

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:

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

S 2. Chapter 2 of title 28 of the administrative code of the city of 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

S 28-217.1 DEPARTMENT PENALTY FOR FAILURE TO CERTIFY CORRECTION. IN ADDITION TO ANY PENALTIES OTHERWISE AUTHORIZED BY LAW PURSUANT TO ARTICLE 202 AND THE RULES OF THE DEPARTMENT, WHENEVER ANY PERSON FAILS TO SUBMIT CERTIFICATION OF CORRECTION OF AN IMMEDIATELY HAZARDOUS VIOLATION THAT POSES A THREAT OF IMMINENT DANGER TO PUBLIC SAFETY OR PROPERTY, AS REQUIRED BY AN ORDER ISSUED PURSUANT TO SECTION 28-204.2, A PENALTY SHALL BE PAID TO THE DEPARTMENT IN THE AMOUNT OF NOT LESS THAN ONE THOUSAND FIVE HUNDRED DOLLARS OR MORE THAN FIVE THOUSAND DOLLARS. NO PERMIT OR CERTIFICATE OF OCCUPANCY SHALL BE ISSUED AND NO STOP WORK ORDER MAY BE RESCINDED AT THE PROPERTY NAMED IN THE ORDER UNTIL SUCH PENALTY IS PAID TO THE DEPARTMENT.

S 28-217.2 REINSPECTION. WHERE AN IMMEDIATELY HAZARDOUS CONDITION HAS BEEN IDENTIFIED AS POSING A THREAT OF IMMINENT DANGER TO PUBLIC SAFETY OR PROPERTY AND A VIOLATION HAS BEEN ISSUED, THE COMMISSIONER SHALL REINSPECT THE CONDITION THAT GAVE RISE TO THE VIOLATION WITHIN SIXTY DAYS OF THE DATE OF THE NOTICE OF A VIOLATION, UNLESS:

1. A CERTIFICATION OF THE CORRECTION OF THE CONDITION HAS BEEN FILED IN THE MANNER AND FORM PRESCRIBED BY THE DEPARTMENT; OR 2. THE PERSON TO WHOM THE VIOLATION HAS BEEN DIRECTED HAS OBTAINED AN EXTENSION OF TIME FOR FILING THE CERTIFICATE OF CORRECTION OF THE VIOLATION FROM THE COMMISSIONER IN ACCORDANCE WITH SECTION 28-204.4 AND WITH ANY APPLICABLE RULES OF THE DEPARTMENT, AND SAID EXTENSION OF TIME TO FILE HAS NOT YET EXPIRED; OR 3. THE CONDITION HAS BEEN CORRECTED IN THE PRESENCE OF THE

COMMISSIONER.

S 28-217.2.1 CONTINUED NONCOMPLIANCE. IF, UPON RE-INSPECTION, THE COMMISSIONER DETERMINES THE CONDITION CONTINUES TO POSE A THREAT OF IMMINENT DANGER TO PUBLIC SAFETY OR PROPERTY, AND THE PERSON AGAINST WHOM THE INITIAL VIOLATION WAS DIRECTED IS NOT IN COMPLIANCE WITH SECTION 28-204.4, THE COMMISSIONER SHALL ISSUE AN APPROPRIATE VIOLATION AND SHALL ISSUE A STOP-WORK ORDER, PURSUANT TO SECTION 28-207.2, OR THE COMMISSIONER SHALL, IF THE COMMISSIONER IS UNABLE TO OBTAIN ACCESS TO THE PREMISES, REQUEST THE CORPORATION COUNSEL TO INSTITUTE LEGAL PROCEEDINGS TO COMPEL CORRECTION OF THE VIOLATION AND ABATE THE CONDITION OR TAKE SUCH OTHER ACTION AS IS APPROPRIATE.

S 28-217.2.2 INSPECTIONS BY THE COMMISSIONER. THE COMMISSIONER SHALL CONTINUE TO RE-INSPECT ANY CONDITION THAT HAS GIVEN RISE TO AN IMMEDIATELY HAZARDOUS VIOLATION THAT POSES A THREAT OF IMMINENT DANGER TO PUBLIC SAFETY OR PROPERTY EVERY SIXTY DAYS, AND SHALL FOLLOW THE PROCEDURES DESCRIBED IN ITEMS ONE, TWO AND THREE OF SECTION 28-217.2 UNTIL THE CONDITION HAS BEEN FOUND BY INSPECTION OR CERTIFICATION TO BE CORRECTED OR ABATED.

S 28-217.3 FALSE CERTIFICATIONS OF CORRECTION. IT SHALL BE UNLAWFUL TO PREPARE, FILE OR OFFER FOR FILING A CERTIFICATION OF CORRECTION OF AN IMMEDIATELY HAZARDOUS CONDITION, KNOWING THAT SUCH CERTIFICATION CONTAINS A FALSE STATEMENT OR FALSE INFORMATION. ANY PERSON WHO PREPARES SUCH A CERTIFICATE SHALL BE SUBJECT TO PROSECUTION UNDER SECTION 175.05 OR 175.10 OF THE PENAL LAW. ANY PERSON WHO FILES SUCH A CERTIFICATE OR OFFERS SUCH A CERTIFICATE FOR FILING SHALL BE SUBJECT TO PROSECUTION UNDER SECTION 175.30 OR 175.35 OF THE PENAL LAW. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT, ALTER OR AFFECT THE AUTHORITY CONFERRED BY ANY OTHER PROVISION OF THIS CHAPTER OR OTHER LAW TO BRING CRIMINAL, CIVIL OR ADMINISTRATIVE ACTIONS OR PROCEEDINGS OR OTHER REMEDIES FOR THE PREPARATION, FILING OR OFFERING FOR FILING OF A CERTIFICATION OF CORRECTION OF AN IMMEDIATELY HAZARDOUS CONDITION CONTAINING A FALSE STATEMENT OR FALSE INFORMATION.

S 3. This act shall take effect 6 months after it shall have become a law.