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

1695

2009-2010 Regular Sessions

I N  A S S E M B L Y

January 9, 2009

Introduced by M. of A. ENGLEBRIGHT, KOON, EDDINGTON, P. RIVERA, BENEDETTO, ROBINSON, N. RIVERA, GALEF, TITUS, BOYLAND, GABRYSZAK -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BRADLEY, BRENNAN, COLTON, COOK, DIAZ, DINOWITZ, HOOPER, JOHN, LAVINE, MARKEY, McENENY, NOLAN, PERRY, WEISENBERG -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to parent notification of environmental health and safety hazards in schools

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

Section 1. Section 409 of the education law is amended by adding a new subdivision 3 to read as follows:

3. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE PROVISIONS OF SECTION FOUR HUNDRED NINE-J OF THIS ARTICLE SHALL APPLY TO ALL SCHOOL DISTRICTS, INCLUDING CITY SCHOOL DISTRICTS REGARDLESS OF POPULATION, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND PRE-KINDERGARTEN PROGRAMS.

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

S 409-J. PARENT NOTIFICATION OF ENVIRONMENTAL HEALTH AND SAFETY HAZARDS IN SCHOOLS. 1. TO ENSURE THAT EACH STUDENT, PARENT, PERSON IN PARENTAL RELATION AND SCHOOL EMPLOYEE HAS ACCESS TO INFORMATION ABOUT ENVIRONMENTAL HEALTH ISSUES AND HAZARDS IN THEIR SCHOOL ENVIRONMENT, THE FOLLOWING ACTIONS SHALL BE REQUIRED TO BE TAKEN BY SCHOOLS:

A. EVERY SCHOOL DISTRICT SHALL APPOINT AN INFORMATION ACCESS CONTACT PERSON;

B. AT THE BEGINNING OF EACH SCHOOL YEAR, EVERY SCHOOL SHALL INFORM AND EDUCATE STUDENTS, PARENTS, PERSONS IN PARENTAL RELATION AND SCHOOL EMPLOYEES THAT THEY HAVE A RIGHT TO ALL INFORMATION ABOUT HEALTH AND SAFETY CONDITIONS IN THEIR SCHOOL FACILITIES AS REQUIRED IN THIS SECTION, INCLUDING BUT NOT LIMITED TO HAZARDOUS SUBSTANCES USED, STORED

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

LBD05101-01-9

OR PRESENT IN SCHOOL FACILITIES; CONSTRUCTION AND REHABILITATION ACTIVITIES; AIR OR WATER QUALITY SAMPLING RESULTS AND PROBLEMS; PROCEDURES FOR INFORMATION ACCESS; IDENTIFICATION OF SCHOOL DISTRICT EMPLOYEES DESIGNATED TO SERVE AS INFORMATION ACCESS CONTACT PERSONS; REQUIREMENTS FOR TIMELY RESPONSE TO INFORMATION REQUESTS; AND OTHER PROCEDURES THAT WILL ENSURE READY ACCESS TO SUCH INFORMATION;

C. ALL SCHOOLS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND PRE-KINDERGARTEN PROGRAMS SHALL ANNUALLY NOTIFY STUDENTS, PARENTS, PERSONS IN PARENTAL RELATION AND SCHOOL EMPLOYEES OF ALL HAZARDOUS SUBSTANCES USED, STORED OR PRESENT IN FACILITIES WITHIN THEIR SCHOOL, INCLUDING ACTIVITIES INVOLVING HAZARDOUS SUBSTANCES CONDUCTED BY PRIVATE CONTRACTORS. EACH SCHOOL, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND PRE-KINDERGARTEN PROGRAM SHALL:

(I) ANNUALLY INVENTORY ALL HAZARDOUS SUBSTANCES USED, STORED OR PRESENT IN ITS FACILITIES, WHICH INVENTORY SHALL BE AVAILABLE FOR PUBLIC REVIEW,

(II) DEVELOP WRITTEN PLANS TO ELIMINATE OR MINIMIZE THE USE AND PRESENCE OF HAZARDOUS SUBSTANCES IN ITS FACILITIES, INCLUDING A TIMETABLE TO ACCOMPLISH THE PLAN COMPONENTS, WHICH PLANS HAVE BEEN SUBJECT TO PUBLIC REVIEW PRIOR TO ADOPTION, AND

