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

4848--A

2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to directing the commissioner of education to establish rules and regulations for the treatment and monitoring of students who suffer concussions or head injuries

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 43 to read as follows:

43. A. THE COMMISSIONER, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND THE NEW YORK STATE PUBLIC HIGH SCHOOL ATHLETIC ASSOCIATION, SHALL:

(1) PROMULGATE AND REGULARLY UPDATE RULES AND REGULATIONS TO ESTABLISH MINIMUM STANDARDS FOR ALL SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS RELATING TO THE TREATMENT AND MONITORING OF PUPILS WHO SUFFER OR ARE SUSPECTED OF SUFFERING CONCUSSIONS AND HEAD INJURIES WHILE RECEIVING INSTRUCTION OR ENGAGING IN SCHOOL SPONSORED OR RELATED PHYSICAL OR ATHLETIC ACTIVITIES. SUCH RULES AND REGULATIONS SHALL PROVIDE FOR AN APPROPRIATE LEVEL OF MONITORING THE CONDITION, BOTH MENTAL AND PHYSICAL, OF EVERY PUPIL WHO HAS SUFFERED OR IS SUSPECTED OF SUFFERING A CONCUSSION OR HEAD INJURY, AND PROVIDE APPROPRIATE RESTRICTIONS ON PARTICIPATION IN PHYSICAL OR ATHLETIC ACTIVITIES BY SUCH PUPILS. IN ADDITION, A WRITTEN RELEASE FORM FROM A LICENSED HEALTH CARE PROVIDER TRAINED IN THE EVALUATION AND MANAGEMENT OF CONCUSSIONS AND HEAD INJURIES SHALL BE FILED WITH SUCH PUPIL'S SCHOOL PRIOR TO THE RESUMPTION OF PHYSICAL OR ATHLETIC ACTIVITIES;

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

LBD11028-02-2

(2) DISTRIBUTE TO ALL SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND NONPUBLIC SCHOOLS AN INFORMATION PAMPHLET TO EDUCATE COACHES, PUPILS PARTICIPATING IN INTERSCHOLASTIC SPORTS, PUPILS WHO HAVE SUFFERED OR ARE SUSPECTED OF SUFFERING CONCUSSIONS OR HEAD INJURIES AND PERSONS IN PARENTAL RELATION TO A PUPIL ON THE NATURE, INCIDENCE, TREATMENT, WARNING SIGNS AND RISKS OF CONCUSSIONS AND HEAD INJURIES. A COPY OF SUCH PAMPHLET SHALL BE PROVIDED ANNUALLY TO EVERY TEACHER OF PHYSICAL EDUCATION, EVERY COACH OF INTERSCHOLASTIC TEAMS, EVERY PUPIL WHO SUFFERS OR IS SUSPECTED OF SUFFERING A CONCUSSION OR HEAD INJURY AND THE PERSON IN PARENTAL RELATION TO EACH PUPIL WHO PARTICIPATES IN AN INTERSCHOLASTIC SPORT OR HAS SUFFERED OR IS SUSPECTED OF SUFFERING A CONCUSSION OR HEAD INJURY; AND

(3) DISTRIBUTE TO ALL SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND NONPUBLIC SCHOOLS A FORM WHICH ATTESTS TO RECEIPT OF THE PAMPHLET ESTABLISHED PURSUANT TO SUBPARAGRAPH TWO OF THIS PARAGRAPH AND THAT THE SIGNATORS HAVE READ AND UNDERSTAND THE NATURE AND RISKS OF CONCUSSIONS AND HEAD INJURIES. NO PUPIL SHALL PRACTICE FOR OR ENGAGE IN INTERSCHOLASTIC SPORTS UNTIL SUCH PUPIL AND THE PERSON IN PARENTAL RELATION TO HIM OR HER HAVE SIGNED SUCH FORM. A NEW FORM SHALL BE SIGNED BY THE PUPIL AND THE PERSON IN PARENTAL RELATION TO HIM OR HER IN EVERY YEAR IN WHICH SUCH PUPIL PRACTICES FOR OR ENGAGES IN INTERSCHOLASTIC SPORTS.

B. THE RULES AND REGULATIONS ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL BE DEEMED TO BE THE MINIMUM STANDARDS THAT MUST BE COMPLIED WITH BY EVERY SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND NONPUBLIC SCHOOL RELATING TO CONCUSSIONS AND HEAD INJURIES. NOTHING IN THIS SUBDIVISION SHALL PROHIBIT ANY SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES OR NONPUBLIC SCHOOL FROM ADOPTING AND IMPLEMENTING MORE STRINGENT STANDARDS.

S 2. The education law is amended by adding a new section 3001-e to read as follows:

S 3001-E. STUDENTS SUSPECTED OF SUFFERING A CONCUSSION OR HEAD INJURY. 1. ANY TEACHER, COACH, SCHOOL ADMINISTRATOR, SCHOOL GUIDANCE COUNSELOR, SCHOOL PSYCHOLOGIST, SCHOOL DRUG COUNSELOR, SCHOOL NURSE, SUPERVISOR OF ATTENDANCE, ATTENDANCE TEACHER OR ATTENDANCE OFFICER HAVING REASONABLE CAUSE TO SUSPECT THAT A SECONDARY OR ELEMENTARY STUDENT HAS SUFFERED A CONCUSSION OR HEAD INJURY SHALL IMMEDIATELY REMOVE SUCH STUDENT FROM ANY PHYSICAL ACTIVITY OR ATHLETIC COMPETITION.

2. ANY STUDENT WHO HAS BEEN REMOVED FROM ANY PHYSICAL ACTIVITY OR ATHLETIC COMPETITION DUE TO SUSPICION OF SUCH STUDENT HAVING SUFFERED A CONCUSSION OR HEAD INJURY SHALL NOT RETURN TO ANY PHYSICAL ACTIVITY OR ATHLETIC COMPETITION UNTIL SUCH STUDENT HAS PROVIDED A WRITTEN RELEASE FORM FROM A LICENSED HEALTH CARE PROVIDER TRAINED IN THE EVALUATION AND MANAGEMENT OF CONCUSSIONS AND HEAD INJURIES STATING THAT THE STUDENT MAY RETURN TO PHYSICAL ACTIVITY OR ATHLETIC COMPETITION.

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, that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.