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

2335

2015-2016 Regular Sessions

I N S E N A T E

January 22, 2015

Introduced by Sen. DILAN -- 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 requiring comprehensive training for school bus drivers and school bus attendants for safe and appropriate transportation of children with disabilities; and to amend the family court act and the education law, in relation to school district contracts for transportation

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

Section 1. Subdivision 2 of section 3650 of the education law, as amended by section 5 of part E of chapter 501 of the laws of 2012, is amended to read as follows:

2. (A) The commissioner, in consultation with the justice center for the protection of people with special needs, shall promulgate rules and regulations requiring every school bus driver operating a school bus which has or will have one or more students with a disability as passengers to receive COMPREHENSIVE training and instruction relating to the understanding of, and attention to, the special needs of such students. [Such training and instruction may be included with the training and instruction required pursuant to paragraph a of subdivision one of this section and shall be provided at least once per year or more frequently as determined by the commissioner in consultation with the state comprehensive school bus driver safety training council.] TRAINING WILL PROVIDE SCHOOL BUS DRIVERS AND SCHOOL BUS ATTENDANTS WITH THE KNOWLEDGE, SKILLS, AND ATTITUDES NECESSARY TO SAFELY AND APPROPRIATELY TRANSPORT AND SUPERVISE A CHILD WITH A DISABILITY AS DEFINED BY THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT. THIS TRAINING WILL INCLUDE, AT A MINIMUM, AN INTRODUCTION TO THE CHARACTERISTICS AND NEEDS OF CHILDREN AND YOUTH WITH DISABILITIES INCLUDING DISABILITIES AFFECTING INTELLECTUAL, COMMUNICATION, SOCIAL/EMOTIONAL, SENSORY PROCESSING ABILITIES, MOTOR

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

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SKILLS, AND MEDICAL/HEALTH NEEDS. IN ADDITION, TRAINING DEVELOPED BY INDEPENDENT DISABILITY SPECIALISTS WILL INCLUDE MODULES ON DISABILITY AWARENESS AND SENSITIVITY, EFFECTIVE STRATEGIES TO PROMOTE POSITIVE BEHAVIOR, AND COMMUNICATION WITH PARENTS. For the purposes of this subdivision, the term "student with a disability" shall have the same meaning as such term is defined in subdivision one of section forty-four hundred one of this chapter. [Any person employed as a school bus driver on January first, two thousand nine who is subject to the provisions of this subdivision shall comply with the requirements of this subdivision by July first, two thousand nine. Any school bus driver hired after January first, two thousand nine who is subject to the requirements of this subdivision shall complete such training and instruction prior to assuming his or her duties.] THE TRAINING AND INSTRUCTION REQUIRED BY THIS SUBDIVISION MAY BE INCLUDED WITH THE TRAINING AND INSTRUCTION REQUIRED PURSUANT TO PARAGRAPH A OF SUBDIVISION ONE OF THIS SECTION AND THIS SUBDIVISION AND SHALL BE PROVIDED AT LEAST ONCE PER YEAR OR MORE FREQUENTLY AS DETERMINED BY THE COMMISSIONER IN CONSULTATION WITH THE STATE COMPREHENSIVE SCHOOL BUS DRIVER SAFETY TRAINING COUNCIL.

(B) ANY PERSON EMPLOYED AS A SCHOOL BUS DRIVER OR SCHOOL BUS ATTENDANT SHALL RECEIVE NOT LESS THAN TEN HOURS OF TRAINING TO EQUIP THEM TO SAFELY AND APPROPRIATELY TRANSPORT AND SUPERVISE CHILDREN WITH DISABILITIES. INCLUDED IN THIS TEN HOURS WILL BE NOT FEWER THAN TWO HOURS OF TRAINING IN POSITIVE BEHAVIOR SUPPORT, INCLUDING PREVENTION OF BULLYING. ANNUALLY, SUCH PERSONNEL WILL RECEIVE FOUR HOURS OF INSERVICE TRAINING WHICH WILL INCLUDE AT LEAST ONE HOUR ON POSITIVE BEHAVIORAL INTERVENTIONS SUPPORT.

S 2. Section 3650 of the education law is amended by adding a new subdivision 3 to read as follows:

3. ANY PERSON, FIRM OR CORPORATION WHO EMPLOYS A SCHOOL BUS DRIVER, WHO FAILS TO COMPLETE THE TRAINING REQUIREMENTS SET FORTH IN THIS SECTION SHALL BE SUBJECT TO A FINE OF FIVE THOUSAND DOLLARS FOR A FIRST VIOLATION AND TEN THOUSAND DOLLARS FOR A SECOND VIOLATION. A THIRD VIOLATION OF FAILING TO COMPLETE THE TRAINING REQUIREMENTS OF THIS SECTION SHALL BE DEEMED A MATERIAL BREACH OF ANY CONTRACT FOR TRANSPORTATION SERVICES AND SUCH CONTRACT SHALL BE DEEMED NULL AND VOID. A SCHOOL DISTRICT MAY NOT ENTER INTO A CONTRACT, OR EXTEND AN EXISTING CONTRACT, FOR TRANSPORTATION SERVICES UNTIL THE TRAINING REQUIREMENTS OF THIS SECTION HAVE BEEN MET.

