S T A T E O F N E W Y O R K

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I N S E N A T E

March 10, 2011

Introduced by Sens. HANNON, MAZIARZ, BALL, ADAMS, ALESI, AVELLA, CARLUCCI, FUSCHILLO, HUNTLEY, LARKIN, LAVALLE, NOZZOLIO, SQUADRON, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law and the public health law, in relation to directing the commissioners of education and health to establish rules and regulations for the treatment and monitoring of students of school districts, boards of cooperative educational services and nonpublic schools who suffer mild traumatic brain injuries

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

Section 1. Short title. This act shall be known and may be cited as the "concussion management and awareness act".

S 2. Section 305 of the education law is amended by adding a new subdivision 42 to read as follows:

42. A. THE COMMISSIONER, IN CONJUNCTION WITH THE COMMISSIONER OF HEALTH, SHALL PROMULGATE AND REVIEW AS NECESSARY RULES AND REGULATIONS RELATING TO PUPILS WHO SUFFER MILD TRAUMATIC BRAIN INJURIES, ALSO REFERRED TO AS A "CONCUSSION," WHILE RECEIVING INSTRUCTION OR ENGAGING IN ANY SCHOOL SPONSORED OR RELATED ACTIVITY. IN DEVELOPING SUCH RULES AND REGULATIONS, THE COMMISSIONER SHALL CONSIDER COMMENTS FROM STAKEHOLDERS AND OTHER INTERESTED PARTIES INCLUDING BUT NOT LIMITED TO PARENTS, TEACHERS, STUDENTS, SCHOOL ADMINISTRATORS, SCHOOL ATHLETIC TRAINERS, SPORT COACHES, MEDICAL AND HEALTH PROFESSIONALS, THE PUBLIC SCHOOLS ATHLETIC LEAGUE (PSAL), THE NEW YORK STATE PUBLIC HIGH SCHOOL ATHLETIC ASSOCIATION (NYSPHSAA), AND OTHER ATHLETIC ASSOCIATIONS. SUCH REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO:

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

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(I) REQUIRING A COURSE OF INSTRUCTION RELATING TO RECOGNIZING THE SYMPTOMS OF MILD TRAUMATIC BRAIN INJURIES AND MONITORING AND SEEKING PROPER MEDICAL TREATMENT FOR PUPILS WHO SUFFER MILD TRAUMATIC BRAIN INJURIES. SUCH COURSE OF INSTRUCTION SHALL BE REQUIRED TO BE COMPLETED ON A BIENNIAL BASIS BY ALL SCHOOL COACHES, PHYSICAL EDUCATION TEACHERS, NURSES AND ATHLETIC TRAINERS. THE COURSE OF INSTRUCTION REQUIRED BY THIS SUBPARAGRAPH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE DEFINITION OF A "CONCUSSION," SIGNS AND SYMPTOMS OF MILD TRAUMATIC BRAIN INJURIES, HOW SUCH INJURIES MAY OCCUR, PRACTICES REGARDING PREVENTION, AND THE GUIDELINES FOR THE RETURN TO SCHOOL AND TO CERTAIN SCHOOL ACTIVITIES AFTER A PUPIL HAS SUFFERED A MILD TRAUMATIC BRAIN INJURY REGARDLESS OF WHETHER SUCH INJURY OCCURRED OUTSIDE OF SCHOOL. SUCH TRAINING MAY BE COMPLETED BY MEANS OF COURSES OF INSTRUCTION, INCLUDING BUT NOT LIMITED TO, COURSES PROVIDED ONLINE AND BY TELECONFERENCE APPROVED BY THE DEPARTMENT;

(II) PROVIDING THAT THE DEPARTMENT AND THE DEPARTMENT OF HEALTH SHALL POST ON THEIR INTERNET WEBSITES INFORMATION RELATING TO MILD TRAUMATIC BRAIN INJURIES, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO, THE DEFINITION OF A "CONCUSSION," SIGNS AND SYMPTOMS OF MILD TRAUMATIC BRAIN INJURIES, HOW SUCH INJURIES MAY OCCUR, AND THE GUIDELINES FOR THE RETURN TO SCHOOL AND TO CERTAIN SCHOOL ACTIVITIES AFTER A PUPIL HAS SUFFERED A MILD TRAUMATIC BRAIN INJURY REGARDLESS OF WHETHER SUCH INJURY OCCURRED OUTSIDE OF SCHOOL. SCHOOLS SHALL BE REQUIRED TO INCLUDE SUCH INFORMATION IN ANY PERMISSION FORM OR PARENT OR PERSON IN PARENTAL RELATION CONSENT FORM OR SIMILAR DOCUMENT THAT MAY BE REQUIRED FOR A PUPIL'S PARTICIPATION IN INTERSCHOLASTIC SPORTS AND SHALL ALSO INCLUDE SUCH INFORMATION, OR REFERENCE HOW TO OBTAIN SUCH INFORMATION FROM THE DEPARTMENT AND THE DEPARTMENT OF HEALTH INTERNET WEBSITES, ON THE SCHOOL'S INTERNET WEBSITE, IF ONE EXISTS;

