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Int. No. 1442

By Council Members Rosenthal, Crowley, Miller, Rose, Levin, Espinal, Cornegy, Richards and Chin

A Local Law to amend the administrative code of the city of New York, in relation to enforcement of safety registration numbers and repealing section 28-420.5 of the administrative code of the city of New York

Be it enacted by the Council as follows:

Section 1. Section 28-420.3 of the administrative code of the city of New York is amended to read as follows:

§ 28-420.3 Duties and [**Responsibilities**] **responsibilities.** The [recipient] holder of a safety registration number shall comply with the following requirements:

1. Subcontractor information. The [recipient] holder of a safety registration number shall maintain at each work site the names, business addresses and contract information of the superintendent(s) of the subcontractors who hold subcontracts with the prime contractor, as well as the particular work they perform, and shall make such information available to department personnel upon request;

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2. Special inspection reports. The [recipient] holder of a safety registration number shall maintain at the work site such special inspection reports as specified in the New York city building code and shall make sure reports available to department personnel upon request.

§ 2. Section 28-420.5 of the administrative code of the city of New York is REPEALED and a new section 28-420.5 is added to read as follows:

§ 28-420.5 Enforcement of safety registration number system. Every six months, the commissioner shall classify holders of safety registration numbers into tiers for the purpose of enforcing the safety registration number system required by this article, in accordance with this section.

§ 28-420.5.1 Classification of safety registration number holders by type of work performed. Each holder of a safety registration number shall be classified as follows:

1. If a safety registration number holder satisfies each of the following conditions, such holder shall be a class A safety registration number holder:

1.1. Each permit that was issued to such holder in the preceding six-month period for work that would qualify such holder as a safety registration recipient relates to work on dwellings intended for occupancy by no more than three families.

1.2. All work supervised by such holder in the preceding six-month period that would qualify such holder as a safety registration recipient relates to work on dwellings intended for occupancy by no more than three families.

2. If a safety registration number holder satisfies one or more of the following conditions, such holder shall be a class B safety registration number holder:

2.1. A permit that was issued to such holder in the preceding six-month period for work that would qualify such holder as a safety registration recipient relates to work on an existing or proposed building that (i) is 15 stories or more, or 200 feet (60 960 mm) or more, in height or (ii) has a building footprint of 100,000 square feet (30 480 m^2) or more.

2.2. Such holder supervised work in the preceding six-month period and such work would qualify such holder as a safety registration recipient and was performed on an existing or proposed building that (i) is 15 stories or more, or 200 feet (60 960 mm) or more, in height or (ii) has a building footprint of 100,000 square feet (30 480 m^2) or more.

3. If a safety registration number holder is not a class A or class B safety registration number holder, such holder shall be a class C safety registration number holder.

§ 28-420.5.2 Classification of safety registration number holders by safety record. Each holder of a safety registration number shall be classified in accordance with this section.

§ 28-420.5.2.1 Definitions. As used in this section:

COMPARATIVE CLASSIFICATION CRITERIA. The term “comparative classification

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criteria" means, with respect to a safety registration number holder undergoing classification pursuant to this section, each of the following:

1. The number of violations sustained against such holder in the calendar year preceding classification, excluding violations that have been dismissed, divided by the number of jobs undertaken by such holder during such year.

2. The number of immediately hazardous violations sustained against such holder in the calendar year preceding classification, excluding violations that have been dismissed, divided by the number of jobs undertaken by such holder during such year.

3. The number of stop work orders issued against such holder for an immediately hazardous violation in the preceding calendar year divided by the number of jobs undertaken by such holder during such year.

4. The current experience modification rate calculated by the New York compensation insurance rating board for such holder.

PERSON IN CONTROL. The term "person in control" means, with respect to a safety registration number holder, a person listed as a corporate officer of such holder or a person owning or controlling an interest of ten percent or more in such holder's business on an application submitted under section 28-420.2 for such holder.

§ 28-420.5.2.2 Tier one. If, upon submission of an application for tier one classification by a safety registration number holder, such holder satisfies each of the following conditions, such holder shall be classified as a tier one safety registration number holder:

1. Each comparative classification criterion for such holder is below the median for such holder's class determined under section 28-420.5.1.

