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I N   A S S E M B L Y

April 11, 2014

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Introduced by M. of A. NOLAN, ORTIZ, BENEDETTO, ROSENTHAL, ABINANTI, JACOBS, BRONSON, CLARK, COLTON, HOOPER, JAFFEE, MAGNARELLI, MARKEY, MAYER, MILLER, MILLMAN, MORELLE, MOSLEY, MOYA, O'DONNELL, OTIS, PEOPLES-STOKES, SIMANOWITZ, WEISENBERG, ZEBROWSKI -- Multi-Sponsored by -- M. of A. ABBATE, ARROYO, BRENNAN, GLICK, SCHIMEL -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to health services in schools

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

1     Section 1. Section 916 of the education law, as amended by chapter 524  
2 of the laws of 2006, is amended to read as follows:  
3     S 916. Pupils afflicted with asthma OR ANOTHER RESPIRATORY DISEASE  
4 REQUIRING RESCUE INHALER TREATMENT. 1. The board of education or trustees of each school district and board of cooperative educational  
5 services shall allow pupils who have been diagnosed by a physician or  
6 other duly authorized health care provider with a [severe] asthmatic  
7 condition OR ANOTHER RESPIRATORY DISEASE to carry and use a prescribed  
8 inhaler AND SELF-ADMINISTER INHALED RESCUE MEDICATIONS TO ALLEVIATE  
9 RESPIRATORY SYMPTOMS OR TO PREVENT THE ONSET OF EXERCISE INDUCED ASTHMATIC SYMPTOMS during the school day AND DURING ANY SCHOOL FUNCTION AS  
10 DEFINED BY SUBDIVISION TWO OF SECTION ELEVEN OF THIS CHAPTER, with the  
11 written permission of a physician or other duly authorized health care  
12 provider, and WRITTEN parental consent[, based on such physician's or  
13 provider's determination that such pupil is subject to sudden asthmatic  
14 attacks severe enough to debilitate such pupil]. THE WRITTEN PERMISSION  
15 SHALL INCLUDE AN ATTESTATION BY THE PHYSICIAN OR THE HEALTH CARE PROVIDER CONFIRMING THE FOLLOWING: (A) THE PUPIL IS DIAGNOSED WITH ASTHMA OR  
16 ANOTHER RESPIRATORY DISEASE FOR WHICH INHALED RESCUE MEDICATIONS ARE  
17 PRESCRIBED TO ALLEVIATE RESPIRATORY SYMPTOMS OR TO PREVENT THE ONSET OF  
18 EXERCISE INDUCED ASTHMATIC SYMPTOMS; AND (B) THAT THE PUPIL HAS DEMONSTRATED THAT HE OR SHE CAN SELF-ADMINISTER THE PRESCRIBED INHALED RESCUE  
19 MEDICATION EFFECTIVELY. THE WRITTEN PERMISSION SHALL ALSO INCLUDE THE  
20 NAME OF THE PRESCRIBED INHALED RESCUE MEDICATION, THE DOSE, THE TIMES

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

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1 WHEN THE MEDICATION IS TO BE TAKEN, THE CIRCUMSTANCES WHICH MAY WARRANT  
2 THE USE OF THE MEDICATION AND THE LENGTH OF TIME FOR WHICH THE INHALER  
3 IS PRESCRIBED. A record of such CONSENT AND permission shall be main-  
4 tained in the [school office] STUDENT'S CUMULATIVE HEALTH RECORD. In  
5 addition, upon the written request of a parent or person in parental  
6 relation, the board of education or trustees of a school district and  
7 board of cooperative educational services shall allow such pupils to  
8 maintain an extra such inhaler in the care and custody of a registered  
9 professional nurse employed by such district or board of cooperative  
10 educational services. Nothing in this section shall require a school  
11 district or board of cooperative educational services to retain a  
12 [school nurse solely for the purpose of taking custody of a spare inhal-  
13 er, or require that a school nurse be available at all times in a school  
14 building for such purpose] LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN  
15 ASSISTANT, OR PHYSICIAN SOLELY FOR THE PURPOSE OF TAKING CUSTODY OF A  
16 SPARE INHALER FOR THE TREATMENT OF ASTHMA OR A RESPIRATORY DISEASE  
17 REQUIRING RESCUE MEDICATION TREATMENT, OR REQUIRE THAT A LICENSED NURSE,  
18 NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN BE AVAILABLE AT  
19 ALL TIMES IN A SCHOOL BUILDING FOR THE PURPOSE OF TAKING CUSTODY OF THE  
20 INHALER. IN ADDITION, THE MEDICATION PROVIDED BY THE PUPIL'S PARENTS OR  
21 PERSONS IN PARENTAL RELATION SHALL BE MADE AVAILABLE TO THE PUPIL AS  
22 NEEDED IN ACCORDANCE WITH THE SCHOOL DISTRICT'S OR BOARD OF COOPERATIVE  
23 EDUCATIONAL SERVICES' POLICY AND THE ORDERS PRESCRIBED IN THE WRITTEN  
24 PERMISSION OF THE PHYSICIAN OR OTHER AUTHORIZED HEALTH CARE PROVIDER.