(III) PREPARE WRITTEN REPORTS OF THE RESULTS OF ALL SAMPLING, EVALUATION AND REMEDIATION ACTIVITIES AS APPROPRIATE, SUBMIT SUCH REPORTS TO THE SCHOOL DISTRICT AND THE DEPARTMENT, AND MAKE AVAILABLE SUCH REPORTS TO THE PUBLIC; AND

D. EVERY SCHOOL, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND PRE-KINDERGARTEN PROGRAM SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS, AT LEAST TWO SCHOOL DAYS PRIOR TO ANY MAJOR FACILITY CONSTRUCTION, DEMOLITION, MAINTENANCE OR RENOVATION, OR ANY OTHER ACTIVITY WITH THE POTENTIAL TO RESULT IN EXPOSURES TO INDOOR OR OUTDOOR HAZARDS THAT MAY HAVE A SIGNIFICANT EFFECT ON THE HEALTH OF THE OCCUPANTS OF THE FACILITIES:

(I) A WARNING NOTICE SHALL BE PROMINENTLY POSTED AT EACH ENTRY POINT OF EACH FACILITY AND SCHOOL GROUNDS, WHICH HAS THE FOLLOWING FORMAT AND INCLUDES THE FOLLOWING INFORMATION:

"NOTICE OF SCHOOL ACTIVITIES INVOLVING HAZARDOUS SUBSTANCES

THE PURPOSE OF THIS NOTICE IS TO ENSURE THAT STUDENTS, PARENTS, PERSONS IN PARENTAL RELATION AND SCHOOL EMPLOYEES ARE NOTIFIED THAT THE FOLLOWING ACTIVITIES WILL BE OCCURRING IN THIS SCHOOL:

SCHOOL NAME

SCHOOL ADDRESS

PROPOSED ACTIVITY

LOCATION OF PROPOSED ACTIVITY

HAZARDOUS SUBSTANCES UTILIZED (IF APPLICABLE)

MATERIAL DATA SAFETY SHEET IS AVAILABLE FROM THE CONTACT PERSON LISTED BELOW.

DATE/TIME AND DURATION OF PROPOSED ACTIVITY

CONTACT PERSON/LOCATION FOR FURTHER INFORMATION."

(II) SCHOOLS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND PRE-KINDERGARTEN PROGRAMS SHALL ALSO PROVIDE A WRITTEN NOTICE TO ALL PARENTS AND PERSONS IN PARENTAL RELATION OF THE INFORMATION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) IF THERE IS NEED FOR AN UNANTICIPATED OR EMERGENCY ACTIVITY, AS DEFINED BY THE COMMISSIONER, PURSUANT TO THIS PARAGRAPH, THE WARNING NOTICE FORM AND WRITTEN NOTICE MAY BE PROVIDED IMMEDIATELY FOLLOWING THE CONDUCT OF THE ACTIVITY.

(IV) NOTIFICATION SHALL BE PROVIDED TO INDIVIDUALS PURSUANT TO THEIR RIGHTS TO INFORMATION UNDER THE FEDERAL AMERICANS WITH DISABILITIES ACT,

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, AND SECTION 504 OF THE REHABILITATION ACT.

2. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS ARE DEFINED AS FOLLOWS:

A. "HAZARDOUS SUBSTANCES" SHALL MEAN AND INCLUDE LEAD, RADON, ASBESTOS, FORMALDEHYDE, PRODUCTS CONTAINING GREATER THAN TEN PERCENT VOLATILE ORGANIC COMPOUNDS AND ANY SUBSTANCE LISTED AS A SUBSTANCE HAZARDOUS TO THE PUBLIC HEALTH, SAFETY OR THE ENVIRONMENT IN REGULATIONS PROMULGATED PURSUANT TO ARTICLE THIRTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW.

B. "FACILITY" SHALL MEAN SCHOOL BUILDINGS, LANDS AND OTHER APPURTENANCES OF A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

C. "INFORMATION ACCESS CONTACT PERSON" SHALL MEAN A SCHOOL DISTRICT EMPLOYEE, APPOINTED BY THE SUPERINTENDENT, WHO IS RESPONSIBLE FOR PROVIDING INFORMATION ON SCHOOL ENVIRONMENTAL HEALTH AND SAFETY REQUESTED BY ANY INDIVIDUAL RESIDING IN THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.