

5171

2011-2012 Regular Sessions

I N   S E N A T E

May 3, 2011

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Introduced by Sen. FUSCHILLO -- 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, in relation to qualifications of bus drivers

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

1     Section 1. Subdivision 2 of section 509-d of the vehicle and traffic  
2 law, as added by chapter 675 of the laws of 1985 and paragraph (a) as  
3 amended by chapter 164 of the laws of 2003, is amended to read as  
4 follows:  
5     (2) Investigations and inquiries of BUS drivers [of school buses];  
6 maintenance of file; availability to subsequent employer. (a) A motor  
7 carrier shall request the department to initiate a criminal history  
8 check for persons employed as drivers of [school] buses, as defined in  
9 [paragraph (a) of subdivision one of] section five hundred nine-a of  
10 this chapter[, on September fourteenth, nineteen hundred eighty-five] by  
11 such motor carrier, in accordance with regulations of the commissioner  
12 by requiring such [school] bus drivers to submit to the mandated finger-  
13 printing procedure. The department of motor vehicles at the request of  
14 the motor carrier shall initiate a criminal history check of all current  
15 [school] bus drivers of such motor carrier as well as those hired on or  
16 after September fifteenth, nineteen hundred eighty-five by requiring  
17 such drivers and applicants to submit to the mandated fingerprinting  
18 procedure as part of the [school] bus driver qualification procedure.  
19 Such fingerprinting procedure and the related fee as well as a procedure  
20 for the return of such fingerprints upon application of a person who has  
21 terminated employment as a [school] bus driver shall be established in  
22 accordance with regulations of the commissioner in consultation with the  
23 commissioner of the division of criminal justice services. The fee to be  
24 paid by or on behalf of the [school] bus driver or applicant shall be no  
25 more than five dollars over the cost to the commissioner for the crimi-

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

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1 nal history check. No cause of action against the department, the divi-  
2 sion of criminal justice services, a motor carrier or political subdivi-  
3 sion for damages related to the dissemination of criminal history  
4 records pursuant to this section shall exist when such department, divi-  
5 sion, motor carrier or political subdivision has reasonably and in good  
6 faith relied upon the accuracy and completeness of criminal history  
7 information furnished to it by qualified agencies. Fingerprints submit-  
8 ted to the division of criminal justice services pursuant to this subdivi-  
9 sion may also be submitted to the federal bureau of investigation for  
10 a national criminal history record check.

11 (b) After a motor carrier has completed the procedures set forth in  
12 paragraph (a) OF this [of] subdivision, it shall designate each new  
13 [school] bus driver as a conditional [school] bus driver as defined in  
14 section five hundred nine-h of this article, until the carrier is in  
15 receipt of information of the new [school] bus driver's qualification  
16 from the department and the required driving records from each appropri-  
17 ate state agency. If the information received WITH RESPECT TO AN APPLI-  
18 CANT FOR BUS DRIVER OTHER THAN A SCHOOL BUS DRIVER indicates that there  
19 is a pending criminal offense or driving violation that would require  
20 disqualification [of a school bus driver] under SECTION FIVE HUNDRED  
21 NINE-C OF this article, the motor carrier shall require the applicant to  
22 provide documentation evidencing the disposition of such offense or  
23 violation in accordance with regulations established by the commission-  
24 er. IF THE INFORMATION RECEIVED WITH RESPECT TO AN APPLICANT FOR SCHOOL  
25 BUS DRIVER INDICATES THAT THERE IS A PENDING CRIMINAL OFFENSE OR DRIVING  
26 VIOLATION THAT WOULD REQUIRE DISQUALIFICATION UNDER SECTION FIVE HUNDRED  
27 NINE-CC OF THIS ARTICLE, THE MOTOR CARRIER SHALL REQUIRE THE APPLICANT  
28 TO PROVIDE DOCUMENTATION EVIDENCING THE DISPOSITION OF SUCH OFFENSE OR  
29 VIOLATION IN ACCORDANCE WITH REGULATIONS ESTABLISHED BY THE COMMISSION-  
30 ER. The department, upon notice of disqualification to an applicant,  
31 shall include in such notice information regarding the applicant's right  
32 to appeal and contest any claimed ground for disqualification. Such  
33 notice shall also advise the applicant of his or her right to obtain,  
34 examine, inspect and copy any information used by the department in  
35 support of its determination of disqualification. In the event the  
36 applicant contests the existence of a criminal conviction in his or her  
37 name, such applicant may provide documentation evidencing the disposi-  
38 tion of such offense or violation in accordance with regulations estab-  
39 lished by the commissioner.

40 S 2. This act shall take effect immediately.