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

4144--A

R. R. 82

2011-2012 Regular Sessions

I N A S S E M B L Y

February 1, 2011

Introduced by M. of A. ENGLEBRIGHT, ORTIZ, GALEF, P. RIVERA -- Multi-Sponsored by -- M. of A. McENENY -- read once and referred to the Committee on Education -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the education law and the state finance law, in relation to the procurement and use of environmentally sensitive commodities and services

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

Section 1. Legislative intent. The legislature finds and declares that it shall be the policy of the state of New York to provide every child with an environmentally safe and healthy learning environment in which to grow, learn and mature into productive and healthy adults. The legislature further finds that schools are major consumers and disposers of supplies and materials, and that schools should serve as role models for environmentally responsible behavior with regard to energy conservation, reduced consumption and disposal of toxic and hazardous materials. Children are uniquely vulnerable to and may be severely affected by exposure to chemicals, hazardous wastes and other environmental hazards, which affect their learning abilities as well as create chemical-based responses and sensitivities. When health threats are caused by the presence of toxic materials, the cost to individual school districts and the state are enormous in terms of staff time and effort, cleanup costs, school closing and liability. Therefore, to provide a safe and healthy environment for our children in school, the legislature finds that school districts should be informed of and consider the purchase of environmentally sensitive products and services. It is the purpose of this legislation to reduce as much as possible toxic exposures for children and school staff.

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

LBD00265-02-2

S 2. Subdivision 1 of section 409 of the education law, as amended by section 4 of part L of chapter 405 of the laws of 1999, is amended to read as follows:

1. All school buildings of common, union free, central, central high school and city school districts other than city school districts of cities having one hundred twenty-five thousand inhabitants or more and boards of cooperative educational services shall comply with such regulations as the commissioner shall adopt from time to time for the purpose of insuring the health and safety of pupils and staff in relation to proper heating, lighting, ventilation, sanitation and health, fire and accident protection, EXCEPT THAT SECTION FOUR HUNDRED NINE-L OF THIS ARTICLE SHALL APPLY TO ALL SCHOOL DISTRICTS, INCLUDING CITY SCHOOL DISTRICTS OF CITIES HAVING ONE HUNDRED TWENTY-FIVE THOUSAND INHABITANTS OR MORE AND TO BOARDS OF COOPERATIVE EDUCATIONAL SERVICES.

S 3. The education law is amended by adding a new section 409-l to read as follows:

S 409-L. PROCUREMENT AND USE OF ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES. 1. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL MEAN:

(A) "ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES" MEANS THOSE COMMODITIES AND SERVICES THAT MINIMIZE ADVERSE IMPACTS ON CHILDREN'S HEALTH AND THE ENVIRONMENT AS DETERMINED BY THE COMMISSIONER OF GENERAL SERVICES.

(B) "COMMODITY" OR "COMMODITIES" MEANS MATERIAL, GOODS, SUPPLIES, PRODUCTS, CONSTRUCTION ITEMS AND OTHER STANDARD ARTICLES OF COMMERCE OTHER THAN TECHNOLOGY AND EXCLUDING CONTRACTS FOR STATE PRINTING WHICH ARE THE SUBJECT OF ANY PURCHASE OR OTHER EXCHANGE.

(C) "CONSTRUCTION ITEM" MEANS ANY ITEM OR MATERIAL USED IN CONSTRUCTION AND WHICH IS PROCURED DIRECTLY BY A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES OR BY A PERSON UNDER CONTRACT BY A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

(D) "SERVICE" OR "SERVICES" MEANS, EXCEPT WITH RESPECT TO CONTRACTS FOR STATE PRINTING, THE PERFORMANCE OF A TASK OR TASKS AND MAY INCLUDE A MATERIAL GOOD OR A QUANTITY OF MATERIAL GOODS, AND WHICH IS SUBJECT OF ANY PURCHASE OR OTHER EXCHANGE. FOR THE PURPOSES OF THIS SECTION, TECHNOLOGY SHALL BE DEEMED A SERVICE.

