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

152

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. FUSCHILLO -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to requiring the usage of seat safety belts by passengers of school buses which are equipped with such belts

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

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

1. a. NO SCHOOL BUS, AS THAT TERM IS DEFINED IN SECTION ONE HUNDRED FORTY-TWO OF THE VEHICLE AND TRAFFIC LAW, WHICH IS EQUIPPED WITH SEAT SAFETY BELTS AS SPECIFIED IN SUBDIVISION FIVE OF SECTION THREE HUNDRED EIGHTY-THREE OF THE VEHICLE AND TRAFFIC LAW AND SECTION THIRTY-SIX HUNDRED THIRTY-FIVE-A OF THIS ARTICLE, SHALL BE OPERATED UNLESS ALL PASSENGERS ARE RESTRAINED BY A SEAT SAFETY BELT.

B. ON EVERY SCHOOL BUS EQUIPPED WITH SEAT SAFETY BELTS, AS SPECIFIED IN SUBDIVISION FIVE OF SECTION THREE HUNDRED EIGHTY-THREE OF THE VEHICLE AND TRAFFIC LAW AND SECTION THIRTY-SIX HUNDRED THIRTY-FIVE-A OF THIS ARTICLE, THE COMMISSIONER OF TRANSPORTATION SHALL POST AND MAINTAIN IN PLAIN VIEW OF THE PASSENGERS A CONSPICUOUS WARNING SIGN READING "NEW YORK STATE LAW REQUIRES EVERY PASSENGER OF THIS SCHOOL BUS TO WEAR A SEATBELT WHILE THIS BUS IS IN OPERATION".

C. The commissioner of transportation in consultation with the commissioner shall adopt, promulgate and enforce rules, standards and specifications regulating and controlling the efficiency and equipment of school buses used to transport pupils, with particular regard to the safety and convenience of such pupils and the suitability and adaptability of such school buses to the requirements of the school district. THE COMMISSIONER OF TRANSPORTATION SHALL BEAR ALL COSTS ASSOCIATED WITH

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

LBD02310-01-9

PROVIDING, INSTALLING AND MAINTAINING THE WARNING SIGNS MANDATED PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION. No school bus shall be purchased by a school district or used for the transportation of pupils unless and until it has been approved by the commissioner of transportation as complying with the rules, standards and specifications relating thereto.

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

[c.] E. The commissioner shall PROVIDE FOR THE ENFORCEMENT OF PARAGRAPH A OF THIS SUBDIVISION AND SHALL establish and provide for the enforcement of rules and regulations requiring instruction on the use of seat safety belts as specified in subdivision five of section three hundred eighty-three of the vehicle and traffic law and section thirty-six hundred thirty-five-a of this [chapter] ARTICLE, drills in safe boarding and exiting procedures and emergency drills to be conducted on all school buses and shall emphasize specific hazards encountered by children during snow, ice, rain and other inclement weather. All such drills shall include instruction in the importance of orderly conduct by all school bus passengers. A minimum of three such drills shall be had on each school bus during the school year, the first to be conducted during the first seven days of session of the fall term.

S 2. Section 3635-a of the education law, as added by chapter 747 of the laws of 1986, subdivision 1 as amended by chapter 474 of the laws of 1996, is amended to read as follows:

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

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

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

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

4-A. IF THE BOARD OF EDUCATION OR BOARD OF TRUSTEES HAS DETERMINED TO REQUIRE THE INSTALLATION OF SEAT SAFETY BELTS, THE USE OF SUCH BELTS SHALL BE MANDATORY PURSUANT TO PARAGRAPH A OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED TWENTY-THREE OF THIS ARTICLE.

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

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

7. The provisions of this section shall not apply to school districts which are using safety belts on school buses or have installed or have contracted for the installation of seat safety belts prior to the effective date of this section.

S 3. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.