

2437--A

2013-2014 Regular Sessions

I N S E N A T E

January 17, 2013

Introduced by Sens. KLEIN, DILAN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommended to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to screening for childhood obesity and instruction in good health and reducing the incidence of obesity

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

1 Section 1. Section 901 of the education law, as amended by chapter 477
2 of the laws of 2004, subdivision 1 as amended by section 57 of part A-1
3 of chapter 58 of the laws of 2006, is amended to read as follows:
4 S 901. School health services to be provided. 1. School health
5 services, as defined in subdivision two of this section, shall be
6 provided by each school district for all students attending the public
7 schools in this state, except in the city school district of the city of
8 New York, as provided in this article. School health services shall
9 include the services of a registered professional nurse, if one is
10 employed, and shall also include such services as may be rendered as
11 provided in this article in examining students for the existence of
12 disease or disability, OR MAY INCLUDE SERVICES RELATED TO EXAMINING FOR
13 CHILDHOOD OBESITY BASED UPON THE CALCULATION OF EACH STUDENT'S BODY MASS
14 INDEX AND WEIGHT STATUS CATEGORY PURSUANT TO SECTION NINE HUNDRED FOUR
15 OF THIS ARTICLE, and in testing the eyes and ears of such students.
16 2. School health services for the purposes of this article shall mean
17 the several procedures, including, but not limited to, medical examina-
18 tions, dental inspection and/or screening, scoliosis screening, vision
19 screening [and], audiometer tests, AND MAY INCLUDE CHILDHOOD OBESITY AS
20 MEASURED BY BODY MASS INDEX AND WEIGHT STATUS CATEGORY, designed to
21 determine the health status of the child; to inform parents or other

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

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1 persons in parental relation to the child, pupils and teachers of the
2 individual child's health condition subject to federal and state confi-
3 dentiality laws; to guide parents, children and teachers in procedures
4 for preventing and correcting defects [and], diseases AND CHILDHOOD
5 OBESITY CONDITIONS; to instruct the school personnel in procedures to
6 take in case of accident or illness; to survey and make necessary recom-
7 mendations concerning the health and safety aspects of school facilities
8 and the provision of health information.

9 S 2. Subdivision 1 of section 903 of the education law, as separately
10 amended by section 11 of part B of chapter 58 and chapter 281 of the
11 laws of 2007, is amended to read as follows:

12 1. A health certificate shall be furnished by each student in the
13 public schools upon his or her entrance in such schools and upon his or
14 her entry into the grades prescribed by the commissioner in regulations,
15 provided that such regulations shall require such certificates at least
16 twice during the elementary grades and twice in the secondary grades. An
17 examination and health history of any child may be required by the local
18 school authorities at any time in their discretion to promote the educa-
19 tional interests of such child. Each certificate shall be signed by a
20 duly licensed physician, physician assistant, or nurse practitioner, who
21 is authorized by law to practice in this state, and consistent with any
22 applicable written practice agreement, or by a duly licensed physician,
23 physician assistant, or nurse practitioner, who is authorized to prac-
24 tice in the jurisdiction in which the examination was given, provided
25 that the commissioner has determined that such jurisdiction has stand-
26 ards of licensure and practice comparable to those of New York. Each
27 such certificate shall describe the condition of the student when the
28 examination was made, which shall not be more than twelve months prior
29 to the commencement of the school year in which the examination is
30 required, and shall state whether such student is in a fit condition of
31 health to permit his or her attendance at the public schools. THE EXAM-
32 INATION MAY INCLUDE A DIABETES RISK ANALYSIS AND, IF NECESSARY, CHILDREN
33 WITH RISK FACTORS FOR TYPE 1 DIABETES, OR RISK FACTORS ASSOCIATED WITH
34 TYPE 2 DIABETES SUCH AS OBESITY, A FAMILY HISTORY OF TYPE 2 DIABETES, OR
35 ANY OTHER FACTORS CONSISTENT WITH INCREASED RISK SHALL BE TESTED FOR
36 DIABETES. Each such certificate shall also state the student's body mass
37 index (BMI) and weight status category. For purposes of this section,
38 BMI is computed as the weight in kilograms divided by the square of
39 height in meters or the weight in pounds divided by the square of height
40 in inches multiplied by a conversion factor of 703. Weight status cate-
41 gories for children and adolescents shall be as defined by the commis-
42 sioner of health. In all school districts such physician, physician
43 assistant or nurse practitioner shall determine whether a one-time test
44 for sickle cell anemia is necessary or desirable and he or she shall
45 conduct such a test and the certificate shall state the results.

