

537

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

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

AN ACT to amend the education law and the state finance law, in relation to the procurement and use of environmentally sensitive commodities and services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. The legislature finds and declares that
2 it shall be the policy of the state of New York to provide every child
3 with an environmentally safe and healthy learning environment in which
4 to grow, learn and mature into productive and healthy adults. The legis-
5 lature further finds that schools are major consumers and disposers of
6 supplies and materials, and that schools should serve as role models for
7 environmentally responsible behavior with regard to energy conservation,
8 reduced consumption and disposal of toxic and hazardous materials. Chil-
9 dren are uniquely vulnerable to and may be severely affected by exposure
10 to chemicals, hazardous wastes and other environmental hazards, which
11 affect their learning abilities as well as create chemical-based
12 responses and sensitivities. When health threats are caused by the pres-
13 ence of toxic materials, the cost to individual school districts and the
14 state are enormous in terms of staff time and effort, cleanup costs,
15 school closing and liability. Therefore, to provide a safe and healthy
16 environment for our children in school, the legislature finds that
17 school districts should be informed of and consider the purchase of
18 environmentally sensitive products and services. It is the purpose of
19 this legislation to reduce as much as possible toxic exposures for chil-
20 dren and school staff.

21 S 2. Subdivision 1 of section 409 of the education law, as amended by
22 section 4 of part L of chapter 405 of the laws of 1999, is amended to
23 read as follows:

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

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1 1. All school buildings of common, union free, central, central high
2 school and city school districts other than city school districts of
3 cities having one hundred twenty-five thousand inhabitants or more and
4 boards of cooperative educational services shall comply with such regu-
5 lations as the commissioner shall adopt from time to time for the
6 purpose of insuring the health and safety of pupils and staff in
7 relation to proper heating, lighting, ventilation, sanitation and
8 health, fire and accident protection, EXCEPT THAT SECTION FOUR HUNDRED
9 NINE-J OF THIS ARTICLE SHALL APPLY TO ALL SCHOOL DISTRICTS, INCLUDING
10 CITY SCHOOL DISTRICTS OF CITIES HAVING ONE HUNDRED TWENTY-FIVE THOUSAND
11 INHABITANTS OR MORE AND TO BOARDS OF COOPERATIVE EDUCATIONAL SERVICES.

12 S 3. The education law is amended by adding a new section 409-j to
13 read as follows:

14 S 409-J. PROCUREMENT AND USE OF ENVIRONMENTALLY SENSITIVE COMMODITIES
15 AND SERVICES. 1. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS
16 SHALL MEAN:

17 (A) "ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES" MEANS THOSE
18 COMMODITIES AND SERVICES THAT MINIMIZE ADVERSE IMPACTS ON CHILDREN'S
19 HEALTH AND THE ENVIRONMENT AS DETERMINED BY THE COMMISSIONER OF GENERAL
20 SERVICES.

21 (B) "COMMODITY" OR "COMMODITIES" MEANS MATERIAL, GOODS, SUPPLIES,
22 PRODUCTS, CONSTRUCTION ITEMS AND OTHER STANDARD ARTICLES OF COMMERCE
23 OTHER THAN TECHNOLOGY AND EXCLUDING CONTRACTS FOR STATE PRINTING WHICH
24 ARE THE SUBJECT OF ANY PURCHASE OR OTHER EXCHANGE.

25 (C) "CONSTRUCTION ITEM" MEANS ANY ITEM OR MATERIAL USED IN
26 CONSTRUCTION AND WHICH IS PROCURED DIRECTLY BY A SCHOOL DISTRICT OR
27 BOARD OF COOPERATIVE EDUCATIONAL SERVICES OR BY A PERSON UNDER CONTRACT
28 BY A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

29 (D) "SERVICE" OR "SERVICES" MEANS, EXCEPT WITH RESPECT TO CONTRACTS
30 FOR STATE PRINTING, THE PERFORMANCE OF A TASK OR TASKS AND MAY INCLUDE A
31 MATERIAL GOOD OR A QUANTITY OF MATERIAL GOODS, AND WHICH IS SUBJECT OF
32 ANY PURCHASE OR OTHER EXCHANGE. FOR THE PURPOSES OF THIS SECTION, TECH-
33 NOLOGY SHALL BE DEEMED A SERVICE.

