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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 9, 2009

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:

Section 1. Legislative intent. The legislature finds and declares that it shall be the policy of the state of New York to provide every child with an environmentally safe and healthy learning environment in which to grow, learn and mature into productive and healthy adults. To ensure that day care facilities provide this setting for our children, the legislature finds that standards for day care facilities must be protective of children's environmental health and safety. Children are uniquely vulnerable to and may be severely affected by exposure to chemicals, hazardous wastes and other environmental hazards, which affect their learning abilities as well as create chemical-based responses and sensitivities. It is the purpose of this legislation to reduce as much as possible such exposures for children and day care facility staff.

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

5. (A) NO LICENSE SHALL BE ISSUED OR RENEWED FOR A CHILD DAY CARE CENTER AS DEFINED IN SECTION THREE HUNDRED NINETY OF THIS TITLE, OR A HEAD START DAY CARE CENTER FUNDED PURSUANT TO TITLE V OF THE FEDERAL ECONOMIC OPPORTUNITY ACT OF NINETEEN HUNDRED SIXTY-FOUR, AS AMENDED, IF THE BUILDING OR ITS OUTDOOR RECREATIONAL AREA WOULD BE ADVERSELY IMPACTED DUE TO ITS PROXIMITY TO EXISTING AND KNOWN ENVIRONMENTAL HAZARDS, INCLUDING INDUSTRIAL FACILITIES, COMBUSTION FACILITIES, INACTIVE 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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COMMERCIAL LANDFILLS, AND OTHER ENVIRONMENTAL HEALTH HAZARDS SUCH AS RADON, LEAD, CHLORINATED HYDROCARBONS AND OTHER TOXIC CONTAMINANTS AS DETERMINED BY THE DEPARTMENTS OF ENVIRONMENTAL CONSERVATION AND HEALTH.

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

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

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

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

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

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

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

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

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

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

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