46 S 3. Subdivisions 4 and 5 of section 918 of the education law, as
47 added by chapter 493 of the laws of 2004, are amended to read as
48 follows:

49 4. The committee is encouraged to study AND MAKE RECOMMENDATIONS ON
50 all facets of the current nutritional policies of the district includ-
51 ing, but not limited to, the goals of the district to promote health and
52 proper nutrition, REDUCE THE INCIDENCE OF CHILDHOOD OBESITY, vending
53 machine sales, menu criteria, educational curriculum teaching healthy
54 nutrition, AND educational information provided to parents or guardians
55 regarding healthy nutrition and the health risks associated with obesi-
56 ty, ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC RESPIRATORY DISEASES.

1 PROVIDED, FURTHER, THE COMMITTEE MAY PROVIDE INFORMATION TO PERSONS IN
2 PARENTAL RELATION ON opportunities offered to parents or guardians to
3 encourage healthier eating habits to students, and the education
4 provided to teachers and other staff as to the importance of healthy
5 nutrition AND ABOUT THE DANGERS OF CHILDHOOD OBESITY. In addition the
6 committee shall consider recommendations and practices of other
7 districts and nutrition studies.

8 5. The committee is encouraged to report periodically to the district
9 regarding practices that will educate teachers, parents or guardians and
10 children about healthy nutrition and raise awareness of the dangers of
11 CHILDHOOD obesity, ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC RESPIR-
12 ATORY DISEASES. The committee is encouraged also to provide any parent
13 teacher associations in the district with such findings and recommenda-
14 tions.

15 S 4. Subdivision 1 of section 804-a of the education law, as added by
16 chapter 730 of the laws of 1986, is amended to read as follows:

17 1. Within the amounts appropriated, the commissioner is hereby
18 authorized to establish a demonstration program and to distribute state
19 funds to local school districts, boards of cooperative educational
20 services and in certain instances community school districts, for the
21 development, implementation, evaluation, validation, demonstration and
22 replication of exemplary comprehensive health education programs to
23 assist the public schools in developing curricula, training staff, and
24 addressing local health education needs of students, parents, and staff.
25 SUCH PROGRAMS MAY SERVE THE PURPOSE OF DEVELOPING AND ENHANCING PUPILS'
26 HEALTH KNOWLEDGE, SKILLS, ATTITUDES AND BEHAVIORS, WHICH IS FUNDAMENTAL
27 TO IMPROVING THEIR HEALTH STATUS AND ACADEMIC PERFORMANCE, AS WELL AS
28 REDUCING THE INCIDENCE OF ADOLESCENT PREGNANCY, ALCOHOL ABUSE, TOBACCO
29 ABUSE, TRUANCY, SUICIDE, SUBSTANCE ABUSE, OBESITY, ASTHMA, OTHER CHRONIC
30 RESPIRATORY DISEASES, AND OTHER PROBLEMS OF CHILDHOOD AND ADOLESCENCE.

31 S 5. Section 813 of the education law, as added by chapter 296 of the
32 laws of 1994, is amended to read as follows:

33 S 813. School lunch period; scheduling. Each school shall schedule a
34 reasonable time DURING EACH SCHOOL DAY for each full day pupil attending
35 pre-kindergarten through grade twelve WITH AMPLE TIME to consume lunch
36 AND TO ENGAGE IN PHYSICAL EXERCISE OR RECREATION.

37 S 6. This act shall take effect immediately, except that sections one,
38 two and three of this act shall take effect two years after this act
39 shall have become a law.