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

286

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

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

AN ACT to amend the education law and the vehicle and traffic law, in relation to providing for the installation and use of video monitoring systems on school buses

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

Section 1. The education law is amended by adding a new section 3624-a to read as follows:

S 3624-A. SCHOOL BUS VIDEO MONITORING SYSTEMS. 1. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF TRANSPORTATION, SHALL PROMULGATE RULES AND REGULATIONS TO REQUIRE THE BOARD OF EDUCATION OR TRUSTEES OF EVERY SCHOOL DISTRICT IN THE STATE TO PROVIDE FOR THE INSTALLATION AND USE OF ONE OR MORE SCHOOL BUS VIDEO MONITORING SYSTEMS, AS DEFINED IN SUBDIVISION THIRTEEN-A OF SECTION THIRTY-SIX HUNDRED TWENTY-ONE OF THIS ARTICLE, ON EVERY SCHOOL BUS, AS DEFINED IN SUBDIVISION SIX OF SUCH SECTION, THAT IS PURCHASED, LEASED, CONTRACTED FOR OR USED FOR THE TRANSPORTATION OF ENROLLED PUPILS FOR ANY REASON BY SUCH DISTRICT OR BY A SCHOOL WITHIN THE DISTRICT. THE COMMISSIONER OF TRANSPORTATION, IN CONSULTATION WITH THE COMMISSIONER, SHALL AMEND THE RULES AND REGULATIONS PROMULGATED PURSUANT TO SECTION THIRTY-SIX HUNDRED TWENTY-THREE OF THIS ARTICLE, TO REQUIRE THAT EVERY SCHOOL BUS BE EQUIPPED WITH ONE OR MORE SCHOOL BUS VIDEO MONITORING SYSTEMS IN ACCORDANCE WITH THE REQUIREMENTS OF SUBDIVISION TWENTY-ONE-J OF SECTION THREE HUNDRED SEVENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW AND THIS SECTION.

2. THE COMMISSIONER'S RULES AND REGULATIONS SHALL REQUIRE SCHOOL DISTRICTS TO PROMULGATE, COMMUNICATE AND ENFORCE POLICIES AND PROCEDURES TO BE FOLLOWED WHEN USING ON-BOARD VIDEO MONITORING SYSTEMS. SUCH POLICIES AND PROCEDURES SHALL INCLUDE AT A MINIMUM, AND SHALL BE CONSISTENT WITH, THE FOLLOWING REQUIREMENTS:

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

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A. VIDEO CAMERAS ON SCHOOL BUSES SHALL BE USED ONLY AS AN AID TO MONITOR ON-BOARD ACTIVITIES. THESE DEVICES SHALL NOT REPLACE DISCIPLINE POLICY, THE AUTHORITY OF THE DRIVER, OR THE RESPONSIBILITY OF SCHOOL OFFICIALS. THE CODE OF CONDUCT FOR PUPIL BEHAVIOR ON SCHOOL PROPERTY, ADOPTED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE OF THIS CHAPTER, AS IT RELATES TO CONDUCT ON SCHOOL BUSES, AND ALL OTHER SAFE-DRIVING AND SAFE-RIDING RULES, REGULATIONS, POLICIES AND PROCEDURES OF THE DISTRICT OR REQUIRED BY LAW OR BY THE COMMISSIONER CONSISTENT WITH LAW SHALL BE ENFORCED ON SCHOOL BUSES WHETHER OR NOT PUPILS ARE BEING TRANSPORTED ON SUCH BUSES AT THE TIME CONDUCT BY A SCHOOL BUS DRIVER OR PASSENGER WHILE ON-BOARD THE BUS IS OBSERVED.

B. ALL PUPILS AND ALL SCHOOL BUS DRIVERS SHALL BE NOTIFIED THAT THEY ARE SUBJECT TO BEING VIDEOTAPED ON A SCHOOL BUS AT ANY TIME. SUCH NOTIFICATION SHALL BE MADE BY THE SCHOOL TO THE PARENTS OF ALL ENROLLED PUPILS. PRIOR TO ACTUAL VIDEOTAPING, DRIVERS, PARENTS AND PUPILS SHALL BE ADVISED WHAT DRIVER CONDUCT AND WHAT PUPIL CONDUCT IS PROHIBITED BY THE STATE AND BY THE DISTRICT AND THAT SUCH CONDUCT WILL RESULT IN SPECIFIED DISCIPLINARY CONSEQUENCES AS DEFINED IN THE ESTABLISHED DISCIPLINE POLICY. ACTUAL VIDEOTAPING SHALL BE BY MEANS OF SIMULTANEOUS AUDIO AND VIDEO RECORDING.