2. In the preceding six-month period, there have been no fatal accidents resulting in violations sustained against such holder.

3. For immediately hazardous violations sustained against such holder in the preceding calendar year, excluding violations that were dismissed, the average length of time for such holder to correct such a violation was 30 days or less.

4. Such holder demonstrates to the satisfaction of the commissioner that such holder has implemented an active safety management system, in accordance with rules the commissioner shall promulgate, provided that such system includes, at a minimum, each of the following:

4.1. A method for evaluating such holder's implementation of such system, including documented self-inspections that occur at least weekly and involve employees of such holder.

4.2. Weekly or more frequent meetings or discussions among the employees of such holder, and any contractor or subcontractor of such holder, concerning safety issues encountered by such holder.

4.3. Safety and health training, beyond what is required by law or rule, for each employee of such holder.

4.4. A program for incentivizing employees of such holder to comply with such system.

5. No person listed as a person in control of such holder on the most recent application filed by such holder under section 28-402.2 is listed as a person in control on (i) the most recent application filed under such section by another safety registration number holder that is classified in tier three, four or five or (ii) the most recent application filed under such section by a former safety registration number holder that had its safety registration number revoked or was, upon expiration of its safety registration number, classified in tier three, four or five, provided that such revocation or expiration occurred within the preceding five-year period.

§ 28-420.5.2.3 Tier two. A safety registration number holder who is not classified into any other tier shall be classified as a tier two safety registration number holder.

§ 28-420.5.2.4 Tier three. If a safety registration number holder satisfies item 1, 2, 3 or 4 of this section, and is not classified in tier four or five, such holder shall be classified as a tier three safety registration number holder. The commissioner shall by rule establish a process for allowing a safety registration number to appeal such classification.

1. In the preceding six-month period, there has been one or more fatal accidents resulting in violations sustained against such holder.

2. Two or more comparative classification criteria for such holder are at or above the ninety-fourth percentile for such holder's class determined under section 28-420.5.1, provided that if the number of violations sustained against such holder in the preceding calendar year, excluding violations that have been dismissed, is fewer than three, then the comparative classification criterion described by paragraph 1 of the definition of "comparative classification criterion" shall be deemed to be below the ninety-fourth percentile for such holder's class determined under section 28-420.5.1.

3. Such holder satisfies each of the following conditions:

3.1. One or more comparative classification criteria for such holder are at or above the ninety-fourth percentile for such holder's class determined under section 28-420.5.1, provided that if the number of violations sustained against such holder in the preceding calendar year, excluding violations that have been dismissed, is fewer than three, then the comparative classification criterion described by paragraph 1 of the definition of "comparative classification criterion" shall be deemed to be below the ninety-fourth percentile for such holder's class determined under section 28-420.5.1.

3.2. For immediately hazardous violations sustained against such holder in the preceding calendar year, excluding violations that were dismissed, the average length of time for such holder to correct such a violation was more than 30 days.

4. A person listed as a person in control of such holder on the most recent application filed by such holder under section 28-402.2 is listed as a person in control on (i) the most recent application filed under such section by another safety registration number holder that is classified in tier

three or (ii) the most recent application filed under such section by a former safety registration number holder that had its safety registration number revoked or was, upon expiration of its safety registration number, classified in tier three, provided that such revocation or expiration occurred within the preceding five-year period.

§ 28-420.5.2.5 Tier four. If a safety registration number holder satisfies item 1 or 2 of this section, such holder shall be classified as a tier four safety registration number holder. The commissioner shall by rule establish a process for allowing a safety registration number to appeal such classification.

1. In the two preceding classifications of such holder, the commissioner has classified such holder as a tier three safety registration number holder and such holder satisfies item 1.1 or 1.2 of this section:

1.1. In the preceding six-month period, one or more violations have been sustained against such holder, excluding violations that have been dismissed.

1.2. One or more violations sustained against such holder, excluding violations that have been dismissed, have not been corrected.

