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

6934--A

Cal. No. 701

I N S E N A T E

February 26, 2010

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to eligibility for senior high school athletic competition

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

Section 1. The education law is amended by adding a new section 3208-b to read as follows:

S 3208-B. ELIGIBILITY FOR SENIOR HIGH SCHOOL ATHLETIC COMPETITION; DISABILITY EXCEPTION. 1. THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO ESTABLISH A PROCESS FOR GRANTING WAIVERS TO THE AGE REQUIREMENT AND FOUR-YEAR LIMITATION ON ELIGIBILITY FOR SENIOR HIGH SCHOOL ATHLETIC COMPETITION WHEN A STUDENT WITH A DISABILITY, AS DEFINED IN SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER, WHO IS OTHERWISE QUALIFIED TO COMPETE IN SUCH COMPETITION AND HAS BEEN SELECTED FOR SUCH COMPETITION IN THE PAST, HAS NOT YET GRADUATED HIGH SCHOOL, PROVIDED SUCH STUDENT HAS OR HAD A DISABILITY WHICH DELAYED HIS OR HER EDUCATION FOR A YEAR OR MORE AND SUCH STUDENT HAS NOT ALREADY PARTICIPATED ONE EXTRA YEAR UNDER THIS EXCEPTION, AND THE LOCAL SCHOOL DISTRICT HAS DETERMINED THAT THE STUDENT'S PARTICIPATION IN THE SPORT WILL NEITHER ADVERSELY IMPACT THE OPPORTUNITY OF OTHER STUDENTS COMPETING IN THE SPORT TO SUCCESSFULLY PARTICIPATE IN SUCH COMPETITION NOR SIGNIFICANTLY COMPROMISE THE SAFETY OF SUCH STUDENT OR THE OTHER STUDENTS COMPETING WITH THE STUDENT.

2. THE ATHLETIC DIRECTOR OR THE SUPERINTENDENT OF ANY SCHOOL OR SCHOOL DISTRICT IN THE SAME SECTION OF THE NEW YORK STATE PUBLIC HIGH SCHOOL ATHLETIC ASSOCIATION MAY FILE A COMPLAINT FROM THE GRANTING OF A WAIVER, IN THE TIME AND MANNER AS PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER, TO CHALLENGE A STUDENT WITH A DISABILITY FROM BEING ELIGIBLE FOR A FIFTH YEAR OF SENIOR HIGH SCHOOL COMPETITION WITH THE DIRECTOR OF SUCH SCHOOL DISTRICT'S SECTION OF THE NEW YORK STATE PUBLIC HIGH SCHOOL

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

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ATHLETIC ASSOCIATION IF THERE ARE CONCERNS REGARDING THE SAFETY OF SUCH STUDENT OR OTHER STUDENT ATHLETES COMPETING WITH SUCH STUDENT.

3. UPON RECEIPT OF SUCH COMPLAINT, A DISTRICT DIRECTOR MAY DISQUALIFY A STUDENT'S ELIGIBILITY FOR A WAIVER TO PARTICIPATE IN A FIFTH YEAR OF ATHLETIC COMPETITION. A DISQUALIFIED STUDENT MAY COMMENCE AN APPEALS PROCESS WITH THE ATHLETIC COUNCIL OF THE NEW YORK STATE PUBLIC HIGH SCHOOL ATHLETIC ASSOCIATION WITHIN TWO WEEKS OF SUCH DETERMINATION. THE ATHLETIC COUNCIL SHALL REVIEW THE DISTRICT DIRECTOR'S DECISION AND ANY EVIDENCE OR MATERIALS USED TO MAKE SUCH DECISION. SUCH COUNCIL MAY HEAR ORAL ARGUMENTS FROM INVOLVED AND INTERESTED PARTIES. THE COUNCIL SHALL HAVE THE POWER TO AFFIRM, REVERSE, OR MODIFY THE DECISIONS OF THE DISTRICT DIRECTOR.

4. AN APPEAL FROM THE DETERMINATION OF THE ATHLETIC COUNCIL MAY BE TAKEN TO THE APPEAL PANEL OF THE NEW YORK STATE PUBLIC HIGH SCHOOL ATHLETIC ASSOCIATION WITHIN TWO WEEKS OF SUCH DETERMINATION. THE APPEAL PANEL SHALL REVIEW THE EVIDENCE, MAY HEAR ORAL ARGUMENTS FROM INVOLVED AND INTERESTED PARTIES, AND SHALL HAVE THE POWER TO AFFIRM, REVERSE, OR MODIFY THE DECISIONS OF THE ATHLETIC COUNCIL.

S 2. This act shall take effect immediately.