S 3. Subdivision 4 of section 1229-d of the vehicle and traffic law, as amended by section 6 of part E of chapter 501 of the laws of 2012, is amended to read as follows:

(4) (A) The commissioner of education, in consultation with the justice center for the protection of people with special needs, shall promulgate rules and regulations requiring that every school bus attendant serving a student or students with a disability receive COMPREHENSIVE training and instruction relating to the understanding of and attention to the special needs of such students. [Such training and instruction may be included with the training and instruction required pursuant to subdivision three of this section and shall be provided at least once per year or more frequently as determined by the commissioner of education in consultation with the state comprehensive school bus driver safety training council.] TRAINING WILL PROVIDE SCHOOL BUS DRIVERS AND SCHOOL BUS ATTENDANTS WITH THE KNOWLEDGE, SKILLS, AND ATTITUDES NECESSARY TO SAFELY AND APPROPRIATELY TRANSPORT AND SUPERVISE A CHILD WITH A DISABILITY AS DEFINED BY THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT. THIS TRAINING WILL INCLUDE, AT A MINIMUM, AN INTRO-

DUCTION TO THE CHARACTERISTICS AND NEEDS OF CHILDREN AND YOUTH WITH DISABILITIES INCLUDING DISABILITIES AFFECTING INTELLECTUAL, COMMUNICATION, SOCIAL/EMOTIONAL, SENSORY PROCESSING ABILITIES, MOTOR SKILLS, AND MEDICAL/HEALTH NEEDS. IN ADDITION, TRAINING DEVELOPED BY INDEPENDENT DISABILITY SPECIALISTS WILL INCLUDE MODULES ON DISABILITY AWARENESS AND SENSITIVITY, EFFECTIVE STRATEGIES TO PROMOTE POSITIVE BEHAVIOR, AND COMMUNICATION WITH PARENTS. For the purposes of this subdivision, the term "student with a disability" shall have the same meaning as such term is defined in subdivision one of section forty-four hundred one of the education law. [Any person employed as a school bus attendant serving a student or students with a disability on January first, two thousand nine shall comply with the requirements of this subdivision by July first, two thousand nine. Any person hired after January first, two thousand nine shall complete such training, instruction and testing prior to assuming his or her duties as a school bus attendant serving a student or students with a disability.] THE TRAINING AND INSTRUCTION REQUIRED BY THIS SUBDIVISION MAY BE INCLUDED WITH THE TRAINING AND INSTRUCTION REQUIRED PURSUANT TO SUBDIVISION THREE OF THIS SECTION AND SHALL BE PROVIDED AT LEAST ONCE PER YEAR OR MORE FREQUENTLY AS DETERMINED BY THE COMMISSIONER IN CONSULTATION WITH THE STATE COMPREHENSIVE SCHOOL BUS DRIVER SAFETY TRAINING COUNCIL.

(B) ANY PERSON EMPLOYED AS A SCHOOL BUS DRIVER OR SCHOOL BUS ATTENDANT SHALL RECEIVE NOT LESS THAN TEN HOURS OF TRAINING TO EQUIP THEM TO SAFELY AND APPROPRIATELY TRANSPORT AND SUPERVISE CHILDREN WITH DISABILITIES. INCLUDED IN THIS TEN HOURS WILL BE NOT FEWER THAN TWO HOURS OF TRAINING IN POSITIVE BEHAVIOR SUPPORT, INCLUDING PREVENTION OF BULLYING. ANNUALLY, SUCH PERSONNEL WILL RECEIVE FOUR HOURS OF INSERVICE TRAINING WHICH WILL INCLUDE AT LEAST ONE HOUR ON POSITIVE BEHAVIORAL INTERVENTIONS SUPPORT.

S 4. Section 1229-d of the vehicle and traffic law is amended by adding a new subdivision 5 to read as follows:

(5) ANY PERSON, FIRM OR CORPORATION WHO EMPLOYS A SCHOOL BUS ATTENDANT, WHO FAILS TO COMPLETE THE TRAINING REQUIREMENTS SET FORTH IN THIS SECTION SHALL BE SUBJECT TO A FINE OF FIVE THOUSAND DOLLARS FOR A FIRST VIOLATION AND TEN THOUSAND DOLLARS FOR A SECOND VIOLATION. A THIRD VIOLATION OF FAILING TO COMPLETE THE TRAINING REQUIREMENTS OF THIS SECTION SHALL BE DEEMED A MATERIAL BREACH OF ANY CONTRACT FOR TRANSPORTATION SERVICES AND SUCH CONTRACT SHALL BE DEEMED NULL AND VOID. A SCHOOL DISTRICT MAY NOT ENTER INTO A CONTRACT, OR EXTEND AN EXISTING CONTRACT, FOR TRANSPORTATION SERVICES UNTIL THE TRAINING REQUIREMENTS OF THIS SECTION HAVE BEEN MET.

