

# STATE OF NEW YORK

2433

2019-2020 Regular Sessions

## IN SENATE

January 24, 2019

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

AN ACT to amend the vehicle and traffic law and the education law, in relation to requiring the usage of seat safety belts on school buses

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

1 Section 1. Paragraph (a) of subdivision 4 of section 1229-c of the  
2 vehicle and traffic law, as amended by chapter 448 of the laws of 2015,  
3 is amended to read as follows:

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

19 § 2. Subdivision 11 of section 1229-c of the vehicle and traffic law,  
20 as added by chapter 653 of the laws of 1989 and as renumbered by chapter  
21 104 of the laws of 1991, is amended and a new subdivision 11-a is added  
22 to read as follows:

23 11. [~~Notwithstanding the provisions of subdivision four of this~~  
24 ~~section, no~~] No person shall operate a school bus unless such person is  
25 reasonably sure that all passengers under the age of four are restrained

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

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1 in a specially designed detachable or removable seat as required by  
2 subdivision one of this section, or another restraining device approved  
3 by the commissioner.

4 11-a. No person shall operate a school bus equipped with seat safety  
5 belts pursuant to subdivision five of section three hundred eighty-three  
6 of this chapter or pursuant to section thirty-six hundred thirty-five-a  
7 of the education law unless such person is reasonably sure that all  
8 passengers are restrained by a seat safety belt. For the purposes of  
9 this subdivision, the term "passenger" shall not include school bus  
10 attendants, as that term is defined in section twelve hundred twenty-  
11 nine-d of this article, or any other person acting in a supervisory  
12 capacity. Furthermore, in any action for personal injuries by a passen-  
13 ger on a school bus, the provisions of subdivision four of section thir-  
14 ty-eight hundred thirteen of the education law shall apply.

15 § 3. Subdivision 1 of section 3623 of the education law, as amended by  
16 chapter 474 of the laws of 1996, is amended to read as follows:

17 1. a. No person shall operate a school bus equipped with seat safety  
18 belts pursuant to subdivision five of section three hundred eighty-three  
19 of the vehicle and traffic law or pursuant to section thirty-six hundred  
20 thirty-five-a of this article unless such person is reasonably sure that  
21 all passengers are restrained by a seat safety belt. For the purposes of  
22 this subdivision, the term "passenger" shall not include school bus  
23 attendants, as that term is defined in section twelve hundred twenty-  
24 nine-d of the vehicle and traffic law, or any other person acting in a  
25 supervisory capacity. Furthermore, in any action for personal injuries  
26 by a passenger on a school bus, the provisions of subdivision four of  
27 section thirty-eight hundred thirteen of this chapter shall apply.

28 b. The driver of a school bus shall be required to announce to the  
29 passengers of such bus: "Everybody fasten your seat belt", before such  
30 bus is placed in motion.

31 c. No person shall operate a school bus while any passenger is stand-  
32 ing, either in the aisle or at their seat.

33 d. The commissioner of transportation in consultation with the commis-  
34 sioner shall adopt, promulgate and enforce rules, standards and specifi-  
35 cations regulating and controlling the efficiency and equipment of  
36 school buses used to transport pupils, with particular regard to the  
37 safety and convenience of such pupils and the suitability and adaptabil-  
38 ity of such school buses to the requirements of the school district. No  
39 school bus shall be purchased by a school district or used for the  
40 transportation of pupils unless and until it has been approved by the  
41 commissioner of transportation as complying with the rules, standards  
42 and specifications relating thereto.

43 ~~[b.]~~ e. No bus manufactured after January first, nineteen hundred  
44 seventy-four shall be used to transport pupils under any contract with a  
45 school district or board of cooperative educational services unless it  
46 has been similarly approved by the commissioner of transportation,  
47 except that no such approval shall be required for buses used to trans-  
48 port pupils and also used to serve the general public under a certif-  
49 icate of public convenience for the operation of a bus line, granted  
50 pursuant to the transportation law or for buses used to transport  
51 pupils, teachers and other persons acting in a supervisory capacity to  
52 and from school activities and which bus does not receive or discharge  
53 passengers on or along the public highways on regularly scheduled routes  
54 and is operating under a permit as a contract carrier of passengers  
55 granted pursuant to the transportation law or by the interstate commerce  
56 commission. School buses manufactured or assembled prior to April

1 first, nineteen hundred seventy-seven may not be used to transport  
2 pupils, teachers and other persons acting in a supervisory capacity to  
3 and from school activities.

