

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.

LBD03496-01-9

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.