

218--A

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sens. LAVALLE, LARKIN, MARCHIONE, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to institutional requirements regarding nonimmigrant students

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

1 Section 1. The education law is amended by adding a new section 207-b
2 to read as follows:
3 S 207-B. INSTITUTIONAL REQUIREMENTS REGARDING NONIMMIGRANT STUDENTS.
4 1. WHENEVER A DESIGNATED SCHOOL OFFICIAL BECOMES AWARE THAT A NONIMMI-
5 GRANT STUDENT WITH A (F-1), (F-2), (M-1) OR (M-2) VISA HAS FAILED TO
6 REGISTER FOR CLASSES AS SCHEDULED OR WHO HAS FAILED TO REPORT TO THE
7 DESIGNATED SCHOOL OFFICIAL AT THE TIME HE OR SHE IS EXPECTED TO COMMENCE
8 HIS OR HER PROGRAM OF STUDY, SUCH OFFICIAL SHALL SIMULTANEOUSLY REPORT
9 SUCH NONCOMPLIANCE PURSUANT TO THE REQUIREMENTS OF FEDERAL LAW AND TO
10 THE NEW YORK STATE POLICE. UPON ENCOUNTERING A PERSON WHO HAS BEEN
11 REPORTED TO IT PURSUANT TO THIS SECTION, THE NEW YORK STATE POLICE SHALL
12 IMMEDIATELY NOTIFY THE PROPER FEDERAL AUTHORITIES REGARDING SUCH
13 PERSON'S WHEREABOUTS. THE NEW YORK STATE POLICE SHALL NOT HOLD SUCH
14 PERSON UNLESS IT HAS REASONABLE SUSPICION THAT THE PERSON POSES A THREAT
15 TO THE SAFETY OF THE CITIZENS OF THE STATE. FOR THE PURPOSES OF THIS
16 SECTION, "DESIGNATED SCHOOL OFFICIAL" SHALL MEAN THOSE ADMINISTRATORS ON
17 AN INSTITUTION'S CAMPUS AS DEFINED UNDER TITLE 8 OF THE CODE OF FEDERAL
18 REGULATIONS (8 CFR): SUBCHAPTER B, IMMIGRATION REGULATIONS 8 CFR PART
19 214--NONIMMIGRANT CLASSES, PETITIONS FOR APPROVAL OF SCHOOLS.

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

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1 2. EVERY INSTITUTION LICENSED IN ACCORDANCE WITH ARTICLE ONE HUNDRED
2 ONE OF THIS CHAPTER OR AUTHORIZED BY THE LEGISLATURE OR BY THE REGENTS
3 OF THE STATE OF NEW YORK TO CONFER ACADEMIC DEGREES IN THIS STATE AND
4 THAT HAS BEEN APPROVED BY THE UNITED STATES TO ACCEPT FOREIGN STUDENTS
5 UNDER TITLE 8 OF THE FEDERAL REGULATIONS (8CFR 214) SHALL MAINTAIN AND
6 UPDATE, ON HARD COPY AND IN ELECTRONIC FORM, FOR EACH ACADEMIC TERM, FOR
7 ENROLLED NONIMMIGRANT STUDENTS, THE FOLLOWING INFORMATION:

8 A. THE NUMBER OF GRADUATE AND UNDERGRADUATE STUDENTS, BY COUNTRY OF
9 ORIGIN; AND

10 B. THE NUMBER OF STUDENTS ENROLLED BY DEGREE PROGRAM AND COUNTRY OF
11 ORIGIN.

12 3. ANY DATA COLLECTED PURSUANT TO SUBDIVISION TWO OF THIS SECTION
13 SHALL BE MAINTAINED IN AN ELECTRONIC FORM, IN A FORMAT ESTABLISHED BY
14 THE DEPARTMENT, AND SHALL BE SUBMITTED ANNUALLY TO THE DEPARTMENT WITHIN
15 NINETY DAYS OF THE END OF EACH ACADEMIC YEAR. SUCH INFORMATION SHALL
16 ONLY BE USED BY THE DEPARTMENT FOR THE PURPOSES SET FORTH IN SUBDIVISION
17 FOUR OF THIS SECTION. SUCH DATA SHALL NOT INCLUDE ANY INDIVIDUAL'S
18 NAME, ADDRESS OR OTHER INFORMATION THAT MAY IDENTIFY ANY INDIVIDUAL.
19 SUCH DATA SHALL ONLY BE QUANTITATIVE IN FORM AND FUNCTION.

20 4. THE DEPARTMENT SHALL PRODUCE A REPORT, THAT SHALL BE AVAILABLE UPON
21 REQUEST, THAT PROVIDES DATA REGARDING THE INFORMATION COLLECTED PURSUANT
22 TO SUBDIVISION TWO OF THIS SECTION.

23 5. IF THE COMMISSIONER DETERMINES, AFTER PROVIDING THE INSTITUTION
24 WITH NOTICE AND THE OPPORTUNITY FOR A HEARING, THAT AN INSTITUTION HAS
25 VIOLATED THE PROVISIONS OF THIS SECTION, THE COMMISSIONER SHALL BE
26 AUTHORIZED TO ISSUE AN ORDER DIRECTING THAT THE INSTITUTION TAKE CORREC-
27 TIVE ACTION AND/OR IMPOSING A FINE NOT TO EXCEED ONE THOUSAND DOLLARS
28 PER VIOLATION, OR, IN THE CASE OF A SECOND OR FURTHER VIOLATION WITHIN
29 THE PREVIOUS TWO YEARS OR ANY FAILURE TO COMPLY WITH AN ORDER FOR
30 CORRECTIVE ACTION, A FINE NOT TO EXCEED TWO THOUSAND DOLLARS PER
31 VIOLATION. SUCH HEARING SHALL BE CONDUCTED IN THE SAME MANNER AS A HEAR-
32 ING PURSUANT TO SUBDIVISIONS TWO AND THREE OF SECTION FIVE THOUSAND
33 THREE OF THIS CHAPTER. IN ASSESSING THE PENALTY, THE COMMISSIONER SHALL
34 GIVE DUE CONSIDERATION TO THE SIZE OF THE INSTITUTION, THE GOOD FAITH OF
35 THE INSTITUTION, THE GRAVITY OF THE VIOLATIONS, THE HISTORY OF PAST
36 VIOLATIONS, IF ANY, AND THE EXTENT TO WHICH THE INSTITUTION HAS TAKEN
37 REMEDIAL MEASURES TO PREVENT FUTURE VIOLATIONS. IN ADDITION, THE COMMIS-
38 SIONER SHALL REPORT A FINDING OF A SECOND INSTANCE OF NONCOMPLIANCE TO
39 THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY AND MAY RECOMMEND TO
40 SUCH DEPARTMENT THAT IT REVOKE SUCH INSTITUTION'S ELIGIBILITY TO RECEIVE
41 FOREIGN STUDENTS FOR A PERIOD OF ONE YEAR.

42 S 2. This act shall take effect on the first of August next succeeding
43 the date on which it shall have become a law.