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I N   S E N A T E

March 31, 2016

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

AN ACT to amend the education law, in relation to requiring school districts to establish a medical hardship waiver policy to grant or deny permission to certain students to use established pick-up and drop-off points on established bus routes

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

1     Section 1. Subdivision 1 of section 3635 of the education law is  
2     amended by adding a new paragraph h to read as follows:  
3     H. (I) THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT AND  
4     THE CITY SCHOOL DISTRICT OF NEW YORK SHALL DEVELOP A MEDICAL HARDSHIP  
5     WAIVER POLICY TO GRANT OR DENY PERMISSION TO CHILDREN ATTENDING GRADES  
6     KINDERGARTEN THROUGH EIGHT WHO LIVE WITHIN TWO MILES FROM THE SCHOOL  
7     WHICH THEY LEGALLY ATTEND AND FOR CHILDREN ATTENDING GRADES NINE THROUGH  
8     TWELVE WHO LIVE WITHIN THREE MILES FROM THE SCHOOL WHICH THEY LEGALLY  
9     ATTEND TO USE ALREADY ESTABLISHED PICK-UP AND/OR DROP-OFF POINTS ON  
10    ALREADY ESTABLISHED BUS ROUTES.  
11    (II) THE MEDICAL HARDSHIP WAIVER POLICY ESTABLISHED PURSUANT TO  
12    SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE:  
13    (1) A FORMAL REQUEST PROCEDURE FOR A PARENT OR GUARDIAN TO REQUEST A  
14    MEDICAL HARDSHIP WAIVER BASED UPON A SERIOUS MEDICAL CONDITION SUFFERED  
15    BY THE CHILD, PARENT OR GUARDIAN AND THE RESULTING HARDSHIP IN TRANS-  
16    PORTING THE CHILD TO AND/OR FROM SCHOOL;  
17    (2) A REQUIREMENT FOR SUBMISSION OF MEDICAL DOCUMENTATION, CERTIFIED  
18    BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER, OF A DIAG-  
19    NOSIS OF A SERIOUS MEDICAL CONDITION WITH A DESCRIPTION OF THE LIMITA-  
20    TIONS RESULTING FROM SUCH DIAGNOSIS AND THE APPROXIMATE DURATION THAT  
21    SUCH LIMITATIONS WILL BE SUFFERED BY THE CHILD, PARENT OR GUARDIAN;  
22    (3) A REQUIREMENT FOR SUBMISSION OF DOCUMENTATION OF THE NATURE OF THE  
23    HARDSHIP INCLUDING THE INABILITY OF THE CHILD TO SAFELY TRAVEL TO AND/OR  
24    FROM SCHOOL WITHOUT THE REQUESTED MEDICAL HARDSHIP WAIVER OR OF THE  
25    INABILITY OF THE PARENT OR GUARDIAN TO SAFELY TRANSPORT THE CHILD TO

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

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1 AND/OR FROM SCHOOL DUE TO THE PARENT OR GUARDIAN SUFFERING A SERIOUS  
2 MEDICAL CONDITION;

3 (4) CONSIDERATION OF THE COST, IF ANY, THAT WOULD BE INCURRED BY A  
4 SCHOOL DISTRICT IN GRANTING THE MEDICAL HARDSHIP REQUEST FOR SUCH TRANS-  
5 PORTATION;

6 (5) A REQUIREMENT OF A WRITTEN ACCEPTANCE OR DENIAL OF THE MEDICAL  
7 HARDSHIP REQUEST UPON A VOTE OF THE SCHOOL BOARD AND THAT SUCH WRITTEN  
8 ACCEPTANCE OR DENIAL SHALL BE PROVIDED TO THE REQUESTING PARENT OR GUAR-  
9 DIAN WITHIN ONE HUNDRED EIGHTY DAYS OF THE SUBMISSION OF THE REQUEST;  
10 AND

11 (6) ANY OTHER PROVISIONS OR CONSIDERATIONS DEEMED APPROPRIATE BY THE  
12 SCHOOL DISTRICT.

13 (III) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO REQUIRE SCHOOL  
14 DISTRICTS TO CREATE NEW BUS STOPS OR ROUTES TO ACCOMMODATE SUCH REQUEST.

