STATE OF NEW YORK

818

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. PAULIN, FAHY, McDONOUGH -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the compulsory age for full time instruction and certain related exceptions

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

Section 1. Subdivision 11 of section 2 of the education law, as amended by chapter 363 of the laws of 1990, is amended to read as follows:

11. Compulsory school ages. The term "child of compulsory school age" means any child [~~between six and sixteen years of age~~] lawfully required to attend upon instruction **pursuant to section thirty-two hundred five of this chapter**.

§ 2. Subdivision 1, paragraph c of subdivision 2 and subdivision 3 of section 3205 of the education law, subdivision 1 as amended by chapter 262 of the laws of 1959, paragraphs a and b of subdivision 1 as amended by chapter 296 of the laws of 1969, paragraph c of subdivision 1 as amended by chapter 518 of the laws of 1993, paragraph c of subdivision 2 as amended by chapter 703 of the laws of 2019 and subdivision 3 as amended by chapter 183 of the laws of 2004, are amended to read as follows:

1. a. In each school district of the state, each minor from [~~six~~] **five** to sixteen years of age shall attend upon full time instruction.

b. Each minor from [~~six~~] **five** to sixteen years of age on an Indian reservation shall attend upon full time day instruction.

c. For purposes of this article, a minor who becomes [~~six~~] **five** years of age on or before the first of December in any school year **or on or before a later date in such school year, not later than December thirty-first, established by the trustees or board of education for admission to the public schools in such minor's school district of residence** shall be required to attend upon full time instruction from the first day that the appropriate public schools are in session in September of such school year, and a minor who becomes [~~six~~] **five** years of age after

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

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the first of December in any school year or a later date in such school year, not later than December thirty-first, established by the trustees or board of education for admission to the public schools in such minor's school district of residence shall be required to attend upon full time instruction from the first day of session in the following September; and, except as otherwise provided in subdivision three of this section, shall be required to remain in attendance until the last day of session in the school year in which the minor becomes sixteen years of age.

c. [~~The board of education of every school district within the state is hereby authorized to require minors who are five years of age on or before December first to attend kindergarten instruction. However, the provisions of this paragraph shall not apply to:~~

~~(i) Minors whose parents elect not to enroll their children in school until the following September.~~

~~(ii) Students enrolled in non-public schools or in home instruction.~~

~~3. In each school district, the board of education shall have power to require minors from sixteen to seventeen years of age who are not employed to attend upon full time day instruction until the last day of session in the school year in which the student becomes seventeen years of age.~~] A minor who will become five years of age in any school year and whose parent elects not to enroll their child in school in such school year and submits a notice of election pursuant to the provisions of this paragraph shall not be required to attend upon full time instruction until the first day of session in September of the following school year. The parent shall submit a written notice to the superintendent of schools of their child's school district of residence of their election not to enroll their child by no later than the first day of April preceding the school year in which the child becomes five years of age, provided however that where the child's school district of residence changes after such date, the parent may submit such notice within thirty days after establishing residence in the new school district. The trustees or board of education shall send written notice to the parents of each child identified through the school census or child find who might be eligible to make an election pursuant to this paragraph by no later than the preceding March first. The superintendent of schools shall not reject a notice of election submitted by a parent as untimely if the parent establishes that the district failed to provide timely notice to the parent or that the delay was caused by factors beyond the control of the parent, including but not limited to, the parent's absence from the state or country for military service, the parent's incapacity due to illness or disability, disruption of mail service due to severe weather conditions, loss of electricity or other emergency conditions, and the parent's inability to understand the school district's notice because it was not submitted in the native language or other mode of communication used by the parent. The commissioner shall prescribe the form of the notices required by this paragraph and shall be authorized to adopt regulations to implement this paragraph. Nothing in this subdivision shall be construed to authorize school officials to deny admission to a student who is entitled to attend school pursuant to subdivision one of section thirty-two hundred two of this part and whose parent has previously filed a notice of election pursuant to this paragraph for the school year.

§ 3. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.