25 2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR  
26 THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS  
27 A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON  
28 CAUSED BY COMPLIANCE WITH THIS SECTION ABSENT GROSS NEGLIGENCE.

29 S 2. The education law is amended by adding five new sections 916-a,  
30 916-b, 902-a, 902-b and 921 to read as follows:

31 S 916-A. PUPILS AFFLICTED WITH ALLERGIES. 1. THE BOARD OF EDUCATION OR  
32 TRUSTEES OF EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL  
33 SERVICES SHALL ALLOW PUPILS WHO HAVE BEEN DIAGNOSED BY A PHYSICIAN OR  
34 OTHER DULY AUTHORIZED HEALTH CARE PROVIDER WITH AN ALLERGY TO CARRY AND  
35 USE A PRESCRIBED EPINEPHRINE AUTO INJECTOR FOR THE EMERGENCY TREATMENT  
36 OF ALLERGIC REACTIONS DURING THE SCHOOL DAY AND DURING ANY SCHOOL FUNC-  
37 TION AS DEFINED BY SUBDIVISION TWO OF SECTION ELEVEN OF THIS CHAPTER,  
38 WITH THE WRITTEN PERMISSION OF A PHYSICIAN OR OTHER DULY AUTHORIZED  
39 HEALTH PROVIDER, AND WRITTEN PARENTAL CONSENT. THE WRITTEN PERMISSION  
40 SHALL INCLUDE AN ATTESTATION BY THE PHYSICIAN OR THE HEALTH CARE PROVID-  
41 ER CONFIRMING THE FOLLOWING: (A) THE PUPIL'S DIAGNOSIS OF AN ALLERGY FOR  
42 WHICH AN EPINEPHRINE AUTO INJECTOR IS NEEDED; AND (B) THAT THE PUPIL HAS  
43 DEMONSTRATED THAT HE OR SHE CAN SELF-ADMINISTER THE PRESCRIBED EPINEPH-  
44 RINE AUTO INJECTOR EFFECTIVELY. THE WRITTEN PERMISSION SHALL ALSO  
45 INCLUDE THE CIRCUMSTANCES WHICH MAY WARRANT THE USE OF THE EPINEPHRINE  
46 AUTO INJECTOR. A RECORD OF SUCH CONSENT AND PERMISSION SHALL BE MAIN-  
47 TAINED IN THE STUDENT'S CUMULATIVE HEALTH RECORD. IN ADDITION, UPON THE  
48 WRITTEN REQUEST OF A PARENT OR PERSON IN PARENTAL RELATION, THE BOARD OF  
49 EDUCATION OR TRUSTEES OF A SCHOOL DISTRICT AND BOARD OF COOPERATIVE  
50 EDUCATIONAL SERVICES SHALL ALLOW SUCH PUPILS TO MAINTAIN AN EXTRA  
51 EPINEPHRINE AUTO INJECTOR FOR THE EMERGENCY TREATMENT OF ALLERGIES IN  
52 THE CARE AND CUSTODY OF LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN  
53 ASSISTANT, OR PHYSICIAN EMPLOYED BY SUCH DISTRICT OR BOARD OF COOPER-  
54 ATIVE EDUCATIONAL SERVICES. NOTHING IN THIS SECTION SHALL REQUIRE A  
55 SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO RETAIN A  
56 LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN

