

## **Local Law 196 Goes Into Effect On December 1<sup>st</sup> – WHAT YOU NEED TO KNOW**

*by: Henry L. Goldberg & Robert J. Fryman*



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Local Law 196, mandating minimum safety training requirements for workers on construction sites in New York City was enacted in 2017 and was intended to be phased in between March 1, 2018 and December 1, 2018. Due to limited availability of training resources and the tremendous amount of construction workers needing training, its implementation was delayed several times. D-Day for Local Law 196 of 2017 is almost upon us: December 1, 2019 marks the official implementation and enforceability of the law. All contractors, subcontractors, specialty trade contractors and others providing labor to a project site in New York City as well as all developers and project owners should understand and be familiar with its requirements and the penalties that may be imposed for failing to comply.

### **What does the new law require?**

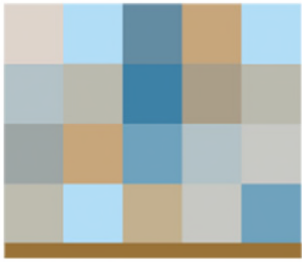
For construction and demolition workers, Local Law 196 of 2017 requires that on job sites having a Construction Superintendent, Site Safety Coordinator, or Site Safety Manager each worker must have 30 hours of site safety training by December 1, 2019 (and 40 hours of safety training by September 1, 2020).

Workers must be able to demonstrate their satisfaction of the safety training requirements upon demand. Upon completion of a training course, the course provider must issue a wallet- sized Site Safety Training (“SST”) Card which must include:

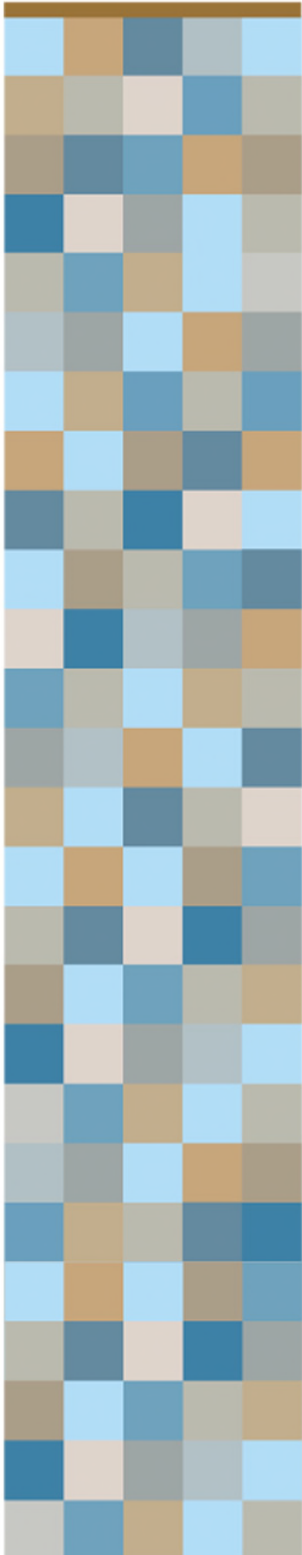
- Document security features designed to deter forgery and counterfeiting.
- Unique identification card number.
- Photograph of the person to whom it was issued.
- The printed name and signature of the card holder.
- Date of course completion.
- Expiration date.
- Name and address of training provider issuing the SST Card.
- A summary description of the type of training and number of credit hours completed.

In order to apply as SST under Local Law 196 any training, including OSHA training, must have been taken within the past five years.

Workers at job sites that only involve minor alterations or the construction of a new 1-, 2-, or 3-family home are not required to be trained. Delivery persons, flag persons, professional engineers and registered architects also do not require Local law 196 training. However, if they are serving as



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a Site Safety Manager, Site Safety Coordinator, Concrete Safety Manager, Construction Superintendent or competent person designated by a Construction Superintendent, then they must have the appropriate training to comply with Local Law 196.

Licensed trade license holders do not need to be SST trained or hold an SST Card, however, employees working under their supervision do need to be trained.

### "Competent Person" on Site

Local Law 196 of 2017 requires Supervisors at job sites requiring a Construction Superintendent, Site Safety Coordinator or Site Safety Manager receive 62 hours of safety training by December 1, 2019. This includes Site Safety Managers, Site Safety Coordinators, Concrete Safety Managers, Construction Superintendents and Competent Persons designated by Construction Superintendents. Supervisors must obtain the following SST: 30-Hour OSHA, 8-Hour Fall Prevention, 8-Hour Site Safety Manager Refresher/Chapter 33, 4-Hour Supported Scaffold, 2-Hour Drug and Alcohol Awareness, 2-Hour Site Safety Plan, 2-Hour Tool Box Talks, 2-Hour Pre-Task Safety Meetings, 2 hours of General Electives and 2 hours of Special Electives.

New York City Building Code Section 3301.13.12 requires that a Construction Superintendent designate a Competent Person for each job site that he/she is responsible for. A designated Competent Person must **always** be present at the job site when work is occurring. The designated "Competent Person" must possess a Supervisor SST card.

Foremen are only considered a supervisor for the purposes of Local Law 196 if they are serving on a construction site as a Construction Superintendent, Site Safety Coordinator, Site Safety Manager, Concrete Safety Manager, or Competent Person.

### How will Local Law 196-2017 be implemented and enforced?

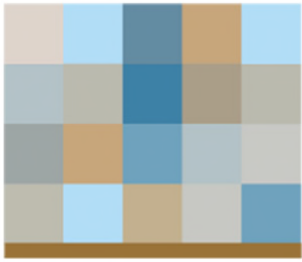
Applicants for building permits will be required to certify to the Department of Building that workers who will be working under the permit will have the required training.

