

1742

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 9, 2009

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Introduced by M. of A. ENGLEBRIGHT, J. RIVERA, GREENE, PHEFFER, TITUS, ROBINSON, LUPARDO -- Multi-Sponsored by -- M. of A. COLTON, CUSICK, FARRELL, GUNTHER, KOON, PERRY, TOWNS -- read once and referred to the Committee on Health

AN ACT to amend the social services law, the environmental conservation law and the public health law, in relation to the protection of air quality for day care centers

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. To ensure  
5     that day care facilities provide this setting for our children, the  
6     legislature finds that standards for day care facilities must be protec-  
7     tive of children's environmental health and safety. Children are unique-  
8     ly vulnerable to and may be severely affected by exposure to chemicals,  
9     hazardous wastes and other environmental hazards, which affect their  
10    learning abilities as well as create chemical-based responses and sensi-  
11    tivities. It is the purpose of this legislation to reduce as much as  
12    possible such exposures for children and day care facility staff.

13    S 2. Section 390-a of the social services law is amended by adding  
14    three new subdivisions 5, 6 and 7 to read as follows:

15    5. (A) NO LICENSE SHALL BE ISSUED OR RENEWED FOR A CHILD DAY CARE  
16    CENTER AS DEFINED IN SECTION THREE HUNDRED NINETY OF THIS TITLE, OR A  
17    HEAD START DAY CARE CENTER FUNDED PURSUANT TO TITLE V OF THE FEDERAL  
18    ECONOMIC OPPORTUNITY ACT OF NINETEEN HUNDRED SIXTY-FOUR, AS AMENDED, IF  
19    THE BUILDING OR ITS OUTDOOR RECREATIONAL AREA WOULD BE ADVERSELY  
20    IMPACTED DUE TO ITS PROXIMITY TO EXISTING AND KNOWN ENVIRONMENTAL  
21    HAZARDS, INCLUDING INDUSTRIAL FACILITIES, COMBUSTION FACILITIES, INAC-  
22    TIVE HAZARDOUS WASTE SITES, HAZARDOUS SUBSTANCE SITES, MUNICIPAL OR

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

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1 COMMERCIAL LANDFILLS, AND OTHER ENVIRONMENTAL HEALTH HAZARDS SUCH AS  
2 RADON, LEAD, CHLORINATED HYDROCARBONS AND OTHER TOXIC CONTAMINANTS AS  
3 DETERMINED BY THE DEPARTMENTS OF ENVIRONMENTAL CONSERVATION AND HEALTH.

4 (B) THE COMMISSIONER OF CHILDREN AND FAMILY SERVICES SHALL CONSULT  
5 WITH THE COMMISSIONERS OF ENVIRONMENTAL CONSERVATION AND HEALTH PRIOR TO  
6 THE APPROVAL OF ANY NEW SITE FOR A CHILD DAY CARE CENTER OR HEAD START  
7 DAY CARE CENTER TO ENSURE THAT SUCH FACILITY OR ITS OUTDOOR RECREATIONAL  
8 AREA WILL NOT BE ADVERSELY IMPACTED DUE TO ITS PROXIMITY TO ANY EXISTING  
9 AND KNOWN ENVIRONMENTAL OR ENVIRONMENTAL HEALTH HAZARDS.

10 6. (A) NO LICENSE SHALL BE ISSUED TO A NEW CHILD DAY CARE CENTER OR  
11 NEW HEAD START DAY CARE CENTER UNLESS THE BUILDING SHALL PROVIDE FOR THE  
12 FOLLOWING WHERE APPLICABLE: HEATING, VENTILATION AND AIR CONDITIONING  
13 SYSTEMS THAT MEET CURRENTLY ACCEPTED INDUSTRY VENTILATION STANDARDS;  
14 PLACEMENT OF AIR INTAKE VENTS SO AS TO MAXIMIZE HEALTHFUL INDOOR AIR  
15 QUALITY; DESIGN PRACTICES THAT MINIMIZE INGRESS OF AND CONDITIONS FAVOR-  
16 ABLE TO PEST POPULATIONS; CONSTRUCTION TECHNIQUES AND VENTILATION  
17 SYSTEMS DESIGNED TO ELIMINATE RADON LEVELS IN INDOOR AIR; AND OTHER  
18 MEASURES NECESSARY TO MAINTAIN HEALTHFUL, SAFE AND COMFORTABLE CONDI-  
19 TIONS THEREIN.

