

5171--A

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sens. FUSCHILLO, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- reported favorably from said committee and committed to the Committee on Commerce, Economic Development and Small Business -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. Section 509-d of the vehicle and traffic law is amended by
2 adding a new subdivision 2-a to read as follows:
3 (2-A) INVESTIGATIONS AND INQUIRIES OF BUS DRIVERS OTHER THAN SCHOOL
4 BUS DRIVERS. (A) A MOTOR CARRIER SHALL REQUEST THE DEPARTMENT TO INITI-
5 ATE A CRIMINAL HISTORY CHECK FOR PERSONS HIRED OR RE-HIRED BY SUCH MOTOR
6 CARRIER ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION AS DRIVERS OF
7 BUSES, AS DEFINED IN PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION ONE
8 OF SECTION FIVE HUNDRED NINE-A OF THIS ARTICLE, IN ACCORDANCE WITH REGU-
9 LATIONS OF THE COMMISSIONER REQUIRING SUCH BUS DRIVERS TO SUBMIT TO THE
10 MANDATED FINGERPRINTING PROCEDURE. ADDITIONALLY, FOR DRIVERS OF BUSES,
11 AS DEFINED IN PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION ONE OF
12 SECTION FIVE HUNDRED NINE-A OF THIS ARTICLE, IN THE EMPLOY OF A MOTOR
13 CARRIER ON THE EFFECTIVE DATE OF THIS SUBDIVISION, THE MOTOR CARRIER
14 SHALL REQUEST ON OR BEFORE THE TIME OF THE DRIVER'S FIRST RENEWAL OF
15 LICENSE PURSUANT TO THIS CHAPTER THAT THE DEPARTMENT INITIATE A CRIMINAL
16 HISTORY CHECK. THE DEPARTMENT OF MOTOR VEHICLES AT THE REQUEST OF THE
17 MOTOR CARRIER SHALL INITIATE A CRIMINAL HISTORY CHECK OF ALL BUS DRIVERS
18 HIRED OR RE-HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION AND
19 ALL CURRENT BUS DRIVERS ON OR BEFORE THE TIME OF THEIR FIRST RENEWAL OF
20 LICENSE BY REQUIRING SUCH APPLICANTS TO SUBMIT TO THE MANDATED FINGER-
21 PRINTING PROCEDURE AS PART OF THE BUS DRIVER QUALIFICATION PROCEDURE.

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

LBD11014-02-1

1 SUCH FINGERPRINTING PROCEDURE AND THE RELATED FEE AS WELL AS A PROCEDURE
2 FOR THE RETURN OF SUCH FINGERPRINTS UPON APPLICATION OF A PERSON WHO HAS
3 TERMINATED EMPLOYMENT AS A BUS DRIVER SHALL BE ESTABLISHED IN ACCORDANCE
4 WITH REGULATIONS OF THE COMMISSIONER IN CONSULTATION WITH THE COMMIS-
5 SIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES. THE FEE TO BE PAID
6 BY OR ON BEHALF OF THE APPLICANT OR BUS DRIVER SHALL BE NO MORE THAN
7 FIVE DOLLARS OVER THE COST TO THE COMMISSIONER FOR THE CRIMINAL HISTORY
8 CHECK. NO CAUSE OF ACTION AGAINST THE DEPARTMENT, THE DIVISION OF CRIMI-
9 NAL JUSTICE SERVICES, A MOTOR CARRIER OR POLITICAL SUBDIVISION FOR
10 DAMAGES RELATED TO THE DISSEMINATION OF CRIMINAL HISTORY RECORDS PURSU-
11 ANT TO THIS SECTION SHALL EXIST WHEN SUCH DEPARTMENT, DIVISION, MOTOR
12 CARRIER OR POLITICAL SUBDIVISION HAS REASONABLY AND IN GOOD FAITH RELIED
13 UPON THE ACCURACY AND COMPLETENESS OF CRIMINAL HISTORY INFORMATION
14 FURNISHED TO IT BY QUALIFIED AGENCIES. FINGERPRINTS SUBMITTED TO THE
15 DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO THIS SUBDIVISION MAY
16 ALSO BE SUBMITTED TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL
17 CRIMINAL HISTORY RECORD CHECK. NOTWITHSTANDING THE FOREGOING, THE
18 DEPARTMENT MAY BY REGULATION ESTABLISH GUIDELINES AND PROCEDURES FOR
19 EXEMPTING BUS DRIVERS WHO HAVE ALREADY BEEN SUBJECTED TO A CRIMINAL
20 HISTORY CHECK AT THE TIME OF HIRE BY A MOTOR CARRIER.

