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

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I N A S S E M B L Y

January 12, 2009

Introduced by M. of A. NOLAN, MILLMAN, HOOPER -- Multi-Sponsored by -- M. of A. BRENNAN, BRODSKY, CAHILL, COLTON, COOK, DINOWITZ, GIANARIS, GOTTFRIED, PAULIN, PERALTA, PERRY, PHEFFER, WEISENBERG -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the use and possession of mobile telephones by students

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

Section 1. Section 305 of the education law is amended by adding a new subdivision 42 to read as follows:

42. THE COMMISSIONER IS HEREBY DIRECTED TO ESTABLISH GUIDELINES FOR LOCAL POLICIES REGARDING THE POSSESSION OR USE OF MOBILE TELEPHONES IN PUBLIC SCHOOLS BY DECEMBER THIRTY-FIRST, TWO THOUSAND NINE. SUCH GUIDELINES SHALL ENSURE THAT LOCAL POLICIES TAKE INTO ACCOUNT LOCAL AND REGIONAL NEEDS AS INFORMED BY THE SOLICITED VIEWS OF PARENTS AND TEACHERS ORGANIZATIONS, INCLUDING BUT NOT LIMITED TO PARENT TEACHER ASSOCIATIONS, PARENT TEACHER ORGANIZATIONS, PARENT EDUCATION COUNCILS INCLUDING APPROPRIATE COMMUNITY, EDUCATIONAL GROUPS AND UNIONS, SCHOOL ADMINISTRATORS AND SCHOOL DISTRICTS AND SCHOOL BOARDS. THE GUIDELINES SHALL ADVISE THAT THE POLICIES ADDRESS CONCERNS REGARDING POSSIBLE ACADEMIC DISRUPTIONS, FAMILY NEEDS INVOLVING CONTACTING STUDENTS DURING TRAVEL TO AND FROM SCHOOL, AND FACTORS INCLUDING CONFISCATION OR APPROPRIATE DISCIPLINARY RESPONSE. THE GUIDELINES MAY DIFFERENTIATE BETWEEN MOBILE PHONES WITH CAPABILITIES BEYOND BASIC FAMILY COMMUNICATION NEEDS.

S 2. The education law is amended by adding a new section 409-j to read as follows:

S 409-J. USE AND POSSESSION OF MOBILE TELEPHONE IN A SCHOOL FACILITY. 1. FOR THE PURPOSE OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "SCHOOL" SHALL MEAN ANY PUBLIC SCHOOL DISTRICT WITH A FACILITY USED FOR INSTRUCTION;

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

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(B) "FACILITY" SHALL MEAN ANY SCHOOL BUILDING OR FACILITY USED FOR INSTRUCTIONAL PURPOSES AND THE SURROUNDING GROUNDS OR OTHER SITES USED FOR PLAYGROUNDS, ATHLETICS OR OTHER INSTRUCTIONAL PURPOSES;

(C) "MOBILE TELEPHONE" SHALL MEAN A CELLULAR, ANALOG, WIRELESS, DIGITAL OR OTHER SIMILAR TELEPHONE OR COMMUNICATIONS DEVICE, WHICH CAN BE USED TO ACCESS TWO-WAY REAL TIME VOICE TELECOMMUNICATIONS SERVICE THAT IS INTERCONNECTED TO A PUBLIC SWITCHED TELEPHONE NETWORK AND IS PROVIDED BY A COMMERCIAL MOBILE RADIO SERVICE, AS SUCH TERM IS DEFINED BY 47 CFR S 20.3; AND

(D) "USE" SHALL MEAN TO RECEIVE A MOBILE TELEPHONE CALL SIGNALED BY AN AUDIBLE SOUND, DIAL A MOBILE TELEPHONE, TALK OR LISTEN ON A MOBILE TELEPHONE OR HOLD A MOBILE TELEPHONE TO, OR IN THE IMMEDIATE PROXIMITY OF, THE STUDENT'S EAR.

2. THE COMMISSIONER SHALL REQUIRE A SCHOOL FACILITY TO PROVIDE FOR PROMINENT AND CONSPICUOUS NOTICE TO ALL STUDENTS BY MEANS OF SIGNAGE, PRINTED MATERIAL OR SIMILAR MEANS WITHIN A SCHOOL FACILITY THAT MOBILE TELEPHONE USE IS PROHIBITED IN A CLASS ROOM DURING REGULAR SCHOOL HOURS.

S 3. This act shall take effect immediately.