STATE OF NEW YORK

11330

IN ASSEMBLY

September 19, 2018

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Abinanti) -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the education law, in relation to implementing combination lap safety and shoulder harness seat safety belts and requiring students use safety belts on school buses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 5 of section 383 of the vehicle and traffic law, as added by chapter 747 of the laws of 1986, is amended to read as follows:

5. (a) Passenger seat safety belts for school buses. Every school bus, as defined in section one hundred forty-two of this chapter, manufactured for use in this state on and after July first, [~~nineteen hundred eighty-seven~~] two thousand nineteen, shall be designed so that all passenger seats on such vehicle are equipped with combination lap safety and shoulder harness seat safety belts and increased seat back padding on passenger seats of a type and specification as approved by the commissioner of transportation through the adoption of rules and regulations. Such rules and regulations shall provide that when any contactable surface of the school bus, as specified in the Federal Motor Vehicle Safety Standard, 49 CFR Section 571.222, is impacted from any direction at twenty-two feet per second by the head form, the axial acceleration at the center of gravity of the head form shall be such that the head form impact requirement shall not exceed eight hundred.

(b) Passenger combination lap safety and shoulder harness seat safety belts for existing school buses. [~~Any~~] Every school bus, as defined in section one hundred forty-two of this chapter, which is scheduled for retrofitting pursuant to action by a board of education or board of trustees under section thirty-six hundred thirty-five-a of the education law not equipped with combination lap safety and shoulder harness seat safety belts shall be retrofitted so that all passenger seats on such vehicles are equipped with combination lap safety and shoulder harness seat safety belts and additional padding of a type and specification as

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

LBD16097-01-8

approved by the commissioner of transportation through the adoption of rules and regulations. Such rules and regulations shall provide that when any contactable surface of the school bus as specified in the Federal Motor Vehicle Safety Standard, 49CFR Section 571.222 is impacted from any direction at twenty-two feet per second by the head form, the axial acceleration at the center of gravity of the head form shall be such that the head form impact requirement shall not exceed eight hundred. Furthermore, the commissioner shall have the power through rules and regulations to exempt certain design school buses from retrofitting. In granting such exemptions, the commissioner shall consider safety factors, structural integrity of the school buses and any other items deemed necessary to preserve the safety and welfare of the school bus passengers. Provided further, however, that the commissioner of transportation shall not authorize retrofitting of any school bus manufactured prior to April first, [~~nineteen hundred seventy-seven~~] **two thousand nineteen**.

§ 2. Section 3635-a of the education law, as added by chapter 747 of the laws of 1986 and subdivision 1 as amended by chapter 474 of the laws of 1996, is amended to read as follows:

§ 3635-a. Safety belt usage. [~~1. A board of education or board of trustees may, in its discretion, following a public hearing for the purpose of determining whether a resolution shall be adopted, provide for the use of seat safety belts on such school buses, in accordance with regulations and standards established by the commissioner under subdivision one of section thirty-six hundred thirty-eight of this chapter.~~

~~2. Such public hearing, conducted upon reasonable notice, shall be held to consider: (a) whether the district shall install seat safety belts on buses purchased and/or contracted for prior to the effective date of this section and require their use; (b) when such installation shall be provided, and (c) whether use of seat safety belts shall be required on all school buses within the district so equipped after a date to be determined by the board of education or board of trustees.~~

~~3. Such hearings shall consider the effect of seat safety belts installation on the total number of students that can be transported on such buses.~~

~~4. Within twenty days after the public hearing, the board of education or board of trustees shall, by resolution, determine whether to require installation and use of seat safety belts on some or all school buses.~~]

1. All students shall use safety belts while being transported on school buses, in accordance with regulations and standards established by the commissioner; provided, however, alternative accommodations shall be made where a pupil with special needs is unable to utilize a safety belt.

[~~5.~~] **2.** This section shall apply only to vehicles owned or leased by school districts and nonpublic schools, and to vehicles used to perform contracts with such school districts and nonpublic schools for the purpose of transporting school children for hire.

[~~6.~~] **3.** Nothing in this section shall be construed to impose a duty upon boards of education or boards of trustees to provide seat safety belts on school buses purchased or contracted for prior to the effective date of this section, nor shall any board of education or board of trustees be held liable for failure to provide seat safety belts pursuant to this section. A school board member or trustee shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as a result of the provisions of this section provided that such

person shall have acted in good faith. For the purpose of any proceeding, civil or criminal, the good faith of any such person shall be presumed.

[~~7.~~] 4. The provisions of this section shall not apply to school districts which are using safety belts on school buses or have installed or have contracted for the installation of seat safety belts prior to the effective date of this section.

§ 3. Paragraph (a) of subdivision 4 of section 1229-c of the vehicle and traffic law, as amended by chapter 448 of the laws of 2015, is amended to read as follows:

(a) "motor vehicle" shall include all motor vehicles which are required by section three hundred eighty-three of this chapter or regulation or would be required if such motor vehicle were registered in New York state to be equipped [~~by a safety belt but shall not include~~] with safety belts, including those vehicles which are used as school buses, as such term is defined in section one hundred forty-two of this chapter [~~and~~]; provided, however, that the term "motor vehicle" shall not include those vehicles which are authorized emergency vehicles, as such term is defined in section one hundred one of this chapter, provided, however, that for purposes of this section, "motor vehicle" shall also include fire vehicles owned and/or operated by a fire company as defined by subdivision two of section one hundred of the general municipal law and ambulances owned and/or operated by a voluntary ambulance service as defined by subdivision three of section one hundred of the general municipal law;

§ 4. Subdivision 11 of section 1229-c of the vehicle and traffic law, as added by chapter 653 of the laws of 1989 and as renumbered by chapter 104 of the laws of 1991, is amended and a new subdivision 11-a is added to read as follows:

11. [~~Notwithstanding the provisions of subdivision four of this section, no~~] No person shall operate a school bus unless such person is reasonably sure that all passengers under the age of four are restrained in a specially designed detachable or removable seat as required by subdivision one of this section, or another restraining device approved by the commissioner.

11-a. No person shall operate a school bus equipped with seat safety belts pursuant to subdivision five of section three hundred eighty-three of this chapter or pursuant to section thirty-six hundred thirty-five-a of the education law unless such person is reasonably sure that all passengers are restrained by a seat safety belt, provided that the term "passenger" shall not include school bus attendants or any other person acting in a supervisory capacity for purposes of this section. Furthermore, in any action for personal injuries by a passenger on a school bus, the provisions of subdivision four of section thirty-eight hundred thirteen of the education law shall apply.

§ 5. This act shall take effect July 1, 2019. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.