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2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sens. FUSCHILLO, LARKIN, MAZIARZ -- 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. 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 ANY SUCH DRIVER'S FIRST RENEWAL  
15    OF LICENSE PURSUANT TO SUBDIVISION SIX OF SECTION FIVE HUNDRED TWO OF  
16    THIS TITLE THAT THE DEPARTMENT INITIATE A CRIMINAL HISTORY CHECK IN  
17    ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER. THE DEPARTMENT OF  
18    MOTOR VEHICLES AT THE REQUEST OF THE MOTOR CARRIER SHALL INITIATE A  
19    CRIMINAL HISTORY CHECK OF ALL BUS DRIVERS HIRED OR RE-HIRED ON OR AFTER  
20    THE EFFECTIVE DATE OF THIS SUBDIVISION AND ALL CURRENT BUS DRIVERS ON OR  
21    BEFORE THE TIME OF THEIR FIRST RENEWAL OF LICENSE BY REQUIRING SUCH  
22    APPLICANTS TO SUBMIT TO THE MANDATED FINGERPRINTING PROCEDURE AS PART OF  
23    THE BUS DRIVER QUALIFICATION PROCEDURE. SUCH FINGERPRINTING PROCEDURE

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

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