

7837

2009-2010 Regular Sessions

I N A S S E M B L Y

April 24, 2009

Introduced by M. of A. SPANO, DINOWITZ, GALEF, FIELDS, COOK, WEISENBERG, ROBINSON, MARKEY, PHEFFER, BENEDETTO, BARRON, MENG, TOBACCO -- Multi-Sponsored by -- M. of A. BURLING, GABRYSZAK, McDONOUGH, SCARBOROUGH, THIELE, WALKER -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the education law, in relation to requiring the usage of seat safety belts on school buses

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

1 Section 1. Paragraph (a) of subdivision 4 of section 1229-c of the  
2 vehicle and traffic law, as separately amended by chapters 232 and 509  
3 of the laws of 2004, is amended to read as follows:

4 (a) "motor vehicle" shall include all motor vehicles which are  
5 required by section three hundred eighty-three of this chapter or regu-  
6 lation or would be required if such motor vehicle were registered in New  
7 York state to be equipped [by a safety belt but shall not include] WITH  
8 SEAT BELTS, INCLUDING those vehicles which are used as school buses, as  
9 such term is defined in section one hundred forty-two of this chapter  
10 [and]; PROVIDED, HOWEVER, THAT THE TERM "MOTOR VEHICLE" SHALL NOT  
11 INCLUDE those vehicles which are authorized emergency vehicles, as such  
12 term is defined in section one hundred one of this chapter;

13 S 2. Subdivision 11 of section 1229-c of the vehicle and traffic law,  
14 as added by chapter 653 of the laws of 1989 and as renumbered by chapter  
15 104 of the laws of 1991, is amended and a new subdivision 11-a is added  
16 to read as follows:

17 11. [Notwithstanding the provisions of subdivision four of this  
18 section, no] NO person shall operate a school bus unless SUCH PERSON IS  
19 REASONABLY SURE THAT all passengers under the age of four are restrained  
20 in a specially designed detachable or removable seat as required by  
21 subdivision one of this section, or another restraining device approved  
22 by the commissioner.

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

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1 11-A. NO PERSON SHALL OPERATE A SCHOOL BUS EQUIPPED WITH SEAT SAFETY  
2 BELTS PURSUANT TO SUBDIVISION FIVE OF SECTION THREE HUNDRED EIGHTY-THREE  
3 OF THIS CHAPTER OR PURSUANT TO SECTION THIRTY-SIX HUNDRED THIRTY-FIVE-A  
4 OF THE EDUCATION LAW UNLESS SUCH PERSON IS REASONABLY SURE THAT ALL  
5 PASSENGERS ARE RESTRAINED BY A SEAT SAFETY BELT. FOR THE PURPOSES OF  
6 THIS SUBDIVISION, THE TERM "PASSENGER" SHALL NOT INCLUDE SCHOOL BUS  
7 ATTENDANTS, AS THAT TERM IS DEFINED IN SECTION TWELVE HUNDRED  
8 TWENTY-NINE-D OF THIS ARTICLE, OR ANY OTHER PERSON ACTING IN A SUPERVI-  
9 SORY CAPACITY. FURTHERMORE, IN ANY ACTION FOR PERSONAL INJURIES BY A  
10 PASSENGER ON A SCHOOL BUS, THE PROVISIONS OF SUBDIVISION FOUR OF SECTION  
11 THIRTY-EIGHT HUNDRED THIRTEEN OF THE EDUCATION LAW SHALL APPLY.

12 S 3. Subdivision 1 of section 3623 of the education law, as amended by  
13 chapter 474 of the laws of 1996, is amended to read as follows:

14 1. a. NO PERSON SHALL OPERATE A SCHOOL BUS EQUIPPED WITH SEAT SAFETY  
15 BELTS PURSUANT TO SUBDIVISION FIVE OF SECTION THREE HUNDRED EIGHTY-THREE  
16 OF THE VEHICLE AND TRAFFIC LAW OR PURSUANT TO SECTION THIRTY-SIX HUNDRED  
17 THIRTY-FIVE-A OF THIS ARTICLE UNLESS SUCH PERSON IS REASONABLY SURE THAT  
18 ALL PASSENGERS ARE RESTRAINED BY A SEAT SAFETY BELT. FOR THE PURPOSES OF  
19 THIS SUBDIVISION, THE TERM "PASSENGER" SHALL NOT INCLUDE SCHOOL BUS  
20 ATTENDANTS, AS THAT TERM IS DEFINED IN SECTION TWELVE HUNDRED  
21 TWENTY-NINE-D OF THE VEHICLE AND TRAFFIC LAW, OR ANY OTHER PERSON ACTING  
22 IN A SUPERVISORY CAPACITY. FURTHERMORE, IN ANY ACTION FOR PERSONAL INJU-  
23 RIES BY A PASSENGER ON A SCHOOL BUS, THE PROVISIONS OF SUBDIVISION FOUR  
24 OF SECTION THIRTY-EIGHT HUNDRED THIRTEEN OF THIS CHAPTER SHALL APPLY.