1 SOLELY FOR THE PURPOSE OF TAKING CUSTODY OF A SPARE EPINEPHRINE AUTO  
2 INJECTOR FOR THE EMERGENCY TREATMENT OF ALLERGIC REACTIONS, OR REQUIRE  
3 THAT A LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR  
4 PHYSICIAN BE AVAILABLE AT ALL TIMES IN A SCHOOL BUILDING FOR TAKING  
5 CUSTODY OF THE EPINEPHRINE AUTO INJECTOR. IN ADDITION, THE EPINEPHRINE  
6 AUTO INJECTOR PROVIDED BY THE PUPIL'S PARENTS OR PERSONS IN PARENTAL  
7 RELATION WILL BE MADE AVAILABLE TO THE PUPIL AS NEEDED IN ACCORDANCE  
8 WITH THE SCHOOL DISTRICT'S OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES'  
9 POLICY AND THE ORDERS PRESCRIBED IN THE WRITTEN PERMISSION OF THE PHYSI-  
10 CIAN OR OTHER AUTHORIZED HEALTH CARE PROVIDER.

11 2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR  
12 THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS  
13 A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON  
14 CAUSED BY COMPLIANCE WITH THIS SECTION ABSENT GROSS NEGLIGENCE.

15 S 916-B. PUPILS AFFLICTED WITH DIABETES. 1. THE BOARD OF EDUCATION OR  
16 TRUSTEES OF EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL  
17 SERVICES SHALL ALLOW PUPILS WHO HAVE BEEN DIAGNOSED WITH DIABETES TO  
18 CARRY AND USE INSULIN AND GLUCAGON THROUGH APPROPRIATE MEDICATION DELIV-  
19 ERY DEVICES AND EQUIPMENT AND/OR TO CARRY AND USE EQUIPMENT AND SUPPLIES  
20 NECESSARY TO CHECK BLOOD GLUCOSE LEVELS AND KETONE LEVELS, AS PRESCRIBED  
21 BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTHCARE PROVIDER, DURING THE  
22 SCHOOL DAY AND DURING ANY SCHOOL FUNCTION AS DEFINED BY SUBDIVISION TWO  
23 OF SECTION ELEVEN OF THIS CHAPTER, WITH PARENTAL CONSENT AND THE WRITTEN  
24 PERMISSION OF A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER.  
25 THE WRITTEN PERMISSION SHALL INCLUDE AN ATTESTATION BY THE PHYSICIAN OR  
26 THE HEALTH CARE PROVIDER CONFIRMING THE FOLLOWING: (A) THE PUPIL'S DIAG-  
27 NOSIS OF DIABETES MAKES THE DELIVERY OF INSULIN AND GLUCAGON THROUGH  
28 APPROPRIATE MEDICATION DELIVERY DEVICES DURING THE SCHOOL DAY OR AT A  
29 SCHOOL FUNCTION NECESSARY AND/OR MAKES THE USE OF EQUIPMENT AND SUPPLIES  
30 TO CHECK BLOOD GLUCOSE LEVELS AND KETONE LEVELS NECESSARY; AND (B) THAT  
31 THE PUPIL HAS DEMONSTRATED THAT HE OR SHE CAN SELF-ADMINISTER THE  
32 PRESCRIBED INSULIN AND GLUCAGON EFFECTIVELY AND CAN SELF CHECK GLUCOSE  
33 OR KETONE LEVELS AND CAN INDEPENDENTLY FOLLOW THE TREATMENT ORDERS  
34 PRESCRIBED BY THE PHYSICIAN OR OTHER AUTHORIZED HEALTH CARE PROVIDER IN  
35 THE WRITTEN PERMISSION. THE WRITTEN PERMISSION SHALL IDENTIFY PRESCRIBED  
36 BLOOD GLUCOSE TESTS, KETONE TESTS, INSULIN AND GLUCAGON TO BE USED BY  
37 THE PUPIL AT SCHOOL AND/ OR DURING SCHOOL FUNCTIONS. IF INSULIN IS  
38 PRESCRIBED, THE WRITTEN PERMISSION SHALL INCLUDE THE NAME OF THE TYPE OF  
39 INSULIN, THE DOSE OR DOSE RANGE, THE TIMES WHEN THE MEDICATION IS TO BE  
40 TAKEN, THE TYPE OF INSULIN DELIVERY SYSTEM AND ANY OTHER INFORMATION  
41 PRESCRIBED BY THE COMMISSIONER IN REGULATION, AFTER CONSULTATION WITH  
42 THE COMMISSIONER OF HEALTH. A RECORD OF SUCH CONSENT AND PERMISSION  
43 SHALL BE MAINTAINED IN THE STUDENT'S CUMULATIVE HEALTH RECORD. IN ADDI-  
44 TION, UPON THE WRITTEN REQUEST OF A PARENT OR PERSON IN PARENTAL  
45 RELATION, THE BOARD OF EDUCATION OR TRUSTEES OF A SCHOOL DISTRICT AND  
46 BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL ALLOW SUCH PUPILS TO  
47 MAINTAIN EXTRA INSULIN AND AN INSULIN DELIVERY SYSTEM, BLOOD GLUCOSE  
48 METERS AND RELATED SUPPLIES USED TO TREAT SUCH PUPIL'S DIABETES IN THE  
49 CARE AND CUSTODY OF A LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN  
50 ASSISTANT, OR PHYSICIAN EMPLOYED BY SUCH DISTRICT OR BOARD OF COOPER-  
51 ATIVE EDUCATIONAL SERVICES. NOTHING IN THIS SECTION SHALL REQUIRE A  
52 SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO RETAIN A  
53 LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN  
54 SOLELY FOR THE PURPOSE OF TAKING CUSTODY OF EXTRA INSULIN AND AN INSULIN  
55 DELIVERY SYSTEM, BLOOD GLUCOSE METERS AND RELATED SUPPLIES USED TO TREAT  
56 SUCH PUPIL'S DIABETES, OR REQUIRE THAT A LICENSED NURSE, NURSE PRACTI-

