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I N A S S E M B L Y

January 17, 2014

Introduced by M. of A. FAHY, LUPARDO, CAMARA, SCARBOROUGH, JAFFEE, GUNTHER, MAGNARELLI, COLTON, STIRPE, OTIS, DUPREY, MONTESANO, RAIA, GIGLIO, ABINANTI, CLARK -- Multi-Sponsored by -- M. of A. ABBATE, GALEF, GOTTFRIED, McLAUGHLIN, SKARTADOS, THIELE, WEISENBERG -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the transportation of children attending pre-kindergarten; and repealing certain provisions of such law relating thereto

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

1 Section 1. Paragraph a of subdivision 1 of section 3635 of the educa-
2 tion law, as amended by section 11 of part A of chapter 97 of the laws
3 of 2011, is amended to read as follows:
4 a. Sufficient transportation facilities (including the operation and
5 maintenance of motor vehicles) shall be provided by the school district
6 for all the children residing within the school district to and from the
7 school they legally attend, who are in need of such transportation
8 because of the remoteness of the school to the child or for the
9 promotion of the best interest of such children. Such transportation
10 shall be provided for all children FOUR YEARS OF AGE AND OLDER attending
11 grades [kindergarten] PRE-KINDERGARTEN through eight who live more than
12 two miles from the school which they legally attend and for all children
13 attending grades nine through twelve who live more than three miles from
14 the school which they legally attend and shall be provided for each such
15 child up to a distance of fifteen miles, the distances in each case
16 being measured by the nearest available route from home to school. The
17 cost of providing such transportation between two or three miles, as the
18 case may be, and fifteen miles shall be considered for the purposes of
19 this chapter to be a charge upon the district and an ordinary contingent
20 expense of the district. Transportation for a lesser distance than two
21 miles in the case of children FOUR YEARS OF AGE AND OLDER attending
22 grades [kindergarten] PRE-KINDERGARTEN through eight or three miles in
23 the case of children attending grades nine through twelve and for a
24 greater distance than fifteen miles may be provided by the district with

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

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1 the approval of the qualified voters, and, if provided, shall be offered
2 equally to all children in like circumstances residing in the district;
3 provided, however, that this requirement shall not apply to transporta-
4 tion offered pursuant to section thirty-six hundred thirty-five-b of
5 this article.

6 S 2. Paragraph a of subdivision 1 of section 3635 of the education
7 law, as amended by chapter 69 of the laws of 1992, is amended to read as
8 follows:

9 a. Sufficient transportation facilities (including the operation and
10 maintenance of motor vehicles) shall be provided by the school district
11 for all the children residing within the school district to and from the
12 school they legally attend, who are in need of such transportation
13 because of the remoteness of the school to the child or for the
14 promotion of the best interest of such children. Such transportation
15 shall be provided for all children FOUR YEARS OF AGE AND OLDER attending
16 grades [kindergarten] PRE-KINDERGARTEN through eight who live more than
17 two miles from the school which they legally attend and for all children
18 attending grades nine through twelve who live more than three miles from
19 the school which they legally attend and shall be provided for each such
20 child up to a distance of fifteen miles, the distances in each case
21 being measured by the nearest available route from home to school. The
22 cost of providing such transportation between two or three miles, as the
23 case may be, and fifteen miles shall be considered for the purposes of
24 this chapter to be a charge upon the district and an ordinary contingent
25 expense of the district. Transportation for a lesser distance than two
26 miles in the case of children FOUR YEARS OF AGE AND OLDER attending
27 grades [kindergarten] PRE-KINDERGARTEN through eight or three miles in
28 the case of children attending grades nine through twelve and for a
29 greater distance than fifteen miles may be provided by the district,
30 and, if provided, shall be offered equally to all children in like
31 circumstances residing in the district; provided, however, that this
32 requirement shall not apply to transportation offered pursuant to
33 section thirty-six hundred thirty-five-b of this article.

