

1565

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. LAVALLE, DeFRANCISCO, LARKIN, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to reporting requirements of foreign students in the United States

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

1 Section 1. The education law is amended by adding a new section 207-b
2 to read as follows:
3 S 207-B. REPORTING OF FOREIGN STUDENTS IN THE UNITED STATES. 1. WHEN-
4 EVER A DESIGNATED SCHOOL OFFICIAL BECOMES AWARE THAT A NONIMMIGRANT
5 STUDENT WITH A (F-1) OR (M-1) VISA HAS FAILED TO REGISTER FOR CLASSES AS
6 SCHEDULED OR WHO HAS FAILED TO REPORT TO THE DESIGNATED SCHOOL OFFICIAL
7 AT THE TIME HE OR SHE IS EXPECTED TO COMMENCE HIS OR HER PROGRAM OF
8 STUDY, SUCH OFFICIAL SHALL SIMULTANEOUSLY REPORT SUCH NONCOMPLIANCE
9 PURSUANT TO THE REQUIREMENTS OF FEDERAL LAW AND TO THE NEW YORK STATE
10 POLICE. UPON ENCOUNTERING A PERSON WHO HAS BEEN REPORTED TO IT PURSUANT
11 TO THIS SECTION, THE NEW YORK STATE POLICE SHALL IMMEDIATELY NOTIFY THE
12 PROPER FEDERAL AUTHORITIES REGARDING SUCH PERSON'S WHEREABOUTS. THE NEW
13 YORK STATE POLICE SHALL NOT HOLD SUCH PERSON UNLESS IT BELIEVES THE
14 PERSON POSES A THREAT TO THE SAFETY OF THE CITIZENS OF THE STATE. FOR
15 THE PURPOSES OF THIS SECTION, "DESIGNATED SCHOOL OFFICIAL" SHALL MEAN
16 THOSE ADMINISTRATORS ON AN INSTITUTION'S CAMPUS AS DEFINED UNDER TITLE 8
17 OF THE CODE OF FEDERAL REGULATIONS (8 CFR): SUBCHAPTER B, IMMIGRATION
18 REGULATIONS 8 CFR PART 214--NONIMMIGRANT CLASSES, PETITIONS FOR APPROVAL
19 OF SCHOOLS.
20 2. EVERY INSTITUTION AUTHORIZED BY THE LEGISLATURE OR BY THE REGENTS
21 OF THE STATE OF NEW YORK TO CONFER ACADEMIC DEGREES IN THIS STATE AND
22 THAT HAS BEEN APPROVED BY THE UNITED STATES TO ACCEPT FOREIGN STUDENTS
23 UNDER TITLE 8 OF THE FEDERAL REGULATIONS (8CFR 214) SHALL MAINTAIN AND

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

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1 UPDATE, ON HARD COPY AND IN ELECTRONIC FORM, FOR EACH ACADEMIC TERM, FOR
2 ENROLLED NONIMMIGRANT STUDENTS, THE FOLLOWING INFORMATION:

3 A. THE NUMBER OF GRADUATE AND UNDERGRADUATE STUDENTS, BY COUNTRY OF
4 ORIGIN; AND

5 B. THE NUMBER OF STUDENTS ENROLLED BY DEGREE PROGRAM AND COUNTRY OF
6 ORIGIN.

7 3. ANY DATA COLLECTED PURSUANT TO SUBDIVISION TWO OF THIS SECTION
8 SHALL BE MAINTAINED IN AN ELECTRONIC FORM, IN A FORMAT ESTABLISHED BY
9 THE DEPARTMENT, AND SHALL BE SUBMITTED ANNUALLY TO THE DEPARTMENT WITHIN
10 NINETY DAYS OF THE END OF EACH ACADEMIC YEAR. SUCH INFORMATION SHALL
11 ONLY BE USED BY THE DEPARTMENT FOR THE PURPOSES SET FORTH IN SUBDIVISION
12 FOUR OF THIS SECTION. SUCH DATA SHALL NOT INCLUDE ANY INDIVIDUAL'S
13 NAME, ADDRESS OR OTHER INFORMATION THAT MAY IDENTIFY ANY INDIVIDUAL.
14 SUCH DATA SHALL ONLY BE QUANTITATIVE IN FORM AND FUNCTION.

15 4. THE DEPARTMENT SHALL PRODUCE A REPORT, THAT SHALL BE AVAILABLE UPON
16 REQUEST, THAT PROVIDES DATA REGARDING THE INFORMATION COLLECTED PURSUANT
17 TO SUBDIVISION TWO OF THIS SECTION.

18 5. IF THE COMMISSIONER DETERMINES, AFTER PROVIDING THE INSTITUTION
19 WITH NOTICE AND THE OPPORTUNITY FOR A HEARING, THAT AN INSTITUTION HAS
20 VIOLATED THE PROVISIONS OF THIS SECTION, THE COMMISSIONER SHALL BE
21 AUTHORIZED TO ISSUE AN ORDER DIRECTING THAT THE INSTITUTION TAKE CORREC-
22 TIVE ACTION AND/OR IMPOSING A FINE NOT TO EXCEED ONE THOUSAND DOLLARS
23 PER VIOLATION, OR, IN THE CASE OF A SECOND OR FURTHER VIOLATION WITHIN
24 THE PREVIOUS TWO YEARS OR ANY FAILURE TO COMPLY WITH AN ORDER FOR
25 CORRECTIVE ACTION, A FINE NOT TO EXCEED TWO THOUSAND DOLLARS PER
26 VIOLATION. SUCH HEARING SHALL BE CONDUCTED IN THE SAME MANNER AS A HEAR-
27 ING PURSUANT TO SUBDIVISIONS TWO AND THREE OF SECTION FIVE THOUSAND
28 THREE OF THIS CHAPTER. IN ASSESSING THE PENALTY, THE COMMISSIONER SHALL
29 GIVE DUE CONSIDERATION TO THE SIZE OF THE INSTITUTION, THE GOOD FAITH OF
30 THE INSTITUTION, THE GRAVITY OF THE VIOLATIONS, THE HISTORY OF PAST
31 VIOLATIONS, IF ANY, AND THE EXTENT TO WHICH THE INSTITUTION HAS TAKEN
32 REMEDIAL MEASURES TO PREVENT FUTURE VIOLATIONS. IN ADDITION, THE COMMIS-
33 SIONER SHALL REPORT A FINDING OF A SECOND INSTANCE OF NONCOMPLIANCE TO
34 THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY AND MAY RECOMMEND TO
35 SUCH DEPARTMENT THAT IT REVOKE SUCH INSTITUTION'S ELIGIBILITY TO RECEIVE
36 FOREIGN STUDENTS FOR A PERIOD OF ONE YEAR.

37 S 2. This act shall take effect on the first of August next succeeding
38 the date on which it shall have become a law.