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

5173

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

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

AN ACT to amend the education law, in relation to ensuring that special education children are provided with transportation to preschool by their parents if the parents have the means and ability to provide such transportation

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

Section 1. Subdivision 8 of section 4410 of the education law, as amended by chapter 474 of the laws of 1996, is amended to read as follows:

8. Transportation. The municipality in which a preschool child resides shall, beginning with the first day of service, provide either directly or by contract for suitable transportation, as determined by the board, to and from special services or programs; provided, however, that if the municipality is a city with a population of one million or more persons the municipality may delegate the authority to provide such transportation to the board; and provided further, that prior to providing such transportation directly or contracting with another entity to provide such transportation, such municipality or board shall request and encourage the parents to transport their children at public expense, where cost-effective, at a rate per mile or a public service fare established by the municipality and approved by the commissioner. TO FURTHER ENCOURAGE PARENT PROVIDED TRANSPORTATION, REIMBURSEMENT PAYMENTS FOR PARENTAL TRANSPORTATION SHALL BE PAID WITHIN THIRTY DAYS FROM THE DATE A VALID REIMBURSEMENT REQUEST IS FILED WITH THE MUNICIPALITY. Except as otherwise provided in this section, the parents' inability [or declination] to transport their child shall in no way [effect] AFFECT the municipality's or board's responsibility to provide recommended services. IF IT IS DETERMINED THAT A PARENT HAS THE ABILITY AND MEANS TO PROVIDE TRANSPORTATION TO THEIR SPECIAL EDUCATION PRESCHOOL CHILD,

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

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THEN IT IS THE MUNICIPALITY OR BOARD'S DISCRETION ON WHETHER TO PROVIDE TRANSPORTATION. THE DETERMINATION OF A PARENT'S ABILITY AND MEANS TO PROVIDE TRANSPORTATION SHALL BE MADE BY PROOF OF A PHYSICALLY LIMITING DISABILITY WHICH RENDERS A PARENT OR GUARDIAN OF A CHILD UNABLE TO ACCOMPANY THE CHILD TO OR FROM PRESCHOOL SPECIAL EDUCATION SERVICES WHICH SHALL BE CERTIFIED BY A DOCTOR IN A FORM TO BE PRESCRIBED BY THE DEPARTMENT; PROOF OF AN INABILITY TO PROVIDE TRANSPORTATION DUE TO A PARENT OR GUARDIAN EMPLOYMENT OBLIGATIONS SHALL BE MADE BY A SIGNED AFFIDAVIT OF THE PARENT OR GUARDIAN TO BE FILED WITH THE MUNICIPALITY PROVIDING THE TRANSPORTATION. ADDITIONALLY, IF A PARENT OR GUARDIAN IS UNABLE TO TRANSPORT THEIR CHILD DUE TO THE INABILITY TO GAIN ACCESS TO AND/OR OPERATE A MOTOR VEHICLE, SUCH AS, BUT NOT LIMITED TO, NOT BEING LICENSED TO OPERATE A MOTOR VEHICLE, THE GUARDIAN OR PARENT SHALL FILE AN AFFIDAVIT WITH THE MUNICIPALITY LISTING THE REASON FOR THE LACK OF ACCESS TO AND/OR OPERATION OF A MOTOR VEHICLE. Such transportation shall be provided once daily from the child care location to the special service or program and once daily from the special service or program to the child care location up to fifty miles from the child care location. If the board determines that a child must receive special services and programs at a location greater than fifty miles from the child care location, it shall request approval of the commissioner. For the purposes of this subdivision, the term "child care location" shall mean a child's home or a place where care for less than twenty-four hours a day is provided on a regular basis and includes, but is not limited to, a variety of child care services such as day care centers, family day care homes and in-home care by persons other than parents. All transportation of such children shall be provided pursuant to the procedures set forth in section two hundred thirty-six of the family court act using the date called for in the written notice of determination of the board or the date of the written notice of determination of the board, whichever comes later, in lieu of the date the court order was issued.

S 2. This act shall take effect immediately.