

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:

1 Section 1. Subdivision 2 of section 3650 of the education law, as
2 amended by section 5 of part E of chapter 501 of the laws of 2012, is
3 amended to read as follows:
4 2. (A) The commissioner, in consultation with the justice center for
5 the protection of people with special needs, shall promulgate rules and
6 regulations requiring every school bus driver operating a school bus
7 which has or will have one or more students with a disability as passengers to receive COMPREHENSIVE training and instruction relating to the
8 understanding of, and attention to, the special needs of such students.
9 [Such training and instruction may be included with the training and
10 instruction required pursuant to paragraph a of subdivision one of this
11 section and shall be provided at least once per year or more frequently
12 as determined by the commissioner in consultation with the state comprehensive school bus driver safety training council.] TRAINING WILL
13 PROVIDE SCHOOL BUS DRIVERS AND SCHOOL BUS ATTENDANTS WITH THE KNOWLEDGE,
14 SKILLS, AND ATTITUDES NECESSARY TO SAFELY AND APPROPRIATELY TRANSPORT
15 AND SUPERVISE A CHILD WITH A DISABILITY AS DEFINED BY THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT. THIS TRAINING WILL INCLUDE, AT
16 A MINIMUM, AN INTRODUCTION TO THE CHARACTERISTICS AND NEEDS OF CHILDREN
17 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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1 SKILLS, AND MEDICAL/HEALTH NEEDS. IN ADDITION, TRAINING DEVELOPED BY
2 INDEPENDENT DISABILITY SPECIALISTS WILL INCLUDE MODULES ON DISABILITY
3 AWARENESS AND SENSITIVITY, EFFECTIVE STRATEGIES TO PROMOTE POSITIVE
4 BEHAVIOR, AND COMMUNICATION WITH PARENTS. For the purposes of this
5 subdivision, the term "student with a disability" shall have the same
6 meaning as such term is defined in subdivision one of section forty-four
7 hundred one of this chapter. [Any person employed as a school bus driver
8 on January first, two thousand nine who is subject to the provisions of
9 this subdivision shall comply with the requirements of this subdivision
10 by July first, two thousand nine. Any school bus driver hired after
11 January first, two thousand nine who is subject to the requirements of
12 this subdivision shall complete such training and instruction prior to
13 assuming his or her duties.] THE TRAINING AND INSTRUCTION REQUIRED BY
14 THIS SUBDIVISION MAY BE INCLUDED WITH THE TRAINING AND INSTRUCTION
15 REQUIRED PURSUANT TO PARAGRAPH A OF SUBDIVISION ONE OF THIS SECTION AND
16 THIS SUBDIVISION AND SHALL BE PROVIDED AT LEAST ONCE PER YEAR OR MORE
17 FREQUENTLY AS DETERMINED BY THE COMMISSIONER IN CONSULTATION WITH THE
18 STATE COMPREHENSIVE SCHOOL BUS DRIVER SAFETY TRAINING COUNCIL.

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

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

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

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

42 (4) (A) The commissioner of education, in consultation with the
43 justice center for the protection of people with special needs, shall
44 promulgate rules and regulations requiring that every school bus attend-
45 ant serving a student or students with a disability receive COMPREHEN-
46 SIVE training and instruction relating to the understanding of and
47 attention to the special needs of such students. [Such training and
48 instruction may be included with the training and instruction required
49 pursuant to subdivision three of this section and shall be provided at
50 least once per year or more frequently as determined by the commissioner
51 of education in consultation with the state comprehensive school bus
52 driver safety training council.] TRAINING WILL PROVIDE SCHOOL BUS DRIV-
53 ERS AND SCHOOL BUS ATTENDANTS WITH THE KNOWLEDGE, SKILLS, AND ATTITUDES
54 NECESSARY TO SAFELY AND APPROPRIATELY TRANSPORT AND SUPERVISE A CHILD
55 WITH A DISABILITY AS DEFINED BY THE FEDERAL INDIVIDUALS WITH DISABILI-
56 TIES EDUCATION ACT. THIS TRAINING WILL INCLUDE, AT A MINIMUM, AN INTRO-

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

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

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

32 (5) ANY PERSON, FIRM OR CORPORATION WHO EMPLOYS A SCHOOL BUS ATTEND-
33 ANT, WHO FAILS TO COMPLETE THE TRAINING REQUIREMENTS SET FORTH IN THIS
34 SECTION SHALL BE SUBJECT TO A FINE OF FIVE THOUSAND DOLLARS FOR A FIRST
35 VIOLATION AND TEN THOUSAND DOLLARS FOR A SECOND VIOLATION. A THIRD
36 VIOLATION OF FAILING TO COMPLETE THE TRAINING REQUIREMENTS OF THIS
37 SECTION SHALL BE DEEMED A MATERIAL BREACH OF ANY CONTRACT FOR TRANSPOR-
38 TATION SERVICES AND SUCH CONTRACT SHALL BE DEEMED NULL AND VOID. A
39 SCHOOL DISTRICT MAY NOT ENTER INTO A CONTRACT, OR EXTEND AN EXISTING
40 CONTRACT, FOR TRANSPORTATION SERVICES UNTIL THE TRAINING REQUIREMENTS OF
41 THIS SECTION HAVE BEEN MET.

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

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

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

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

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

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

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

1 the transportation of pupils or a contract for mobile instructional
2 units, if such award is based on an evaluation of proposals in response
3 to a request for proposals pursuant to paragraph e of this subdivision.
4 The requirement for competitive bidding shall not apply to annual, bien-
5 nial, or triennial extensions of a contract nor shall the requirement
6 for competitive bidding apply to quadrennial or quinquennial year exten-
7 sions of a contract involving transportation of pupils, maintenance of
8 school buses or mobile instructional units secured either through
9 competitive bidding or through evaluation of proposals in response to a
10 request for proposals pursuant to paragraph e of this subdivision, when
11 such extensions (1) are made by the board of education or the trustee of
12 a district, under rules and regulations prescribed by the commissioner,
13 and, (2) do not extend the original contract period beyond five years
14 from the date cafeteria and restaurant service commenced thereunder and
15 in the case of contracts for the transportation of pupils, for the main-
16 tenance of school buses or for mobile instructional units, that such
17 contracts may be extended, except that power is hereby vested in the
18 commissioner, in addition to his existing statutory authority to approve
19 or disapprove transportation or maintenance contracts, (i) to reject any
20 extension of a contract beyond the initial term thereof if he finds that
21 amount to be paid by the district to the contractor in any year of such
22 proposed extension fails to reflect any decrease in the regional consum-
23 er price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon
24 the index for all urban consumers (CPI-U) during the preceding twelve
25 month period; and (ii) to reject any extension of a contract after ten
26 years from the date transportation or maintenance service commenced
27 thereunder, or mobile instructional units were first provided, if in his
28 opinion, the best interests of the district will be promoted thereby.
29 Upon such rejection of any proposed extension, the commissioner may
30 order the board of education or trustee of the district to seek, obtain
31 and consider bids pursuant to the provisions of this section. The board
32 of education or the trustee of a school district electing to extend a
33 contract as provided herein, may, in its discretion, increase the amount
34 to be paid in each year of the contract extension by an amount not to
35 exceed the regional consumer price index increase for the N.Y.,
36 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
37 ers (CPI-U), during the preceding twelve month period, provided it has
38 been satisfactorily established by the contractor that there has been at
39 least an equivalent increase in the amount of his cost of operation,
40 during the period of the contract.

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