§ 3635-b. Authorization to provide pupil transportation in child safety zones. 1. This section shall apply where the board of education or trustees of a common, central, central high school, union free school district, or city school district of a city with less than one hundred twenty-five thousand inhabitants adopts a resolution to make transportation in child safety zones available to resident pupils for a particular school year. Such resolution shall continue in effect for subsequent school years until the board adopts a resolution providing otherwise.

2. A board of education or board of trustees is authorized to adopt a resolution providing for pupil transportation in child safety zones, where applicable, of a proposition to expend money for such transportation presented pursuant to the provisions of subdivision nineteen of section two thousand twenty-one and section two thousand twenty-two of this chapter. Such transportation may be provided without regard to like circumstances based solely upon the fact that the pupil resides within two miles, in the case of a pupil in grade kindergarten through eight, and within three miles, in the case of a pupil in grade nine through twelve, from the school such pupil legally attends, notwithstanding the provisions of section thirty-six hundred thirty-five of this article. Such transportation may be provided upon the determination by the board that a hazardous zone exists which in the opinion of the board would be reasonably alleviated by the establishment of a child safety zone. For purposes of this section, child safety zone means a designated area of a school district, including at least one personal residence, within which children who reside at a lesser distance from the school they legally attend than the minimum transportation limit of the district will be provided transportation on the basis that their most direct walking route to school will traverse a hazardous zone.

3. The commissioner of transportation shall establish regulations for determination of a hazardous zone including, but not limited to, such factors as the existence or nonexistence of sidewalks or walkways, the type of road surface, width of road, footpath or sidewalk, the volume and average speed of traffic, density of population, violent crime

statistics, density of vacant buildings or structures, the commercial, industrial or residential character of the area and the existence or nonexistence of traffic safety features such as traffic lights, street lights and traffic patrols. In preparing such regulations, the commissioner of transportation shall consult with the commissioners of education and motor vehicles and representatives from the state police who have traffic safety responsibilities. Such regulations shall be used by boards of education in determining whether a hazardous zone exists.

4. The board of education of any school district shall, upon written petition of a parent or other person in parental relation of a child residing within such district or of any representative authorized by such parent or other person in parental relation, signed by twenty-five qualified voters of the district or five percent of the number of voters who voted in the previous annual election of the members of the board of education, whichever is greater, make an investigation to determine whether a hazardous zone exists requiring the establishment of a child safety zone. Petitions shall specify the geographic boundaries comprising the proposed hazardous zone and any child safety zone requested. Petitions and/or additional written requests from individual parents or persons in parental relation requesting designation of an area as a child safety zone in conjunction with any proposed or existing hazardous zone may be submitted provided that such petitions and/or requests shall not be submitted later than the first day of March preceding the school year for which transportation is requested. The school board shall make its determination before the board presents the budget for the school year for which transportation is requested. The parent or other person in parental relation of a child not residing in the district on the first day of March may submit a request within thirty days after establishing residence in the district, but in no event later than the first day of July of the school year for which transportation is requested and the board shall make its determination within thirty days of receipt of such request.

5. The board of education or board of trustees of any school district may directly, or by appointment of an advisory committee, make an investigation to determine if a hazardous zone exists within such

district. Such investigation shall be made pursuant to the regulations of the commissioner of transportation and shall include consultation with state or local transportation authorities and the investigation of other, less costly, reasonable alternatives to the creation of a child safety zone. If, after such investigation, the board shall determine that a hazardous zone exists which can be reasonably alleviated, in the opinion of the board, only by establishing a child safety zone and providing transportation in and through such child safety zone, and that no reasonable, less costly alternatives to such transportation exist to alleviate the situation, the board may adopt a separate resolution to expend money for transportation in child safety zones at the annual district meeting.

6. Where the trustees or board of education determines after the annual district meeting is held that the designation of a new hazardous safety zone is needed as a result of a change in circumstances that was unknown to the board and not reasonably foreseeable at the time of the annual meeting, the trustees or board of education may call a special district meeting to vote on a proposition to expend money for transportation in child safety zones. The trustees or board of education shall establish procedures for submission of petitions and requests by individual parents or persons in parental relation for the designation of child safety zones in conjunction with the proposed hazardous zone.

7. Whenever a school board determines that a hazardous safety zone exists or that a child safety zone should be established, it shall notify the petitioner, each requestor of a child safety zone and any state or local entity with jurisdiction over roadways or property within such zone.

8. The board of education or board of trustees shall conduct a public hearing with appropriate public notice, upon the board's determination that a hazardous zone no longer exists or that the need for continuation of a child safety zone has been alleviated and that such designation is to be rescinded. Within twenty days after the public hearing, the board shall, by resolution, determine that a hazardous zone continues to exist or no longer exists and that the need for continuation of a child safety

zone has or has not been alleviated and that the designation is or is not rescinded.

9. In the event that the school board determines that a hazardous zone does not exist, or that other, less costly, reasonable alternatives to the establishment of a child safety zone exist and may be used to alleviate the situation, it shall fully state the reasons for such determination in writing to the petitioner.

10. The cost of providing transportation, pursuant to the provisions of this section, shall be an ordinary contingent expense and shall be included as an item of expense for purposes of determining the transportation quota of such district.

12. Nothing in this section shall be construed to impose a duty upon school boards to provide transportation services pursuant to this section nor shall any board of education or board of trustees be held liable for failure to provide transportation pursuant to this section. The determination that a hazardous zone exists or that a child safety zone has been established, and the petitions, investigatory materials and decision making documents created or reviewed in making such determination, shall not be admissible as evidence or used in civil litigation or any suit or action for damages, nor shall any school board members, school board trustee, school employee, governmental official or any other individual be compelled or permitted, whether by subpoena or other process, to testify in any such civil litigation regarding such determination. A school board member, trustee, school officer or employee 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.

13. The commissioner shall submit a report on the status of pupil transportation in child safety zones to the governor, the speaker of the assembly, the temporary president of the senate, and the chairs of the assembly and senate standing education committees, prior to January

first, two thousand one. The report shall, at a minimum, include the number of child safety zones established across the state and the total number of pupils transported per zone. The report shall also include the commissioner's recommendations for modification of the child safety zone provisions, including, but not limited to, the granting of state transportation aid for pupil transportation within such zones and the process by which child safety zones are established.