1 TIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN BE AVAILABLE AT ALL TIMES IN A  
2 SCHOOL BUILDING FOR THE PURPOSE OF TAKING CUSTODY OF EXTRA INSULIN AND  
3 AN INSULIN DELIVERY SYSTEM, AND BLOOD GLUCOSE METERS AND RELATED  
4 SUPPLIES. IN ADDITION, THE MEDICATION AND DEVICES, EQUIPMENT AND  
5 SUPPLIES PROVIDED BY THE PUPIL'S PARENTS OR PERSONS IN PARENTAL RELATION  
6 SHALL BE MADE AVAILABLE TO THE PUPIL AS NEEDED IN ACCORDANCE WITH THE  
7 SCHOOL DISTRICT'S OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES' POLICY  
8 AND THE ORDERS PRESCRIBED IN THE WRITTEN PERMISSION OF THE PHYSICIAN OR  
9 OTHER AUTHORIZED HEALTH CARE PROVIDER.

10 2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR  
11 THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS  
12 A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON  
13 CAUSED BY COMPLIANCE WITH THIS SECTION ABSENT GROSS NEGLIGENCE.

14 S 902-A. TREATMENT OF STUDENTS DIAGNOSED WITH DIABETES BY SCHOOL  
15 PERSONNEL. 1. LICENSED NURSES, NURSE PRACTITIONERS, PHYSICIAN ASSIST-  
16 ANTS, OR PHYSICIANS EMPLOYED BY SCHOOL DISTRICTS OR BOARDS OF COOPER-  
17 ATIVE EDUCATIONAL SERVICES ARE AUTHORIZED TO CALCULATE PRESCRIBED INSU-  
18 LIN DOSAGES, ADMINISTER PRESCRIBED INSULIN, PROGRAM THE PRESCRIBED  
19 INSULIN PUMP, REFILL THE RESERVOIR IN THE INSULIN PUMP, CHANGE THE  
20 INFUSION SITE, INJECT PRESCRIBED GLUCAGON AND PERFORM OTHER AUTHORIZED  
21 SERVICES PURSUANT TO THE SCOPE OF PRACTICE OF THE LICENSED INDIVIDUAL  
22 UNDER TITLE VIII OF THIS CHAPTER, TO PUPILS WHO HAVE RECEIVED WRITTEN  
23 PERMISSION BY A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER, AND  
24 WRITTEN PARENTAL CONSENT TO CARRY AND USE INSULIN AND GLUCAGON PURSUANT  
25 TO SECTION NINE HUNDRED SIXTEEN-B OF THIS ARTICLE, DURING THE SCHOOL DAY  
26 AND DURING ANY SCHOOL FUNCTION AS DEFINED BY SUBDIVISION TWO OF SECTION  
27 ELEVEN OF THIS CHAPTER. NOTHING IN THIS SECTION SHALL AUTHORIZE UNLI-  
28 CENSED PERSONS TO PERFORM THESE SERVICES.