Permit holders are required to maintain a log to demonstrate that all of the workers present on job site have the required SST. If DOB discovers that a permit holder has failed to maintain the required log, it may issue violations with a civil penalty of **\$2,500**.

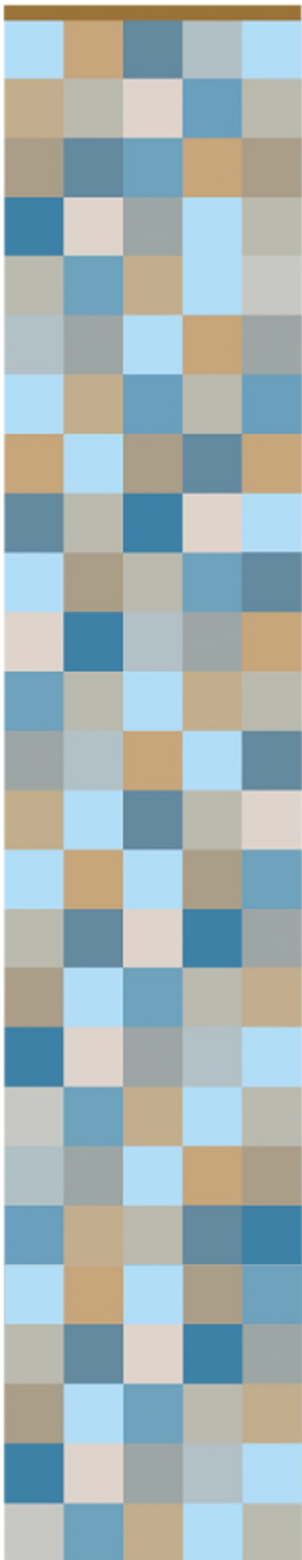
DOB will conduct unannounced inspections at construction sites, particularly where untrained workers have been discovered previously.

If DOB discovers workers at a construction site lacking the required SST, violations with civil penalties as high as **\$5,000** per untrained worker may be issued to the owner of the site, the permit holder **and** the employer of the untrained worker.

SST cards expire after five years. Card holders will be required to take a refresher course every five years to renew their SST card.



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Construction worker SST cards are renewable by demonstrating that the card holder has, within one-year prior to submitting a renewal application, completed:

- 4-Hour Fall Prevention
- 4-Hour Supported Scaffold User

Supervisor SST cards also expire after five years and are renewable by showing that the applicant has, within one-year prior to submitting a renewal application, completed:

- 8 Hours Fall Prevention
- 4 Hours Support Scaffold
- 2 Hours Tool Box Talks
- 2 Hours Pre-Task Safety Meetings

### **Where can workers get SST training?**

Many trade unions are providing training to their membership.

Workers can also get training from a DOB approved training provider, see <https://www1.nyc.gov/site/buildings/industry/department-approved-course-provider-list.page> or from an OSHA approved training provider, see [https://www.osha.gov/dte/outreach/outreach\\_trainers.html](https://www.osha.gov/dte/outreach/outreach_trainers.html). OSHA provides online training tools to help obtain the required training for applicable workers, see <https://www.osha.gov/dte/library/>. OSHA also provides information on training requirements for employers and resources such as free publications, videos, and other assistance offers to help employers obtain the required training for their employees.

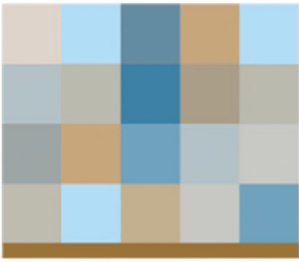
Small construction businesses in New York City (with 1-15 employees, and certified M/WBEs in the construction industry with 1-15 employees,) may be eligible for free safety training for their employees provided by the NYC Department of Small Business Services. For more information go to <https://www1.nyc.gov/nycbusiness/article/construction-site-safety-grant-program>

### **Does my project/job site require Local Law 196-2017 safety training?**

If you are unsure whether your project or job site requires the safety training mandated by Local Law 196, you can check by using the NYC Department of Buildings online [Site Safety Construction Map](https://www1.nyc.gov/assets/buildings/html/site-safety-construction-map.html) at <https://www1.nyc.gov/assets/buildings/html/site-safety-construction-map.html> and entering the project/job site address.

### **MHH Commentary**

This new law, enacted following a spate of high-profile construction site accidents in New York City which resulted in serious injuries, deaths and extensive property damage, has already endured a fitful, if not embarrassing, start for the City and the Department of Buildings in particular. As a result, project owners, developers, contractors and subcontractors on all projects subject to Local Law 196 should anticipate a vigorous and highly publicized start to enforcement efforts by the DOB.



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In addition to the significant civil fines and penalties, all contractors should understand that any inability to fully and timely comply with Local Law 196 and/or the lack of trained Local Law 196 compliant labor will not relieve contractors of any of their obligations under their contracts, with regard to schedule or otherwise.

Moreover, contractors should fully expect those they are in contract with to demand indemnification and reimbursement for any fines assessed by the DOB against the project owner, general contractor, permit holder, etc. Review your contracts and assess your exposure with regard to schedule impacts and indemnity obligations in order to best decide where to prioritize and allocate any limited SST trained labor resources you may have, until more of your labor force is able to demonstrate compliance with Local Law 196.

The true extent of the DOB's enforcement efforts, beyond the front pages of the newspapers, and its effect on labor availability, project staffing and schedules, will not be known for several months. We will follow with any new and further developments as they become available.

Finally, there has been, and will continue to be, an aggressive effort to "push down" responsibilities to lower levels of the contract "food chain." As always, be vigilant about risk management and transfer and what you sign on to contractually, in addition to the statutory and regulatory requirements discussed above

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