25 B. THE DRIVER OF A SCHOOL BUS SHALL BE REQUIRED TO ANNOUNCE TO THE  
26 PASSENGERS OF SUCH BUS: "EVERYBODY FASTEN YOUR SEAT BELT", BEFORE SUCH  
27 BUS IS PLACED IN MOTION.

28 C. NO PERSON SHALL OPERATE A SCHOOL BUS WHILE ANY PASSENGER IS STAND-  
29 ING, EITHER IN THE AISLE OR AT THEIR SEAT.

30 D. The commissioner of transportation in consultation with the commis-  
31 sioner shall adopt, promulgate and enforce rules, standards and specifi-  
32 cations regulating and controlling the efficiency and equipment of  
33 school buses used to transport pupils, with particular regard to the  
34 safety and convenience of such pupils and the suitability and adaptabil-  
35 ity of such school buses to the requirements of the school district. No  
36 school bus shall be purchased by a school district or used for the  
37 transportation of pupils unless and until it has been approved by the  
38 commissioner of transportation as complying with the rules, standards  
39 and specifications relating thereto.

40 [b.] E. No bus manufactured after January first, nineteen hundred  
41 seventy-four shall be used to transport pupils under any contract with a  
42 school district or board of cooperative educational services unless it  
43 has been similarly approved by the commissioner of transportation,  
44 except that no such approval shall be required for buses used to trans-  
45 port pupils and also used to serve the general public under a certif-  
46 icate of public convenience for the operation of a bus line, granted  
47 pursuant to the transportation law or for buses used to transport  
48 pupils, teachers and other persons acting in a supervisory capacity to  
49 and from school activities and which bus does not receive or discharge  
50 passengers on or along the public highways on regularly scheduled routes  
51 and is operating under a permit as a contract carrier of passengers  
52 granted pursuant to the transportation law or by the interstate commerce  
53 commission. School buses manufactured or assembled prior to April  
54 first, nineteen hundred seventy-seven may not be used to transport  
55 pupils, teachers and other persons acting in a supervisory capacity to  
56 and from school activities.

1 [c.] F. The commissioner shall PROVIDE FOR THE ENFORCEMENT OF PARA-  
2 GRAPH A OF THIS SUBDIVISION AND SHALL establish and provide for the  
3 enforcement of rules and regulations requiring instruction on the use of  
4 seat safety belts [as specified in subdivision five of section three  
5 hundred eighty-three of the vehicle and traffic law and section thirty-  
6 six hundred thirty-five-a of this chapter], INSTRUCTION ON THE DANGERS  
7 OF STANDING WHILE THE BUS IS IN MOTION, drills in safe boarding and  
8 exiting procedures and emergency drills to be conducted on all school  
9 buses and shall emphasize specific hazards encountered by children  
10 during snow, ice, rain and other inclement weather. All such drills  
11 shall include instruction in the importance of orderly conduct by all  
12 school bus passengers. A minimum of [three] FOUR such drills shall be  
13 had on each school bus during the school year, the first to be conducted  
14 during the first seven days of session of the fall term.

15 S 4. Section 3635-a of the education law, as added by chapter 747 of  
16 the laws of 1986, subdivision 1 as amended by chapter 474 of the laws of  
17 1996, is amended to read as follows:

18 S 3635-a. Safety belt usage. 1. A board of education or board of  
19 trustees may, in its discretion, following a public hearing for the  
20 purpose of determining whether a resolution shall be adopted, provide  
21 for the [use] INSTALLATION of seat safety belts on such school buses, in  
22 accordance with regulations and standards established by the commission-  
23 er under subdivision one of section thirty-six hundred [thirty-eight]  
24 TWENTY-THREE of this [chapter] ARTICLE.

25 2. Such public hearing, conducted upon reasonable notice, shall be  
26 held to consider: (a) whether the district shall install seat safety  
27 belts on buses purchased and/or contracted for prior to the effective  
28 date of this section [and require their use]; AND (b) when such instal-  
29 lation shall be provided[, and (c) whether use of seat safety belts  
30 shall be required on all school buses within the district so equipped  
31 after a date to be determined by the board of education or board of  
32 trustees].