2. THE COMMISSIONER OF GENERAL SERVICES, IN CONSULTATION WITH THE COMMISSIONER AND THE COMMISSIONERS OF HEALTH AND LABOR, SHALL ESTABLISH AND FROM TIME TO TIME AMEND GUIDELINES AND SPECIFICATIONS FOR ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES FOR USE IN ELEMENTARY, SECONDARY AND VOCATIONAL SCHOOL BUILDINGS; FOR SCHOOL OR SCHOOL-RELATED ACTIVITIES ON SCHOOL PROPERTIES; AND FOR USE IN THE CONSTRUCTION, RENOVATION OR REPAIR OF SUCH SCHOOL BUILDINGS AND RELATED FACILITIES. SUCH GUIDELINES SHALL BE USED TO IDENTIFY ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES WHICH ARE AVAILABLE IN THE FORM, FUNCTION AND UTILITY GENERALLY USED BY SUCH FACILITIES. SUCH COMMISSIONERS SHALL REVIEW AND EVALUATE EXISTING RESEARCH REGARDING ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES, INCLUDING BUT NOT LIMITED TO, THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S GUIDELINES FOR ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES, FOR THE PURPOSE OF DEVELOPING APPROPRIATE CRITERIA FOR SUCH GUIDELINES AND SPECIFICATIONS.

3. THE COMMISSIONER OF GENERAL SERVICES SHALL DISSEMINATE TO ALL SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES GUIDELINES AND SPECIFICATIONS FOR THE PURCHASE OR USE OF ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES IN ELEMENTARY, SECONDARY AND VOCATIONAL SCHOOL BUILDINGS; FOR SCHOOL OR SCHOOL-RELATED ACTIVITIES ON

SCHOOL PROPERTIES; AND FOR USE IN THE CONSTRUCTION, RENOVATION, OR REPAIR OF SUCH SCHOOL BUILDINGS AND RELATED FACILITIES. THE COMMISSIONER OF GENERAL SERVICES SHALL ALSO PREPARE AND DISSEMINATE TO ALL SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES A SAMPLE LIST OF SUCH ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES THAT MEET THESE GUIDELINES OR SPECIFICATIONS AND THEIR ENVIRONMENTAL AND HEALTH BENEFITS. SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES SHALL CONSIDER SUCH GUIDELINES, SPECIFICATIONS AND SAMPLE LIST WHEN MAKING DETERMINATIONS AS TO THE PURCHASE OF COMMODITIES, CONSTRUCTION ITEMS OR SERVICES FOR USE IN A SCHOOL BUILDING OR BUILDINGS, FOR SCHOOL OR SCHOOL-RELATED ACTIVITIES, OR FOR USE IN THE CONSTRUCTION, RENOVATION, OR REPAIR OF SCHOOL BUILDINGS. WHERE APPLICABLE AND APPROPRIATE, SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES SHALL INCLUDE EVIDENCE OF SUCH CONSIDERATION IN A PLAN FOR THE CONSTRUCTION, RENOVATION OR REPAIR OF A SCHOOL BUILDING WHICH MUST BE SUBMITTED TO THE COMMISSIONER FOR APPROVAL PURSUANT TO SECTION FOUR HUNDRED EIGHT OF THIS ARTICLE.

4. SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES SHALL NOTIFY ALL SCHOOLS UNDER THEIR JURISDICTIONS OF THE AVAILABILITY OF SUCH GUIDELINES, SPECIFICATIONS AND SAMPLE LIST.

5. ON OR BEFORE JUNE FIRST, TWO THOUSAND THIRTEEN, THE OFFICE OF GENERAL SERVICES AND THE DEPARTMENT SHALL JOINTLY ISSUE A REPORT PROVIDING AN ANALYSIS OF THE IMPACT OF SUCH GUIDELINES AND SPECIFICATIONS ON THE PURCHASING AND PROCUREMENT PRACTICES OF SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES.

S 4. Paragraph b of subdivision 3 of section 163 of the state finance law is amended by adding a new subparagraph (xii) to read as follows:

(XII) MAINTAIN A LIST OF FIRMS WHICH PRODUCE OR MANUFACTURE OR OFFER FOR SALE ENVIRONMENTALLY SENSITIVE COMMODITIES AND SERVICES IN THE FORM, FUNCTION AND UTILITY GENERALLY USED BY SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES IN ACCORDANCE WITH SPECIFICATIONS OR GUIDELINES PROMULGATED PURSUANT TO SECTION FOUR HUNDRED NINE-L OF THE EDUCATION LAW.

S 5. This act shall take effect on the first of July next succeeding the date on which it shall have become a law; provided that the commissioners of education and general services are authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date; and provided, further, that the amendment to paragraph b of subdivision 3 of section 163 of the state finance law made by section four of this act shall not affect the repeal of such section and shall be deemed repealed therewith.