34 2. THE COMMISSIONER OF GENERAL SERVICES, IN CONSULTATION WITH THE
35 COMMISSIONER AND THE COMMISSIONERS OF HEALTH AND LABOR, SHALL ESTABLISH
36 AND FROM TIME TO TIME AMEND GUIDELINES AND SPECIFICATIONS FOR ENVIRON-
37 MENTALLY SENSITIVE COMMODITIES AND SERVICES FOR USE IN ELEMENTARY,
38 SECONDARY AND VOCATIONAL SCHOOL BUILDINGS; FOR SCHOOL OR SCHOOL-RELATED
39 ACTIVITIES ON SCHOOL PROPERTIES; AND FOR USE IN THE CONSTRUCTION, RENO-
40 VATION OR REPAIR OF SUCH SCHOOL BUILDINGS AND RELATED FACILITIES. SUCH
41 GUIDELINES SHALL BE USED TO IDENTIFY ENVIRONMENTALLY SENSITIVE COMMOD-
42 ITIES AND SERVICES WHICH ARE AVAILABLE IN THE FORM, FUNCTION AND UTILITY
43 GENERALLY USED BY SUCH FACILITIES. SUCH COMMISSIONERS SHALL REVIEW AND
44 EVALUATE EXISTING RESEARCH REGARDING ENVIRONMENTALLY SENSITIVE COMMOD-
45 ITIES AND SERVICES, INCLUDING BUT NOT LIMITED TO, THE UNITED STATES
46 ENVIRONMENTAL PROTECTION AGENCY'S GUIDELINES FOR ENVIRONMENTALLY SENSI-
47 TIVE COMMODITIES AND SERVICES, FOR THE PURPOSE OF DEVELOPING APPROPRIATE
48 CRITERIA FOR SUCH GUIDELINES AND SPECIFICATIONS.

49 3. THE COMMISSIONER OF GENERAL SERVICES SHALL DISSEMINATE TO ALL
50 SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES GUIDE-
51 LINES AND SPECIFICATIONS FOR THE PURCHASE OR USE OF ENVIRONMENTALLY
52 SENSITIVE COMMODITIES AND SERVICES IN ELEMENTARY, SECONDARY AND Voca-
53 tional school buildings; for school or school-related activities on
54 school properties; and for use in the construction, renovation, or
55 repair of such school buildings and related facilities. THE COMMISSIONER
56 OF GENERAL SERVICES SHALL ALSO PREPARE AND DISSEMINATE TO ALL SCHOOL

1 DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES A SAMPLE LIST
2 OF SUCH ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES THAT MEET
3 THESE GUIDELINES OR SPECIFICATIONS AND THEIR ENVIRONMENTAL AND HEALTH
4 BENEFITS. SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL
5 SERVICES SHALL CONSIDER SUCH GUIDELINES, SPECIFICATIONS AND SAMPLE LIST
6 WHEN MAKING DETERMINATIONS AS TO THE PURCHASE OF COMMODITIES,
7 CONSTRUCTION ITEMS OR SERVICES FOR USE IN A SCHOOL BUILDING OR BUILD-
8 INGS, FOR SCHOOL OR SCHOOL-RELATED ACTIVITIES, OR FOR USE IN THE
9 CONSTRUCTION, RENOVATION, OR REPAIR OF SCHOOL BUILDINGS. WHERE APPLICA-
10 BLE AND APPROPRIATE, SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCA-
11 TIONAL SERVICES SHALL INCLUDE EVIDENCE OF SUCH CONSIDERATION IN A PLAN
12 FOR THE CONSTRUCTION, RENOVATION OR REPAIR OF A SCHOOL BUILDING WHICH
13 MUST BE SUBMITTED TO THE COMMISSIONER FOR APPROVAL PURSUANT TO SECTION
14 FOUR HUNDRED EIGHT OF THIS ARTICLE.

15 4. SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES
16 SHALL NOTIFY ALL SCHOOLS UNDER THEIR JURISDICTIONS OF THE AVAILABILITY
17 OF SUCH GUIDELINES, SPECIFICATIONS AND SAMPLE LIST.

18 5. ON OR BEFORE JUNE FIRST, TWO THOUSAND TEN, THE OFFICE OF GENERAL
19 SERVICES AND THE DEPARTMENT SHALL JOINTLY ISSUE A REPORT PROVIDING AN
20 ANALYSIS OF THE IMPACT OF SUCH GUIDELINES AND SPECIFICATIONS ON THE
21 PURCHASING AND PROCUREMENT PRACTICES OF SCHOOL DISTRICTS AND BOARDS OF
22 COOPERATIVE EDUCATIONAL SERVICES.

23 S 4. Paragraph b of subdivision 3 of section 163 of the state finance
24 law is amended by adding a new subparagraph (xii) to read as follows:

25 (XII) MAINTAIN A LIST OF FIRMS WHICH PRODUCE OR MANUFACTURE OR OFFER
26 FOR SALE ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES IN THE FORM,
27 FUNCTION AND UTILITY GENERALLY USED BY SCHOOL DISTRICTS AND BOARDS OF
28 COOPERATIVE EDUCATIONAL SERVICES IN ACCORDANCE WITH SPECIFICATIONS OR
29 GUIDELINES PROMULGATED PURSUANT TO SECTION FOUR HUNDRED NINE-J OF THE
30 EDUCATION LAW.

31 S 5. This act shall take effect on the first of July next succeeding
32 the date on which it shall have become a law; provided that the commis-
33 sioners of education and general services are authorized to promulgate
34 any and all rules and regulations and take any other measures necessary
35 to implement this act on its effective date on or before such date; and
36 provided, further, that the amendment to paragraph b of subdivision 3 of
37 section 163 of the state finance law made by section four of this act
38 shall not affect the repeal of such section and shall be deemed repealed
39 therewith.