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

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I N A S S E M B L Y

January 24, 2011

Introduced by M. of A. SPANO, DINOWITZ, GALEF, COOK, MARKEY, MENG, WEISENBERG, ROBINSON, PHEFFER, CASTRO, BARRON, HOOPER, TOBACCO -- Multi-Sponsored by -- M. of A. BURLING, GABRYSZAK, GOTTFRIED, McDONOUGH, SCARBOROUGH, SCHIMEL, THIELE -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the education law, in relation to requiring the usage of seat safety belts on school buses

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

Section 1. Paragraph (a) of subdivision 4 of section 1229-c of the vehicle and traffic law, as separately amended by chapters 232 and 509 of the laws of 2004, is amended to read as follows:

(a) "motor vehicle" shall include all motor vehicles which are required by section three hundred eighty-three of this chapter or regulation or would be required if such motor vehicle were registered in New York state to be equipped [by a safety belt but shall not include] WITH SEAT BELTS, INCLUDING those vehicles which are used as school buses, as such term is defined in section one hundred forty-two of this chapter [and]; PROVIDED, HOWEVER, THAT THE TERM "MOTOR VEHICLE" SHALL NOT INCLUDE those vehicles which are authorized emergency vehicles, as such term is defined in section one hundred one of this chapter;

S 2. Subdivision 11 of section 1229-c of the vehicle and traffic law, as added by chapter 653 of the laws of 1989 and as renumbered by chapter 104 of the laws of 1991, is amended and a new subdivision 11-a is added to read as follows:

11. [Notwithstanding the provisions of subdivision four of this section, no] NO person shall operate a school bus unless SUCH PERSON IS REASONABLY SURE THAT all passengers under the age of four are restrained in a specially designed detachable or removable seat as required by subdivision one of this section, or another restraining device approved by the commissioner.

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

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11-A. NO PERSON SHALL OPERATE A SCHOOL BUS EQUIPPED WITH SEAT SAFETY BELTS PURSUANT TO SUBDIVISION FIVE OF SECTION THREE HUNDRED EIGHTY-THREE OF THIS CHAPTER OR PURSUANT TO SECTION THIRTY-SIX HUNDRED THIRTY-FIVE-A OF THE EDUCATION LAW UNLESS SUCH PERSON IS REASONABLY SURE THAT ALL PASSENGERS ARE RESTRAINED BY A SEAT SAFETY BELT. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "PASSENGER" SHALL NOT INCLUDE SCHOOL BUS ATTENDANTS, AS THAT TERM IS DEFINED IN SECTION TWELVE HUNDRED TWENTY-NINE-D OF THIS ARTICLE, OR ANY OTHER PERSON ACTING IN A SUPERVISORY CAPACITY. FURTHERMORE, IN ANY ACTION FOR PERSONAL INJURIES BY A PASSENGER ON A SCHOOL BUS, THE PROVISIONS OF SUBDIVISION FOUR OF SECTION THIRTY-EIGHT HUNDRED THIRTEEN OF THE EDUCATION LAW SHALL APPLY.

S 3. 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 PERSON SHALL OPERATE A SCHOOL BUS EQUIPPED WITH SEAT SAFETY BELTS PURSUANT TO SUBDIVISION FIVE OF SECTION THREE HUNDRED EIGHTY-THREE OF THE VEHICLE AND TRAFFIC LAW OR PURSUANT TO SECTION THIRTY-SIX HUNDRED THIRTY-FIVE-A OF THIS ARTICLE UNLESS SUCH PERSON IS REASONABLY SURE THAT ALL PASSENGERS ARE RESTRAINED BY A SEAT SAFETY BELT. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "PASSENGER" SHALL NOT INCLUDE SCHOOL BUS ATTENDANTS, AS THAT TERM IS DEFINED IN SECTION TWELVE HUNDRED TWENTY-NINE-D OF THE VEHICLE AND TRAFFIC LAW, OR ANY OTHER PERSON ACTING IN A SUPERVISORY CAPACITY. FURTHERMORE, IN ANY ACTION FOR PERSONAL INJURIES BY A PASSENGER ON A SCHOOL BUS, THE PROVISIONS OF SUBDIVISION FOUR OF SECTION THIRTY-EIGHT HUNDRED THIRTEEN OF THIS CHAPTER SHALL APPLY.

B. THE DRIVER OF A SCHOOL BUS SHALL BE REQUIRED TO ANNOUNCE TO THE PASSENGERS OF SUCH BUS: "EVERYBODY FASTEN YOUR SEAT BELT", BEFORE SUCH BUS IS PLACED IN MOTION.

C. NO PERSON SHALL OPERATE A SCHOOL BUS WHILE ANY PASSENGER IS STANDING, EITHER IN THE AISLE OR AT THEIR SEAT.

D. 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. 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.] E. 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.] F. 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], INSTRUCTION ON THE DANGERS OF STANDING WHILE THE BUS IS IN MOTION, 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] FOUR 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 4. 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 AND PURSUANT TO SUBDIVISION ELEVEN-A OF SECTION TWELVE HUNDRED TWENTY-NINE-C OF THE VEHICLE AND TRAFFIC LAW.

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 5. Subdivision 1 of section 1229-d of the vehicle and traffic law, as added by chapter 675 of the laws of 1985, is amended to read as follows:

(1) (A) "School bus attendant" shall mean a person, INCLUDING A SCHOOL AID OR MONITOR, employed or authorized by a school district OR EMPLOYED BY A MOTOR CARRIER UNDER CONTRACT TO A SCHOOL DISTRICT to ride on a school bus as defined in paragraph (a) of subdivision one of section five hundred nine-a of this chapter for the purpose of maintaining order or rendering assistance to pupils with special needs.

(B) ANY PUPIL WITH SPECIAL NEEDS WHO IS UNABLE TO UTILIZE A SEAT SAFETY BELT, AS REQUIRED PURSUANT TO SUBDIVISION ELEVEN-A OF SECTION TWELVE HUNDRED TWENTY-NINE-C OF THIS ARTICLE AND SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED TWENTY-THREE OF THE EDUCATION LAW, SHALL BE ASSIGNED A SCHOOL BUS ATTENDANT.

S 6. Subdivision 4 of section 3813 of the education law, as added by chapter 747 of the laws of 1986, is amended to read as follows:

4. In any action for personal injuries by a passenger on a school bus against a school district, school bus operator under contract with a school district, or any agent or employee of a district or operator (including, but not limited to, bus drivers, matrons, teachers serving as chaperones and volunteers) no such person shall be held liable solely because the injured party was not wearing a seat safety belt OR HELD LIABLE SOLELY BECAUSE THE INJURED PARTY WAS INJURED AS THE RESULT OF WEARING A SEAT SAFETY BELT; provided, however, that nothing contained herein shall be construed to grant immunity from liability for failure to:

(a) maintain in operating order any equipment required by statute, rule or regulation;

(b) comply with applicable statutes, rules or regulations.

S 7. This act shall take effect on the first of September next succeeding the date on which it shall have become a law. Provided, that any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated before such date.