S 5. Section 3635 of the education law is amended by adding a new subdivision 9 to read as follows:

9. ANY STUDENT WITH A DISABILITY WHO REQUIRES AN INDEPENDENT EDUCATION PROGRAM WHICH REQUIRES SPECIALIZED TRANSPORTATION SHALL BE SEPARATELY TRANSPORTED.

S 6. Paragraph (b) of subdivision 3 of section 236 of the family court act, as amended by chapter 424 of the laws of 2012, is amended to read as follows:

(b) Such order shall further require that such transportation shall be provided within thirty days of the issuance of such order, and, shall be provided as part of a municipal cooperation agreement, as part of a contract awarded to the lowest responsible bidder in accordance with the provisions of section one hundred three of the general municipal law, or as part of a contract awarded pursuant to an evaluation of proposals to the extent authorized by paragraphs e and f of subdivision fourteen of

section three hundred five of the education law and otherwise consistent with the provisions of this subdivision, and that buses and vehicles utilized in the performance of such contract shall meet the minimum requirements for school age children as established by the commissioner of transportation. WHEN, IN THE CITY OF NEW YORK, THE BOARD OF EDUCATION OR THE CITY SCHOOL DISTRICT AWARDS A CONTRACT OR CONTRACTS FOR TRANSPORTATION, THE BOARD OR CITY SCHOOL DISTRICT SHALL INCLUDE EMPLOYEE PROTECTION PROVISIONS RATIONALLY RELATING TO THE PROMOTION OF A POOL OF QUALIFIED WORKERS AND THE AVOIDANCE OF LABOR DISPUTES, INCLUDING BUT NOT LIMITED TO PROVISIONS FOR THE PREFERENCE IN HIRING OF EMPLOYEES PERFORMING WORK FOR EMPLOYERS UNDER CONTRACTS WITH THE BOARD OF EDUCATION OR THE CITY SCHOOL DISTRICT, THE PRESERVATION OF WAGES, BENEFITS AND SENIORITY FOR SUCH EMPLOYEES, AND OTHER PROVISIONS RELATING TO THE HIRING, COMPENSATION, AND RETENTION OF EMPLOYEES.

S 7. Paragraph a of subdivision 14 of section 305 of the education law, as amended by chapter 273 of the laws of 1999, is amended to read as follows:

a. All contracts for the transportation of school children, all contracts to maintain school buses owned or leased by a school district that are used for the transportation of school children, all contracts for mobile instructional units, and all contracts to provide, maintain and operate cafeteria or restaurant service by a private food service management company shall be subject to the approval of the commissioner, who may disapprove a proposed contract if, in his opinion, the best interests of the district will be promoted thereby. Except as provided in paragraph e of this subdivision, all such contracts involving an annual expenditure in excess of the amount specified for purchase contracts in the bidding requirements of the general municipal law shall be awarded to the lowest responsible bidder, which responsibility shall be determined by the board of education or the trustee of a district, with power hereby vested in the commissioner to reject any or all bids if, in his opinion, the best interests of the district will be promoted thereby and, upon such rejection of all bids, the commissioner shall order the board of education or trustee of the district to seek, obtain and consider new proposals. PROVIDED, FURTHER, THAT ALL CONTRACTS FOR CITIES WITH A POPULATION OF ONE MILLION OR MORE SHALL INCLUDE EMPLOYEE PROTECTION PROVISIONS RATIONALLY RELATING TO THE PROMOTION OF A POOL OF QUALIFIED WORKERS AND THE AVOIDANCE OF LABOR DISPUTES, INCLUDING BUT NOT LIMITED TO PROVISIONS FOR THE PREFERENCE IN HIRING OF EMPLOYEES PERFORMING WORK FOR EMPLOYERS UNDER CONTRACTS WITH THE BOARD OF EDUCATION OR THE CITY SCHOOL DISTRICT, THE PRESERVATION OF WAGES, BENEFITS AND SENIORITY FOR SUCH EMPLOYEES, AND OTHER PROVISIONS RELATING TO THE HIRING, COMPENSATION, AND RETENTION OF EMPLOYEES. All proposals for such transportation, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers designated by the board of education or trustee of the district having general circulation within the district for such purpose. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to an award of a contract for

the transportation of pupils or a contract for mobile instructional units, if such award is based on an evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units secured either through competitive bidding or through evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision, when such extensions (1) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, (2) do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to his existing statutory authority to approve or disapprove transportation or maintenance contracts, (i) to reject any extension of a contract beyond the initial term thereof if he finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period; and (ii) to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in his opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section. The board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.

S 8. This act shall take effect immediately, provided, however, that any rules and regulations necessary for the implementation of this act shall be promulgated within ninety days.