4 ~~[e]~~ f. The commissioner shall provide for the enforcement of para-  
5 graph a of this subdivision and shall establish and provide for the  
6 enforcement of rules and regulations requiring instruction on the use of  
7 seat safety belts ~~[as specified in subdivision five of section three~~  
8 ~~hundred eighty-three of the vehicle and traffic law and section thirty-~~  
9 ~~six hundred thirty-five-a of this chapter]~~, instruction on the dangers  
10 of standing while the bus is in motion, drills in safe boarding and  
11 exiting procedures and emergency drills to be conducted on all school  
12 buses and shall emphasize specific hazards encountered by children  
13 during snow, ice, rain and other inclement weather. All such drills  
14 shall include instruction in the importance of orderly conduct by all  
15 school bus passengers. A minimum of ~~[three]~~ four such drills shall be  
16 had on each school bus during the school year, the first to be conducted  
17 during the first seven days of session of the fall term.

18 § 4. Section 3635-a of the education law, as added by chapter 747 of  
19 the laws of 1986, subdivision 1 as amended by chapter 474 of the laws of  
20 1996, is amended to read as follows:

21 § 3635-a. Safety belt usage. 1. A board of education or board of  
22 trustees may, in its discretion, following a public hearing for the  
23 purpose of determining whether a resolution shall be adopted, provide  
24 for the ~~[use]~~ installation of seat safety belts on such school buses, in  
25 accordance with regulations and standards established by the commission-  
26 er under subdivision one of section thirty-six hundred ~~[thirty-eight]~~  
27 twenty-three of this ~~[chapter]~~ article.

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

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

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

42 4-a. If the board of education or board of trustees has determined to  
43 require the installation of seat safety belts, the use of such belts  
44 shall be mandatory pursuant to paragraph a of subdivision one of section  
45 thirty-six hundred twenty-three of this article and pursuant to subdivi-  
46 sion eleven-a of section twelve hundred twenty-nine-c of the vehicle and  
47 traffic law.

48 5. This section shall apply only to vehicles owned or leased by school  
49 districts and nonpublic schools, and to vehicles used to perform  
50 contracts with such school districts and nonpublic schools for the  
51 purpose of transporting school children for hire.

52 6. Nothing in this section shall be construed to impose a duty upon  
53 boards of education or boards of trustees to provide seat safety belts  
54 on school buses purchased or contracted for prior to the effective date  
55 of this section, nor shall any board of education or board of trustees  
56 be held liable for failure to provide seat safety belts pursuant to this

1 section. A school board member or trustee shall have immunity from any  
2 civil or criminal liability that might otherwise be incurred or imposed  
3 as a result of the provisions of this section provided that such person  
4 shall have acted in good faith. For the purpose of any proceeding, civil  
5 or criminal, the good faith of any such person shall be presumed.

6 7. The provisions of this section shall not apply to school districts  
7 which are using safety belts on school buses or have installed or have  
8 contracted for the installation of seat safety belts prior to the effec-  
9 tive date of this section.

10 § 5. Subdivision 1 of section 1229-d of the vehicle and traffic law,  
11 as added by chapter 675 of the laws of 1985, is amended to read as  
12 follows:

13 (1) (a) "School bus attendant" shall mean a person, including a school  
14 aide or monitor, employed or authorized by a school district or employed  
15 by a motor carrier under contract to a school district to ride on a  
16 school bus as defined in paragraph (a) of subdivision one of section  
17 five hundred nine-a of this chapter for the purpose of maintaining order  
18 or rendering assistance to pupils with special needs.

19 (b) Any pupil with special needs who is unable to utilize a seat safe-  
20 ty belt, as required pursuant to subdivision eleven-a of section twelve  
21 hundred twenty-nine-c of this article and subdivision one of section  
22 thirty-six hundred twenty-three of the education law, shall be assigned  
23 a school bus attendant.

24 § 6. Subdivision 4 of section 3813 of the education law, as added by  
25 chapter 747 of the laws of 1986, is amended to read as follows:

26 4. In any action for personal injuries by a passenger on a school bus  
27 against a school district, school bus operator under contract with a  
28 school district, or any agent or employee of a district or operator  
29 (including, but not limited to, bus drivers, matrons, teachers serving  
30 as chaperones and volunteers) no such person shall be held liable solely  
31 because the injured party was not wearing a seat safety belt or held  
32 liable solely because the injured party was injured as the result of  
33 wearing a seat safety belt; provided, however, that nothing contained  
34 herein shall be construed to grant immunity from liability for failure  
35 to:

36 (a) maintain in operating order any equipment required by statute,  
37 rule or regulation;

38 (b) comply with applicable statutes, rules or regulations.

39 § 7. This act shall take effect on the first of September next  
40 succeeding the date on which it shall have become a law. Effective imme-  
41 diately the addition, amendment and/or repeal of any rule or regulation  
42 necessary for the implementation of this act on its effective date are  
43 authorized to be made on or before such effective date.