20 (B) CHILD DAY CARE CENTERS OR HEAD START DAY CARE CENTERS WHICH ARE  
21 LICENSED PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION AND WHICH DO  
22 NOT MEET THE REQUIREMENTS OF PARAGRAPH (A) OF THIS SUBDIVISION, SHALL  
23 MEET SUCH REQUIREMENTS WITHIN ONE YEAR FROM THE RENEWAL DATE OF THEIR  
24 LICENSE, OTHERWISE SUCH LICENSE SHALL NOT BE RENEWED.

25 7. IN THE EVENT THAT ANY NEW ENVIRONMENTAL OR ENVIRONMENTAL HEALTH  
26 HAZARD IS IDENTIFIED DUE TO ITS PROXIMITY TO A CHILD DAY CARE CENTER OR  
27 HEAD START DAY CARE CENTER, THE OFFICE OF CHILDREN AND FAMILY SERVICES  
28 SHALL REQUEST THE DEPARTMENT OF HEALTH TO EVALUATE THE IMPACT OF SUCH  
29 HAZARD ON THE CHILD DAY CARE CENTER OR HEAD START DAY CARE CENTER, AND  
30 IF THE NEW ENVIRONMENTAL OR ENVIRONMENTAL HEALTH HAZARD IS FOUND TO HAVE  
31 AN IMPACT, THE DEPARTMENT OF HEALTH SHALL REQUIRE SUCH FACILITY CREATING  
32 SUCH NEW ENVIRONMENTAL OR ENVIRONMENTAL HEALTH HAZARD TO REMEDIATE THE  
33 HAZARD WITHIN NINETY DAYS WITHOUT ANY ADVERSE ACTION UPON THE LICENSE OR  
34 LICENSE RENEWAL OF THE CHILD DAY CARE CENTER OR HEAD START DAY CARE  
35 CENTER.

36 S 3. The environmental conservation law is amended by adding a new  
37 section 3-0319 to read as follows:

38 S 3-0319. INFORMATION FOR THE OFFICE OF CHILDREN AND FAMILY SERVICES.

39 PURSUANT TO SUBDIVISION FIVE OF SECTION THREE HUNDRED NINETY-A OF THE  
40 SOCIAL SERVICES LAW THE DEPARTMENT SHALL ANNUALLY PROVIDE ALL NECESSARY  
41 INFORMATION TO THE OFFICE OF CHILDREN AND FAMILY SERVICES REGARDING  
42 EXISTING AND KNOWN LOCATIONS OF EXISTING AND KNOWN ENVIRONMENTAL  
43 HAZARDS, INCLUDING INDUSTRIAL FACILITIES, COMBUSTION FACILITIES, INAC-  
44 TIVE HAZARDOUS WASTE SITES, HAZARDOUS SUBSTANCE SITES, MUNICIPAL OR  
45 COMMERCIAL LANDFILLS, AND OTHER ENVIRONMENTAL HEALTH HAZARDS SUCH AS  
46 RADON, LEAD, CHLORINATED HYDROCARBONS AND OTHER TOXIC CONTAMINANTS AS  
47 DETERMINED BY THE DEPARTMENT AND THE DEPARTMENT OF HEALTH. WHENEVER THE  
48 OFFICE OF CHILDREN AND FAMILY SERVICES REQUESTS SUCH INFORMATION FROM  
49 THE DEPARTMENT, SUCH INFORMATION SHALL BE PROVIDED WITHIN THIRTY DAYS OF  
50 RECEIPT OF SUCH REQUEST.

51 S 4. The public health law is amended by adding a new section 201-a to  
52 read as follows:

53 S 201-A. INFORMATION FOR THE OFFICE OF CHILDREN AND FAMILY SERVICES.  
54 PURSUANT TO SUBDIVISION FIVE OF SECTION THREE HUNDRED NINETY-A OF THE  
55 SOCIAL SERVICES LAW, THE DEPARTMENT SHALL ANNUALLY PROVIDE ALL NECESSARY  
56 INFORMATION TO THE OFFICE OF CHILDREN AND FAMILY SERVICES REGARDING

1 EXISTING AND KNOWN LOCATIONS OF ENVIRONMENTAL HEALTH HAZARDS SUCH AS  
2 RADON, LEAD, CHLORINATED HYDROCARBONS AND OTHER TOXIC CONTAMINANTS.  
3 WHENEVER THE OFFICE OF CHILDREN AND FAMILY SERVICES REQUESTS SUCH INFOR-  
4 MATION FROM THE DEPARTMENT, SUCH INFORMATION SHALL BE PROVIDED WITHIN  
5 THIRTY DAYS OF RECEIPT OF SUCH REQUEST.

6 S 5. This act shall take effect on the sixtieth day after it shall  
7 have become a law.