33 3. Such hearings shall consider the effect of seat safety belts  
34 installation on the total number of students that can be transported on  
35 such buses.

36 4. Within twenty days after the public hearing, the board of education  
37 or board of trustees shall, by resolution, determine whether to require  
38 installation [and use] of seat safety belts on some or all school buses.

39 4-A. IF THE BOARD OF EDUCATION OR BOARD OF TRUSTEES HAS DETERMINED TO  
40 REQUIRE THE INSTALLATION OF SEAT SAFETY BELTS, THE USE OF SUCH BELTS  
41 SHALL BE MANDATORY PURSUANT TO PARAGRAPH A OF SUBDIVISION ONE OF SECTION  
42 THIRTY-SIX HUNDRED TWENTY-THREE OF THIS ARTICLE AND PURSUANT TO SUBDIVI-  
43 SION ELEVEN-A OF SECTION TWELVE HUNDRED TWENTY-NINE-C OF THE VEHICLE AND  
44 TRAFFIC LAW.

45 5. This section shall apply only to vehicles owned or leased by school  
46 districts and nonpublic schools, and to vehicles used to perform  
47 contracts with such school districts and nonpublic schools for the  
48 purpose of transporting school children for hire.

49 6. Nothing in this section shall be construed to impose a duty upon  
50 boards of education or boards of trustees to provide seat safety belts  
51 on school buses purchased or contracted for prior to the effective date  
52 of this section, nor shall any board of education or board of trustees  
53 be held liable for failure to provide seat safety belts pursuant to this  
54 section. A school board member or trustee shall have immunity from any  
55 civil or criminal liability that might otherwise be incurred or imposed  
56 as a result of the provisions of this section provided that such person

1 shall have acted in good faith. For the purpose of any proceeding, civil  
2 or criminal, the good faith of any such person shall be presumed.

3 7. The provisions of this section shall not apply to school districts  
4 which are using safety belts on school buses or have installed or have  
5 contracted for the installation of seat safety belts prior to the effec-  
6 tive date of this section.

7 S 5. Subdivision 1 of section 1229-d of the vehicle and traffic law,  
8 as added by chapter 675 of the laws of 1985, is amended to read as  
9 follows:

10 (1) (A) "School bus attendant" shall mean a person, INCLUDING A SCHOOL  
11 AID OR MONITOR, employed or authorized by a school district OR EMPLOYED  
12 BY A MOTOR CARRIER UNDER CONTRACT TO A SCHOOL DISTRICT to ride on a  
13 school bus as defined in paragraph (a) of subdivision one of section  
14 five hundred nine-a of this chapter for the purpose of maintaining order  
15 or rendering assistance to pupils with special needs.

16 (B) ANY PUPIL WITH SPECIAL NEEDS WHO IS UNABLE TO UTILIZE A SEAT SAFE-  
17 TY BELT, AS REQUIRED PURSUANT TO SUBDIVISION ELEVEN-A OF SECTION TWELVE  
18 HUNDRED TWENTY-NINE-C OF THIS ARTICLE AND SUBDIVISION ONE OF SECTION  
19 THIRTY-SIX HUNDRED TWENTY-THREE OF THE EDUCATION LAW, SHALL BE ASSIGNED  
20 A SCHOOL BUS ATTENDANT.

21 S 6. Subdivision 4 of section 3813 of the education law, as added by  
22 chapter 747 of the laws of 1986, is amended to read as follows:

23 4. In any action for personal injuries by a passenger on a school bus  
24 against a school district, school bus operator under contract with a  
25 school district, or any agent or employee of a district or operator  
26 (including, but not limited to, bus drivers, matrons, teachers serving  
27 as chaperones and volunteers) no such person shall be held liable solely  
28 because the injured party was not wearing a seat safety belt OR HELD  
29 LIABLE SOLELY BECAUSE THE INJURED PARTY WAS INJURED AS THE RESULT OF  
30 WEARING A SEAT SAFETY BELT; provided, however, that nothing contained  
31 herein shall be construed to grant immunity from liability for failure  
32 to:

33 (a) maintain in operating order any equipment required by statute,  
34 rule or regulation;

35 (b) comply with applicable statutes, rules or regulations.

36 S 7. This act shall take effect on the first of September next  
37 succeeding the date on which it shall have become a law. Provided, that  
38 any rules and regulations necessary for the timely implementation of  
39 this act on its effective date shall be promulgated before such date.