(III) REQUIRING THE IMMEDIATE REMOVAL FROM ATHLETIC ACTIVITIES OF ANY PUPIL BELIEVED TO HAVE SUSTAINED OR WHO HAS SUSTAINED A MILD TRAUMATIC BRAIN INJURY. IN THE EVENT THAT THERE IS ANY DOUBT AS TO WHETHER A PUPIL HAS SUSTAINED A CONCUSSION, IT SHALL BE PRESUMED THAT HE OR SHE HAS BEEN SO INJURED UNTIL PROVEN OTHERWISE. NO SUCH PUPIL SHALL RESUME ATHLETIC ACTIVITY UNTIL HE OR SHE SHALL HAVE BEEN SYMPTOM FREE FOR NOT LESS THAN TWENTY-FOUR HOURS, AND HAS BEEN EVALUATED BY AND RECEIVED WRITTEN AND SIGNED AUTHORIZATION FROM A LICENSED PHYSICIAN. SUCH AUTHORIZATION SHALL BE KEPT ON FILE IN THE PUPIL'S PERMANENT HEALTH RECORD. FURTHERMORE, SUCH RULES AND REGULATIONS SHALL PROVIDE GUIDELINES FOR LIMITATIONS AND RESTRICTIONS ON SCHOOL ATTENDANCE AND ACTIVITIES FOR PUPILS WHO HAVE SUSTAINED MILD TRAUMATIC BRAIN INJURIES, CONSISTENT WITH THE DIRECTIVES OF THE PUPIL'S TREATING PHYSICIAN.

(IV) AUTHORIZING EACH SCHOOL OR SCHOOL DISTRICT, IN ITS DISCRETION, TO ESTABLISH A CONCUSSION MANAGEMENT TEAM WHICH MAY BE COMPOSED OF THE ATHLETIC DIRECTOR (IF ANY), A SCHOOL NURSE, THE SCHOOL PHYSICIAN, A COACH OF AN INTERSCHOLASTIC TEAM, AN ATHLETIC TRAINER OR SUCH OTHER APPROPRIATE PERSONNEL AS DESIGNATED BY THE SCHOOL OR SCHOOL DISTRICT. THE CONCUSSION MANAGEMENT TEAM SHALL OVERSEE THE IMPLEMENTATION OF THE RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS SUBDIVISION AS IT PERTAINS TO THEIR ASSOCIATED SCHOOL INCLUDING THE REQUIREMENT THAT ALL SCHOOL COACHES, PHYSICAL EDUCATION TEACHERS, NURSES AND ATHLETIC TRAINERS THAT WORK WITH AND PROVIDE INSTRUCTION TO PUPILS ENGAGED IN SCHOOL SPONSORED ATHLETIC ACTIVITIES COMPLETE TRAINING RELATING TO MILD TRAUMATIC BRAIN INJURIES. FURTHERMORE, EVERY CONCUSSION MANAGEMENT TEAM MAY ESTABLISH AND IMPLEMENT A PROGRAM WHICH PROVIDES INFORMATION ON MILD TRAUMATIC BRAIN INJURIES TO PARENTS AND PERSONS IN PARENTAL RELATION THROUGHOUT EACH SCHOOL YEAR.

B. THE RULES AND REGULATIONS ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL BE DEEMED TO BE THE MINIMUM STANDARDS THAT MUST BE COMPLIED WITH BY EVERY PUBLIC SCHOOL RELATING TO MILD TRAUMATIC BRAIN INJURIES. SUCH RULES AND REGULATIONS MAY ALSO BE IMPLEMENTED BY NONPUBLIC SCHOOLS IF THEY SO AUTHORIZE. NOTHING IN THIS SUBDIVISION SHALL PROHIBIT ANY PUBLIC SCHOOL OR NONPUBLIC SCHOOL FROM ADOPTING AND IMPLEMENTING MORE STRINGENT STANDARDS.

S 3. Section 206 of the public health law is amended by adding a new subdivision 28 to read as follows:

28. THE COMMISSIONER SHALL ASSIST THE COMMISSIONER OF EDUCATION IN DEVELOPING RULES AND REGULATIONS, RELATING TO PUPILS WHO SUFFER MILD TRAUMATIC BRAIN INJURIES, IN ACCORDANCE WITH SUBDIVISION FORTY-TWO OF SECTION THREE HUNDRED FIVE OF THE EDUCATION LAW, AND PROVIDE FOR THE POSTING ON THE DEPARTMENT'S INTERNET WEBSITE OF SUCH INFORMATION AS SHALL BE REQUIRED PURSUANT TO SUCH SUBDIVISION.

S 4. This act shall take effect on the first of July next succeeding the date on which it shall have become a law; provided, that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.