15 (IV) TRANSPORTATION FOR A LESSER DISTANCE THAN TWO MILES IN THE CASE  
16 OF CHILDREN ATTENDING GRADES KINDERGARTEN THROUGH EIGHT OR THREE MILES  
17 IN THE CASE OF CHILDREN ATTENDING GRADES NINE THROUGH TWELVE MAY BE  
18 PROVIDED THROUGH AN APPROVED MEDICAL HARDSHIP WAIVER PURSUANT TO THIS  
19 PARAGRAPH WITHOUT THE APPROVAL OF QUALIFIED VOTERS AND WITHOUT ANY  
20 REQUIREMENT TO OFFER SUCH TRANSPORTATION EQUALLY TO ALL CHILDREN IN LIKE  
21 CIRCUMSTANCES RESIDING IN THE DISTRICT.

22 S 2. Paragraph a of subdivision 1 of section 3635 of the education  
23 law, as amended by section 11 of part A of chapter 97 of the laws of  
24 2011, is amended to read as follows:

25 a. Sufficient transportation facilities (including the operation and  
26 maintenance of motor vehicles) shall be provided by the school district  
27 for all the children residing within the school district to and from the  
28 school they legally attend, who are in need of such transportation  
29 because of the remoteness of the school to the child or for the  
30 promotion of the best interest of such children. Such transportation  
31 shall be provided for all children attending grades kindergarten through  
32 eight who live more than two miles from the school which they legally  
33 attend OR WHO ARE GRANTED A WAIVER PURSUANT TO PARAGRAPH H OF THIS  
34 SUBDIVISION and for all children attending grades nine through twelve  
35 who live more than three miles from the school which they legally attend  
36 OR WHO ARE GRANTED A WAIVER PURSUANT TO PARAGRAPH H OF THIS SUBDIVISION  
37 and shall be provided for each such child up to a distance of fifteen  
38 miles, the distances in each case being measured by the nearest avail-  
39 able route from home to school. The cost of providing such transporta-  
40 tion between two or three miles OR PURSUANT TO SUCH A WAIVER, as the  
41 case may be, and fifteen miles shall be considered for the purposes of  
42 this chapter to be a charge upon the district and an ordinary contingent  
43 expense of the district. Transportation for a lesser distance than two  
44 miles in the case of children attending grades kindergarten through  
45 eight or three miles in the case of children attending grades nine  
46 through twelve and for a greater distance than fifteen miles may be  
47 provided by the district with the approval of the qualified voters, and,  
48 if provided, shall be offered equally to all children in like circum-  
49 stances residing in the district; provided, however, that this require-  
50 ment shall not apply to transportation offered pursuant to section thir-  
51 ty-six hundred thirty-five-b of this article OR PURSUANT TO PARAGRAPH H  
52 OF THIS SUBDIVISION.

53 S 3. Paragraph a of subdivision 1 of section 3635 of the education  
54 law, as amended by chapter 69 of the laws of 1992, is amended to read as  
55 follows:

1 a. Sufficient transportation facilities (including the operation and  
2 maintenance of motor vehicles) shall be provided by the school district  
3 for all the children residing within the school district to and from the  
4 school they legally attend, who are in need of such transportation  
5 because of the remoteness of the school to the child or for the  
6 promotion of the best interest of such children. Such transportation  
7 shall be provided for all children attending grades kindergarten through  
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17 case may be, and fifteen miles shall be considered for the purposes of  
18 this chapter to be a charge upon the district and an ordinary contingent  
19 expense of the district. Transportation for a lesser distance than two  
20 miles in the case of children attending grades kindergarten through  
21 eight or three miles in the case of children attending grades nine  
22 through twelve and for a greater distance than fifteen miles may be  
23 provided by the district, and, if provided, shall be offered equally to  
24 all children in like circumstances residing in the district; provided,  
25 however, that this requirement shall not apply to transportation offered  
26 pursuant to section thirty-six hundred thirty-five-b of this article OR  
27 PURSUANT TO PARAGRAPH H OF THIS SUBDIVISION.

28 S 4. This act shall take effect immediately; provided, however, that  
29 the amendments to paragraph a of subdivision 1 of section 3635 of the  
30 education law made by section two of this act shall be subject to the  
31 expiration and reversion of such paragraph pursuant to section 13 of  
32 part A of chapter 97 of the laws of 2011, as amended, when upon such  
33 date the provisions of section three of this act shall take effect.