29 2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR  
30 THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS  
31 A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON  
32 CAUSED BY COMPLIANCE WITH THIS SECTION ABSENT GROSS NEGLIGENCE.

33 S 902-B. TREATMENT BY LICENSED SCHOOL PERSONNEL OF STUDENTS DIAGNOSED  
34 WITH ALLERGIES. 1. LICENSED NURSES, NURSE PRACTITIONERS, PHYSICIAN  
35 ASSISTANTS, OR PHYSICIANS EMPLOYED BY SCHOOLS ARE AUTHORIZED TO ADMINIS-  
36 TER PRESCRIBED EPINEPHRINE PURSUANT TO THE SCOPE OF PRACTICE OF THE  
37 LICENSED INDIVIDUAL UNDER TITLE VIII OF THIS CHAPTER, TO PUPILS DIAG-  
38 NOSED BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER WITH  
39 AN ALLERGY WHO HAVE THE WRITTEN PERMISSION OF A PHYSICIAN OR OTHER DULY  
40 AUTHORIZED HEALTH CARE PROVIDER FOR THE ADMINISTRATION OF EMERGENCY  
41 EPINEPHRINE AND WRITTEN PARENTAL CONSENT TO CARRY AND USE AN EPINEPHRINE  
42 AUTO INJECTOR PURSUANT TO SECTION NINE HUNDRED SIXTEEN-A OF THIS ARTI-  
43 CLE, DURING THE SCHOOL DAY AND DURING ANY SCHOOL FUNCTION AS DEFINED BY  
44 SUBDIVISION TWO OF SECTION ELEVEN OF THIS CHAPTER. NOTHING IN THIS  
45 SECTION SHALL AUTHORIZE UNLICENSED PERSONS TO PERFORM THESE SERVICES.

46 2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR  
47 THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS  
48 A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON  
49 CAUSED BY COMPLIANCE WITH THIS SECTION ABSENT GROSS NEGLIGENCE.

50 S 921. TRAINING OF UNLICENSED SCHOOL PERSONNEL TO ADMINISTER CERTAIN  
51 MEDICATIONS. 1. SCHOOL BOARDS ARE AUTHORIZED, BUT NOT OBLIGATED TO HAVE  
52 LICENSED REGISTERED PROFESSIONAL NURSES, NURSE PRACTITIONERS, PHYSICIAN  
53 ASSISTANTS, AND PHYSICIANS TRAIN UNLICENSED SCHOOL PERSONNEL TO INJECT  
54 PRESCRIBED GLUCAGON OR EPINEPHRINE AUTO INJECTORS IN EMERGENCY SITU-  
55 ATIONS, WHERE AN APPROPRIATELY LICENSED HEALTH PROFESSIONAL IS NOT  
56 AVAILABLE, TO PUPILS WHO HAVE THE WRITTEN PERMISSION OF A PHYSICIAN OR

1 OTHER DULY AUTHORIZED HEALTH CARE PROVIDER FOR THE ADMINISTRATION OF  
2 INJECTABLE GLUCAGON OR EMERGENCY EPINEPHRINE AUTO INJECTOR, ALONG WITH  
3 WRITTEN PARENTAL CONSENT, DURING THE SCHOOL DAY AND DURING ANY SCHOOL  
4 FUNCTION AS DEFINED BY SUBDIVISION TWO OF SECTION ELEVEN OF THIS CHAP-  
5 TER. TRAINING MUST BE PROVIDED BY A PHYSICIAN OR OTHER DULY AUTHORIZED  
6 LICENSED HEALTH CARE PROFESSIONAL IN A COMPETENT MANNER AND MUST BE  
7 COMPLETED IN A FORM AND MANNER PRESCRIBED BY THE COMMISSIONER IN REGU-  
8 LATION.

9 2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR  
10 THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS  
11 A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON  
12 CAUSED BY COMPLIANCE WITH THIS SECTION ABSENT GROSS NEGLIGENCE.

13 S 3. This act shall take effect the first of July next succeeding the  
14 date on which it shall have become a law.