21 (B) AFTER A MOTOR CARRIER HAS COMPLETED THE PROCEDURES SET FORTH IN
22 PARAGRAPH (A) THIS OF SUBDIVISION, IT SHALL DESIGNATE EACH NEW BUS DRIV-
23 ER AS A CONDITIONAL BUS DRIVER AS DEFINED IN SECTION FIVE HUNDRED NINE-H
24 OF THIS ARTICLE, UNTIL THE CARRIER IS IN RECEIPT OF INFORMATION OF THE
25 NEW BUS DRIVER'S QUALIFICATION FROM THE DEPARTMENT AND THE REQUIRED
26 DRIVING RECORDS FROM EACH APPROPRIATE STATE AGENCY. IF THE INFORMATION
27 RECEIVED INDICATES THAT THERE IS A PENDING CRIMINAL OFFENSE OR DRIVING
28 VIOLATION THAT WOULD REQUIRE DISQUALIFICATION OF A BUS DRIVER UNDER THIS
29 ARTICLE, THE MOTOR CARRIER SHALL REQUIRE THE APPLICANT TO PROVIDE
30 DOCUMENTATION EVIDENCING THE DISPOSITION OF SUCH OFFENSE OR VIOLATION IN
31 ACCORDANCE WITH REGULATIONS ESTABLISHED BY THE COMMISSIONER. THE DEPART-
32 MENT, UPON NOTICE OF DISQUALIFICATION TO AN APPLICANT, SHALL INCLUDE IN
33 SUCH NOTICE INFORMATION REGARDING THE APPLICANT'S RIGHT TO APPEAL AND
34 CONTEST ANY CLAIMED GROUND FOR DISQUALIFICATION. SUCH NOTICE SHALL ALSO
35 ADVISE THE APPLICANT OF HIS OR HER RIGHT TO OBTAIN, EXAMINE, INSPECT AND
36 COPY ANY INFORMATION USED BY THE DEPARTMENT IN SUPPORT OF ITS DETERMI-
37 NATION OF DISQUALIFICATION. IN THE EVENT THE APPLICANT CONTESTS THE
38 EXISTENCE OF A CRIMINAL CONVICTION IN HIS OR HER NAME, SUCH APPLICANT
39 MAY PROVIDE DOCUMENTATION EVIDENCING THE DISPOSITION OF SUCH OFFENSE OR
40 VIOLATION IN ACCORDANCE WITH REGULATIONS ESTABLISHED BY THE COMMISSION-
41 ER.

42 S 2. Section 509-h of the vehicle and traffic law, as amended by chap-
43 ter 675 of the laws of 1985, is amended to read as follows:

44 S 509-h. Operation by person not [licensed] QUALIFIED to drive a bus.
45 The motor carrier shall not knowingly permit any person to operate a bus
46 carrying passengers unless the driver meets all of the requirements of
47 this article; except that a motor carrier may permit a conditional BUS
48 DRIVER OR CONDITIONAL school bus driver who is not otherwise disquali-
49 fied under the provisions of this article to operate a bus for a period
50 not to exceed ninety days or a longer period if granted a written exten-
51 sion of such ninety day period by the department pursuant to regulations
52 established by the commissioner. Such regulation shall authorize exten-
53 sion for at least that period of time necessary to review information
54 regarding the prior criminal history of the applicant.