34 S 3. Paragraph g of subdivision 1 of section 3635 of the education law
35 is REPEALED.

36 S 4. Paragraph e of subdivision 1 of section 3635 of the education
37 law, as amended by chapter 665 of the laws of 1990, is amended to read
38 as follows:

39 e. In lieu of the transportation provided pursuant to the foregoing
40 provisions of this subdivision, a board of education may, at its
41 discretion, provide transportation to any child FOUR YEARS OF AGE AND
42 OLDER attending grades [kindergarten] PRE-KINDERGARTEN through eight
43 between the school such child legally attends and before-and/or-after-
44 school child care locations. For the purposes of this subdivision, a
45 before-and/or-after-school child care location shall mean a place, other
46 than the child's home, where care for less than twenty-four hours a day
47 is provided on a regular basis for a child who attends school within the
48 school district, provided that such place is situated within the school
49 district. This definition includes, but is not limited to, a variety of
50 child care services such as day care centers, family day care homes and
51 in-home care by non-relatives. Such transportation may be provided for
52 children FOUR YEARS OF AGE AND OLDER attending grades [kindergarten]
53 PRE-KINDERGARTEN through eight where the distance between the school
54 they legally attend and before-and/or-after-school child care locations
55 is more than two miles, and may be provided for up to a distance of
56 fifteen miles, the distance in each case being measured by the nearest

1 available route from before-and/or-after-school child care locations to
2 the school they legally attend, except that transportation for a lesser
3 distance than two miles or a greater distance than fifteen miles may be
4 provided if transportation for such distances is provided to students
5 between home and school. Where a child receives transportation from a
6 before-school child care location to the school he or she legally
7 attends, such child shall be entitled to receive transportation from the
8 school he or she legally attends to his or her home or to an after-
9 school child care location in accordance with this subdivision. Where a
10 child receives transportation from the school he or she legally attends
11 to an after-school child care location, such child shall be entitled to
12 receive transportation from home to the school he or she legally attends
13 in accordance with this subdivision. Transportation may be provided to
14 any child FOUR YEARS OF AGE OR OLDER attending grades] [kindergarten]
15 PRE-KINDERGARTEN through eight between the school the child legally
16 attends and before-and/or-after-school child care locations upon written
17 request of the parent or legal guardian submitted not later than the
18 first day of April preceding the next school year, provided, however, a
19 parent or guardian of a child not residing in the district on such date
20 shall submit a written request within thirty days after establishing
21 residence in the district and provided further that in order to be
22 considered eligible for such transportation in the nineteen hundred
23 eighty-seven--eighty-eight school year, such request must be submitted
24 by August first, nineteen hundred eighty-seven. The provision of trans-
25 portation to or from before-and/or-after-school child care locations, if
26 provided, shall be offered equally to all children in like circumstances
27 residing in the district, provided that a board of education furnishing
28 transportation pursuant to this paragraph may limit the provision of
29 such transportation to child care locations located within the attend-
30 ance zone of the school the child attends, and to child day care centers
31 and school age child care programs licensed or registered pursuant to
32 section three hundred ninety of the social services law located anywhere
33 within the school district. The cost of providing such transportation
34 between two or three miles, as the case may be, and fifteen miles shall
35 be considered for the purposes of this chapter to be a charge upon the
36 district. Such substitute transportation expense shall be eligible for
37 state aid in accordance with clause one of paragraph b of subdivision
38 seven of section thirty-six hundred two of this chapter. Nothing in this
39 subdivision shall be construed to impose a duty upon boards of education
40 to provide transportation to or from before-and/or-after-school child
41 care locations. Nothing in this subdivision shall be construed to
42 authorize boards of education to provide to any child transportation
43 between a before-and/or-after-school day care location and that child's
44 home.

45 S 5. This act shall take effect immediately, provided that the amend-
46 ments to paragraph a of subdivision 1 of section 3635 of the education
47 law made by section one of this act shall be subject to the expiration
48 and reversion of such paragraph when upon such date the provisions of
49 section two of this act shall take effect.