2. A person listed as a person in control of such holder on the most recent application filed by such holder under section 28-402.2 is listed as a person in control on (i) the most recent application filed under such section by another safety registration number holder that is classified in tier four or (ii) the most recent application filed under such section by a former safety registration number holder that had its safety registration number revoked or was, upon expiration of its safety registration number, classified in tier four, provided that such revocation or expiration occurred within the preceding five-year period.

§ 28-420.5.2.5.1 Remediation plan. A remediation plan shall be developed and completed for a tier four safety registration number holder as follows:

1. Within ten business days after notice has been provided by the commissioner under section 28-420.5.3 to safety registration number holder stating that such holder has been classified in tier four, such holder shall contact the department, in a manner to be determined by department rule, to arrange a remediation plan meeting with the department.

2. At such meeting, the department and such holder shall develop a remediation plan which shall include (i) physical precautions, procedural changes, training and similar initiatives to address such holder's safety and violation issues and (ii) steps that the department and such holder shall take to monitor such holder's remediation plan progress, (iii) a timeframe for implementation of such plan and (iv) such other measures as the department may require.

3. Such holder shall not be eligible for classification above tier four until the department determines that such holder has successfully completed such plan.

4. The department may by rule establish fees for development and monitoring of remediation plans.

§ 28-420.5.2.6 Tier five. A safety registration number holder who does not meet with the department to develop a remediation plan as required by section 28-420.5.2.5.1 or who does not comply with such

plan shall be immediately classified as a tier five safety registration holder. The commissioner shall by rule establish a process for allowing a safety registration number to appeal such classification.

§ 28-420.5.2.6.1 Suspension of safety registration number. The safety registration number of a tier five safety registration number holder shall be suspended in accordance with this section:

1. If a safety registration holder is classified in tier five because such holder did not contact the department, in the manner determined by such department, to arrange a remediation plan meeting under section 28-420.5.2.5.1, the commissioner shall, after providing such holder with an opportunity to be heard and in accordance with procedures the commissioner shall establish by rule, suspend the safety registration number of such holder until such a remediation plan meeting is held and thereafter until such holder demonstrates satisfactory compliance with such plan.

2. If a tier five safety registration number holder has not met with the department to develop such a remediation plan within two months after provision of the notice described in item 1 of section 28-420.5.2.5.1 and the department has offered at least two dates for such meeting, the commissioner shall, after providing such holder with an opportunity to be heard and in accordance with procedures the commissioner shall establish by rule, suspend the safety registration number of such holder until such meeting is held and thereafter until such holder demonstrates satisfactory compliance with such plan.

3. If a tier five safety registration number holder fails to comply with a remediation plan required by section 28-420.5.2.1.5, the commissioner may, after providing an opportunity for a tier five safety registration number holder to be heard and in accordance with procedures the commissioner shall establish by rule, suspend the safety registration number of such holder until such holder demonstrates satisfactory compliance with such plan.

§ 28-420.5.2.6.2 Revoking or refusing to renew a safety registration number. Whenever a tier five safety registration number holder satisfies a condition for suspension described in section 28-420.5.2.6.1, the commissioner may, in lieu of suspending the safety registration number of such holder, revoke or refuse to renew the safety registration number of such holder, after providing such holder with an opportunity to be heard and in accordance with procedures the commissioner shall establish by rule.

§ 28-420.5.3 Notice. Within 10 business days after classifying a safety registration number holder in accordance with sections 28-420.5.2.1 and 28-420.5.2.2, the commissioner shall provide notice to such holder, in a form and manner to be determined by the commissioner. Such notice shall include, at a minimum, such holder's classification under sections 28-420.5.2.1 and 28-420.5.2.2, the meaning of such classifications, a description of the process by which such classifications were made, and a description of how such process was applied to such holder in making such classifications. If such holder is being classified into tier three, such notice shall include a description of the ways to improve such holder's classification and the consequences of remaining in such tier. If such holder is being classified into tier four, such notice shall include a description of such holder's responsibilities with respect to a remediation plan under section 28-420.5.2.5.1 and the consequences of failing to fulfill such responsibilities.

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner of buildings

may take such measures as are necessary for its implementation, including the promulgation of rules, before its effective date.

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