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

1302

2011-2012 Regular Sessions

I N S E N A T E

January 6, 2011

Introduced by Sen. DUANE -- 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 humane treatment of animals

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

Section 1. Subdivision 4 of section 809 of the education law, as amended by chapter 320 of the laws of 2010, is amended to read as follows:

4. Dissection of animals. Any student expressing a moral or religious objection to the performance or witnessing of the dissection of an animal, either wholly or in part, shall be provided the opportunity to undertake and complete an alternative project that shall be approved by such student's teacher; provided, however, that such objection is substantiated in writing by the student's parent or legal guardian. Students who perform alternative projects who do not perform or witness the dissection of animals shall not be penalized. The board of education or trustees of a school district shall develop a policy to give reasonable notice to all students enrolled in a course that includes the dissection of an animal and students' parents or legal guardians about their rights under this subdivision. Such notice shall be made available upon request at the school and distributed to parents and students enrolled in a course that includes dissection at least once at the beginning of the school year *PRIOR TO THE USE OF ANY ANIMAL FOR DISSECTION*.

S 2. Subdivisions 5 and 6 of section 809 of the education law, as amended by chapter 542 of the laws of 1994, are amended and a new subdivision 7 is added to read as follows:

5. Treatment of live vertebrate animals. a. Except as provided for in this subdivision, no school district, school principal, administrator, or teacher shall require or permit the performance of a lesson or exper-

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

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imental study on a live vertebrate animal in any such school or during any activity conducted under the auspices of such school whether or not the activity takes place on the premises of such school [where such lesson or experimental study employs: (i) micro-organisms which cause disease in humans or animals, (ii) ionizing radiation, (iii) known cancer producing agents, (iv) chemicals at toxic levels, (v) drugs producing pain or deformity, (vi) severe extremes of temperature, (vii) electric or other shock, (viii) excessive noise, (ix) noxious fumes, (x) exercise to exhaustion, (xi) overcrowding, (xii) paralysis by muscle relaxants or other means, (xiii) deprivation or excess of food, water or other essential nutrients, (xiv) surgery or other invasive procedures, (xv) other extreme stimuli, or (xvi) termination of life].

b. [Notwithstanding any inconsistent provision of this section, the commissioner may, upon the submission of a written program plan, issue to such school a written waiver of such restrictions for students subject to the following provisions: (i) the student shall be in grade ten, eleven, or twelve; and (ii) the student shall be under the supervision of one or more teachers certified in science; and (iii) the student shall be pursuing an accelerated course of study in the sciences as defined by the commissioner in preparation for taking a state or national advanced placement examination. The commissioner shall issue a waiver of such restrictions for any teacher certified in science instructing such student. The written program plan shall include, but not be limited to: (i) the educational basis for requesting a waiver; (ii) the objective of the lesson or experiment; (iii) the methods and techniques to be used; and (iv) any other information required by the commissioner.] LIVE VERTEBRATES ARE DEFINED AS ANY LIVE, NON-HUMAN VERTEBRATE, MAMMALIAN EMBRYO OR FETUS, BIRD AND REPTILE EGGS WITHIN THREE DAYS (SEVENTY-TWO HOURS) OF HATCHING, AND ALL OTHER VERTEBRATES AT HATCHING OR BIRTH. EXCLUDED FROM THE ABOVE PROVISIONS ARE:

(I) LESSONS AND EXPERIMENTAL STUDIES INVOLVING ANIMALS IN THEIR NATURAL ENVIRONMENT THAT ARE NON-INVASIVE AND NON-INTRUSIVE STUDIES (I.E. OBSERVATIONAL, BEHAVIORAL) THAT DO NOT AFFECT AN ANIMAL'S HEALTH OR WELL-BEING BY CAUSING STRESS, DISCOMFORT OR PAIN AND IN WHICH THE STUDENT WILL HAVE NO PHYSICAL CONTACT WITH THE ANIMAL; OR

(II) LESSONS AND EXPERIMENTAL STUDIES BEING CONDUCTED IN A REGISTERED INSTITUTION OR LABORATORY WHERE ANIMAL EXPERIMENTATION IS TAKING PLACE AND IN WHICH THE STUDENT WILL HAVE NO PHYSICAL CONTACT WITH THE ANIMAL; AND THE STUDENT WORKS ONLY WITH NON-LIVING MATERIAL (E.G. TISSUE, BLOOD) THAT HAS BEEN SUPPLIED TO THE STUDENT BY THE SUPERVISING SCIENTIST; AND THE ANIMAL INVOLVED IS SACRIFICED FOR A PURPOSE OTHER THAN THE RESEARCH BEING CONDUCTED BY THE STUDENT.

ALL OF THE ABOVEMENTIONED LESSONS, AND EXPERIMENTAL STUDIES MUST HAVE A NON-HUMAN VERTEBRATE ANIMAL EXCEPTION FORM COMPLETED BY THE STUDENT'S SUPERVISING SCIENTIST WHICH ATTESTS TO COMPLIANCE WITH THIS SUBDIVISION. SUCH FORMS SHALL BE SENT BY THE STUDENT'S SCHOOL TO THE COMMISSIONER UPON COMMENCEMENT OF THE LESSONS OR EXPERIMENTAL STUDIES.

6. Report. [On or before the first day of January next succeeding the effective date of this amended section, the] THE commissioner shall annually submit a report to the governor and the legislature which shall include, but not be limited to, the [number of written program plan proposals submitted by schools and the number of such proposals subsequently approved by the commissioner. In those cases where a program plan proposal has been approved by the commissioner, such plan shall be appended to and become a part of the commissioner's annual report] NON-

HUMAN VERTEBRATE EXCEPTION FORMS COMPLETED BY STUDENTS' SUPERVISING SCIENTIST AND SUBMITTED TO THE COMMISSIONER BY THEIR SCHOOLS.

7. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AND DEVELOP SUCH FORMS AS ARE NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

S 3. This act shall take effect on the first of July next succeeding the date on which it shall have become a law; provided, however, that if chapter 320 of the laws of 2010 shall not have taken effect by such effective date, then section one of this act shall take effect on the same date and in the same manner as chapter 320 of the laws of 2010, as amended, takes effect.