C. REGULAR AND PERIODIC NOTIFICATIONS REGARDING VIDEOTAPING MUST OCCUR, ADDRESSING THE PURPOSE AND USE OF VIDEO EQUIPMENT AND THE NEED FOR PERSONAL AWARENESS OF SAFETY ISSUES. THESE NOTIFICATIONS SHALL BE MADE TO GUARD AGAINST A FALSE SENSE OF SECURITY. THE USE OF NEWSLETTERS, PUPIL HANDOUTS, AND NOTICES POSTED WITHIN THE BUS SHALL CONSTITUTE MEANS OF FULFILLING THIS REQUIREMENT.

D. AFTER VIDEOTAPING HAS BEEN CONDUCTED, THE TAPES SHALL BE STORED IN A SECURE LOCATION FOR A PERIOD OF TIME DESIGNATED BY DISTRICT POLICY, EXCEPT THAT A SPECIFIC TAPE MAY BE REMOVED FROM STORAGE FOR PLAYBACK WHENEVER IT IS NEEDED IN AN ONGOING LEGAL ACTION OR PROCEEDING.

E. THE BOARD OF EDUCATION OR TRUSTEES OF EVERY SCHOOL DISTRICT SHALL DESIGNATE ONE OR MORE PERSONNEL EMPLOYED BY THE DISTRICT OR BY EVERY SCHOOL WITHIN THE DISTRICT TO PERIODICALLY REVIEW VIDEOTAPES ON A RANDOM BASIS TO ENSURE PROPER DRIVER AND PUPIL CONDUCT. IF NO MISCONDUCT OR SAFETY-RELATED INCIDENTS ARE REPORTED WITHIN A PERIOD DEFINED BY THE POLICY OF THE DISTRICT, THE TAPES MAY BE RECYCLED FOR FUTURE USE. HOWEVER, IF MISCONDUCT OR SAFETY-RELATED INCIDENTS ARE REPORTED, OR IF ANY SUCH INCIDENT IS VIEWED DURING THE RANDOM SELECTION PROCESS, THE TAPES SHALL BE STORED UNTIL FINAL RESOLUTION OR UNTIL SUCH TIME AS ANY ADMINISTRATIVE APPEAL OR LEGAL ACTION OR PROCEEDING IS CONCLUDED.

S 2. Section 3621 of the education law is amended by adding a new subdivision 13-a to read as follows:

13-A. SCHOOL BUS VIDEO MONITORING SYSTEM. THE TERM "SCHOOL BUS VIDEO MONITORING SYSTEM" MEANS ONE OR MORE ELECTRONIC DEVICES CONSISTING OF AT LEAST A VIDEO CAMERA AND MICROPHONE AND VIDEOTAPING AND AUDIOTAPING EQUIPMENT, INSTALLED ON A SCHOOL BUS AND CAPABLE OF RECORDING THE CONDUCT AND MOVEMENT OF PERSONS WITHIN THE DRIVER AND PASSENGER COMPARTMENTS OF THE BUS.

S 3. Paragraph c of subdivision 2 of section 3623-a of the education law, as amended by chapter 453 of the laws of 2005, is amended to read as follows:

c. The purchase of equipment deemed a proper school district expense, including: (i) the purchase of two-way radios to be used on old and new school buses, (ii) the purchase of stop-arms, to be used on old and new school buses, (iii) the purchase and installation of seat safety belts on school buses in accordance with the provisions of section thirty-six

hundred thirty-five-a of this article, (iv) the purchase of school bus back up beepers, (v) the purchase of school bus front crossing arms, (vi) the purchase of school bus safety sensor devices, (vii) THE PURCHASE AND INSTALLATION OF SCHOOL BUS VIDEO MONITORING SYSTEMS ON SCHOOL BUSES IN ACCORDANCE WITH THE PROVISIONS OF SECTION THIRTY-SIX HUNDRED TWENTY-FOUR-A OF THIS ARTICLE, (VIII) the purchase and installation of exterior reflective marking on school buses, [(viii)] (IX) the purchase of automatic engine fire extinguishing systems for school buses used to transport students who use wheelchairs or other assistive mobility devices, and [(ix)] (X) the purchase of other equipment as prescribed in the regulations of the commissioner; and

S 4. Section 375 of the vehicle and traffic law is amended by adding a new subdivision 21-j to read as follows:

21-J. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF TRANSPORTATION, SHALL PROMULGATE RULES AND REGULATIONS FOR THE USE OF SCHOOL BUS VIDEO MONITORING SYSTEMS ON SCHOOL BUSES.

S 5. 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 rules or regulations necessary for the implementation of the foregoing sections of this act on the effective date of this act is authorized and directed to be made and completed on or before such effective date.