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

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2009-2010 Regular Sessions

I N  S E N A T E

February 2, 2009

Introduced by Sens. DUANE, KRUEGER -- 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 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 AUTHORIZED, EMPOWERED AND DIRECTED TO ESTABLISH RULES AND REGULATIONS, AND FROM TIME TO TIME AMEND GUIDELINES AND SPECIFICATIONS, TAKING NECESSARY ACTION REGARDING THE USE AND POSSESSION OF A MOBILE TELEPHONE BY A STUDENT IN ANY SCHOOL FACILITY. SUCH RULES, REGULATIONS AND GUIDELINES SHALL PRESCRIBE FOR THE POSSESSION OF A MOBILE TELEPHONE BY A STUDENT, ALLOWING FOR A STUDENT TO CARRY A MOBILE TELEPHONE INTO A SCHOOL FACILITY, PROHIBITING THE USE OF SUCH MOBILE TELEPHONE BY A STUDENT IN THE CLASSROOM DURING REGULAR SCHOOL HOURS EXCEPT DURING AN EMERGENCY, PROHIBITING A SCHOOL FROM CONFISCATING A MOBILE TELEPHONE FROM A STUDENT AND PROVIDING FOR NOTICE TO ALL STUDENTS BY MEANS OF PRINTED MATERIAL OR OTHER SIMILAR MEANS WITHIN THE SCHOOL FACILITY THAT SUCH MOBILE TELEPHONE USE IS PROHIBITED IN A CLASSROOM DURING REGULAR SCHOOL HOURS EXCEPT DURING AN EMERGENCY.

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 OR PRIVATE OR PAROCHIAL SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES 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 IS 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, TEXT MESSAGE, USE OF CELLPHONE CAMERA, 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 CLASSROOM DURING REGULAR SCHOOL HOURS.

3. IN ACCORDANCE WITH THE RULES AND REGULATIONS PRESCRIBED BY THE COMMISSIONER, A STUDENT SHALL BE ALLOWED TO CARRY A MOBILE TELEPHONE INTO A SCHOOL FACILITY AND USE A MOBILE TELEPHONE TO CONTACT AN EMERGENCY RESPONSE OPERATOR, HOSPITAL, PHYSICIAN'S OFFICE OR HEALTH CLINIC, AMBULANCE COMPANY, FIRE COMPANY, FIRST AID SQUAD OR POLICE DEPARTMENT IN AN EMERGENCY SITUATION OR IN ANY OTHER CIRCUMSTANCE WHICH MAY BE DEEMED AN EMERGENCY.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed by the commissioner of education on or before such effective date.