55 S 3. The vehicle and traffic law is amended by adding a new section
56 509-hh to read as follows:

1 S 509-HH. DUTY OF CERTAIN MOTOR CARRIERS TO SUPPLY IDENTIFYING INFOR-
2 MATION AND BUS REGISTRATION INFORMATION TO THE DEPARTMENT; REQUIREMENTS
3 REGARDING CERTAIN BUS REGISTRATIONS AND REGISTRATIONS. 1. EXCEPT AS
4 OTHERWISE PROVIDED IN THIS SUBDIVISION, EVERY MOTOR CARRIER MUST PROVIDE
5 TO THE DEPARTMENT IDENTIFYING INFORMATION AND BUS REGISTRATION INFORMA-
6 TION ON A FORM OR FORMS PREPARED AND FURNISHED BY THE DEPARTMENT FOR
7 THAT PURPOSE. IDENTIFYING INFORMATION SHALL INCLUDE, BUT SHALL NOT BE
8 LIMITED TO, INFORMATION REGARDING: THE BUSINESS NAME, OWNERSHIP, BUSI-
9 NESS ADDRESS, AND FEDERAL OR STATE IDENTIFICATION NUMBERS OF THE MOTOR
10 CARRIER. BUS REGISTRATION INFORMATION SHALL INCLUDE, BUT SHALL NOT BE
11 LIMITED TO, INFORMATION REASONABLY REQUIRED BY THE DEPARTMENT IN CARRY-
12 ING OUT ITS DUTIES UNDER THIS ARTICLE REGARDING THE REGISTRATION OF
13 BUSES OWNED, LEASED, RENTED, OR OTHERWISE CONTROLLED BY THE MOTOR CARRI-
14 ER. IDENTIFYING INFORMATION AND BUS REGISTRATION INFORMATION MUST
15 CONTAIN OR BE ACCOMPANIED BY SUCH SUPPORTING DOCUMENTATION AS MAY BE
16 REQUESTED OR REQUIRED BY THE DEPARTMENT. A MOTOR CARRIER MUST NOTIFY THE
17 DEPARTMENT IN WRITING OF ANY CHANGE IN ANY INFORMATION PROVIDED BY THE
18 MOTOR CARRIER TO THE DEPARTMENT PURSUANT TO THIS SECTION WITHIN TEN DAYS
19 OF THE CHANGE.

20 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, ON AND AFTER
21 THE EFFECTIVE DATE OF THIS SECTION, ANY MOTOR CARRIER SUBJECT TO THIS
22 SECTION REGISTERING OR RE-REGISTERING A BUS UNDER THIS ARTICLE SHALL
23 REGISTER OR RE-REGISTER THE BUS ONLY IN THE SAME BUSINESS NAME THAT THE
24 CARRIER PROVIDES TO THE DEPARTMENT UNDER SUBDIVISION ONE OF THIS
25 SECTION.

26 3. FOR PURPOSES OF THIS SECTION, THE TERM "MOTOR CARRIER" SHALL NOT
27 INCLUDE (A) A STATE, LOCAL, INTERSTATE OR INTERNATIONAL AUTHORITY AS
28 DEFINED IN SECTION TWO OF THE PUBLIC AUTHORITIES LAW, OR (B) A SCHOOL
29 DISTRICT AS DEFINED IN SECTION NINETEEN HUNDRED EIGHTY OF THE EDUCATION
30 LAW.

31 S 4. Subdivision 5 of section 509-m of the vehicle and traffic law, as
32 added by chapter 675 of the laws of 1985, is amended to read as follows:

33 5. Upon receipt of the criminal history record report of [a school]
34 ANY bus driver, notify the motor carrier of disqualification of an
35 applicant or [school] bus driver which would or could disqualify such
36 driver under the provisions of section FIVE HUNDRED NINE-C OR five
37 hundred nine-cc of this article. Notification to the carrier shall be
38 without specification of the grounds for disqualification, those grounds
39 to be made available only to the [school] bus driver or his or her
40 representative.

41 S 5. This act shall take effect immediately.