has not yet expired; or

15 3. the condition has been corrected in the presence of the commission-
16 er.

17 § 28-217.2.1 Continued noncompliance. If, upon re-inspection, the
18 commissioner determines the condition continues to pose a threat of
19 imminent danger to public safety or property, and the person against
20 whom the initial violation was directed is not in compliance with
21 section 28-204.4, the commissioner shall issue an appropriate violation
22 and shall issue a stop-work order, pursuant to section 28-207.2, or the
23 commissioner shall, if the commissioner is unable to obtain access to
24 the premises, request the corporation counsel to institute legal
25 proceedings to compel correction of the violation and abate the condi-
26 tion or take such other action as is appropriate.

27 § 28-217.2.2 Inspections by the commissioner. The commissioner shall
28 continue to re-inspect any condition that has given rise to an imme-
29 diately hazardous violation that poses a threat of imminent danger to
30 public safety or property every sixty days, and shall follow the proce-
31 dures described in items one, two and three of section 28-217.2 until
32 the condition has been found by inspection or certification to be
33 corrected or abated.

34 § 28-217.3 False certifications of correction. It shall be unlawful to
35 prepare, file or offer for filing a certification of correction of an
36 immediately hazardous condition, knowing that such certification
37 contains a false statement or false information. Any person who prepares
38 such a certificate shall be subject to prosecution under section 175.05
39 or 175.10 of the penal law. Any person who files such a certificate or
40 offers such a certificate for filing shall be subject to prosecution
41 under section 175.30 or 175.35 of the penal law. Nothing in this section
42 shall be construed to limit, alter or affect the authority conferred by
43 any other provision of this chapter or other law to bring criminal,
44 civil or administrative actions or proceedings or other remedies for the
45 preparation, filing or offering for filing of a certification of
46 correction of an immediately hazardous condition containing a false
47 statement or false information.

48 § 3. This act shall take effect 6 months after it shall have become a
49 law.

**Note: Local Law 06 of 2009, effective May 11, 2009 (Construction Codes Update # 14) added a new Article 217. This New York State law adds a separate Article 217. Such numbering discrepancy will be reconciled through future legislation.*