

S T A T E O F N E W Y O R K

5611--A

2009-2010 Regular Sessions

I N S E N A T E

May 21, 2009

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the transportation law and the vehicle and traffic law, in relation to the regulation of ambulette motor vehicles and the operators thereof

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

1 Section 1. Legislative findings. The legislature hereby finds that
2 non-emergency medical transportation is a vital part of the provision of
3 medical services in this state. The purpose of this act is to establish
4 uniform standards for the non-emergency medical transportation industry
5 throughout the state that ensure a consistent level of safety and quality.
6
7 S 2. The opening paragraph of subparagraph 1 of paragraph a of subdivision
8 5 of section 80 of the transportation law, as amended by chapter
9 487 of the laws of 1993, is amended to read as follows:
10 Notwithstanding any other provision of law, in any city with a population
11 of over one million, the commissioner shall not have jurisdiction
12 over the regulation of any van service or other common carrier of
13 passengers by motor vehicle covered under article seven of this chapter
14 when such van service or other such common carrier is operated wholly
15 within the boundaries of such city or is operated partly within such
16 city if the partial operation consists of the pick up and discharge of
17 passengers wholly within such city, when such city has adopted an ordinance,
18 local law or charter to regulate or franchise such operations;
19 provided, however, that the commissioner shall have exclusive jurisdiction
20 with respect to the safety of operation of motor vehicles operated
21 as van services or other such common carriers of passengers, except that
22 concurrent jurisdiction with respect to enforcement of such safety stan-

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

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1 dards may be transferred pursuant to agreement between the department
2 and such city; and provided further that the commissioner shall have
3 exclusive jurisdiction with respect to van services [and], other such
4 common carriers AND MOTOR VEHICLES that are designed for the transport
5 of transportation disabled persons, as defined in section fifteen-b of
6 this chapter, [except that such city shall continue to have jurisdiction
7 over the licensure of wheelchair accessible vans and drivers of such
8 vans as provided in chapter five of title nineteen of the administrative
9 code of the city of New York] OR PERSONS IN NEED OF NON-EMERGENCY
10 MEDICAL TRANSPORTATION PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-H OF
11 THE SOCIAL SERVICES LAW; and provided further that the commissioner
12 shall have exclusive jurisdiction with respect to the operations of
13 motor vehicles as van services or other such common carriers of passen-
14 gers covered under article seven of this chapter to or from an airport
15 in such city when such van services or other such common carriers of
16 passengers have been issued a permit by the port authority of New York
17 and New Jersey to operate at an airport in such city or apply for such
18 permit and within a reasonable period of time are issued such permit by
19 such authority. Such local law or ordinance shall:

20 S 3. Subparagraph (iv) of paragraph a of subdivision 2 of section 140
21 of the transportation law, as added by chapter 853 of the laws of 1992,
22 is amended to read as follows:

23 (iv) All van services or other common carriers of passengers by motor
24 vehicle covered under article seven of this chapter, which van services
25 or other such common carriers of passengers are operated pursuant to or
26 requiring regulatory authority from any city with a population of over
27 one million that has adopted an ordinance or local law pursuant to
28 subdivision five of section eighty of this chapter. NOTWITHSTANDING THE
29 REQUIREMENTS ABOVE THE COMMISSIONER SHALL HAVE THE POWER TO ADOPT RULES
30 AND REGULATIONS GOVERNING THE SAFETY OF OPERATIONS OF VAN SERVICES,
31 OTHER SUCH COMMON CARRIERS AND MOTOR VEHICLES THAT ARE DESIGNED FOR THE
32 TRANSPORTATION OF DISABLED PERSONS INCLUDING WHEELCHAIR ACCESSIBLE VANS
33 OR PERSONS IN NEED OF NON-EMERGENCY MEDICAL TRANSPORTATION PURSUANT TO
34 SECTION THREE HUNDRED SIXTY-FIVE-H OF THE SOCIAL SERVICES LAW.

35 S 4. The transportation law is amended by adding a new section 160 to
36 read as follows:

37 S 160. ISSUANCE OF SPECIAL PERMITS FOR COMMON CARRIERS OF PASSENGERS
38 THAT ARE TRANSPORTATION DISABLED. 1. IN ADDITION TO THE OTHER PROVISIONS
39 OF THIS ARTICLE, NO PERSON SHALL ENGAGE IN THE TRANSPORTATION OF PASSEN-
40 GERS THAT ARE TRANSPORTATION DISABLED OR IN NEED OF NON-EMERGENCY
41 MEDICAL TRANSPORTATION PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-H OF
42 THE SOCIAL SERVICES LAW IN A CITY WITH A POPULATION OF ONE MILLION OR
43 MORE, OR HOLD THEMSELVES OUT BY ADVERTISING, OR ANY OTHER MEANS TO
44 PROVIDE SUCH TRANSPORTATION, UNLESS THERE IS IN FORCE WITH RESPECT TO
45 SUCH PERSON OR PERSONS A SPECIAL CERTIFICATE ISSUED BY THE COMMISSIONER.

46 2. NO SPECIAL CERTIFICATE SHALL BE ISSUED BY THE COMMISSIONER UNLESS
47 THE PERSONS OR PERSONS AGREE TO:

48 A. MAINTAIN AND STORE ELECTRONIC TRIP TICKET RECORDS WHICH CONTEMPORA-
49 NEOUSLY WITH THE TRIP CAPTURE PICK-UP AND DROP-OFF PASSENGER INFORMA-
50 TION;

51 B. VEHICLE AGE AND RETIREMENT REQUIREMENTS SUCH THAT VEHICLES
52 PRESENTED FOR INITIAL LICENSURE MUST HAVE BEEN DRIVEN NO MORE THAN FIFTY
53 THOUSAND MILES, REDUCING TO TWENTY-FIVE THOUSAND MILES FOR VEHICLES
54 PRESENTED FOR INITIAL LICENSURE BEGINNING ON JANUARY FIRST, TWO THOUSAND
55 TEN, AND REDUCING TO FIVE HUNDRED MILES BEGINNING ON JANUARY FIRST, TWO
56 THOUSAND ELEVEN. IN ADDITION, BEGINNING ON JANUARY FIRST, TWO THOUSAND

1 ELEVEN, VEHICLES PRESENTED FOR INITIAL LICENSURE MUST BE OF THE CURRENT
2 OR IMMEDIATELY PRECEDING MODEL YEAR. VEHICLES MANUFACTURED IN MODEL
3 YEAR TWO THOUSAND OR EARLIER MUST BE RETIRED FROM PARATRANSIT SERVICE NO
4 LATER THAN THE EXPIRATION OF THEIR VEHICLE LICENSE OCCURRING NEXT AFTER
5 JANUARY FIRST, TWO THOUSAND NINE. VEHICLES FROM MODEL YEAR TWO THOUSAND
6 TWO OR EARLIER MUST BE RETIRED NO LATER THAN THEIR LICENSE EXPIRATION
7 OCCURRING NEXT AFTER JANUARY FIRST, TWO THOUSAND TEN. VEHICLES FROM
8 MODEL YEAR TWO THOUSAND FOUR OR EARLIER MUST BE RETIRED NO LATER THAN
9 THEIR LICENSE EXPIRATION OCCURRING NEXT AFTER JANUARY FIRST, TWO THOU-
10 SAND ELEVEN. BEGINNING ON JANUARY FIRST, TWO THOUSAND TWELVE, ALL VEHI-
11 CLES MUST BE RETIRED NO LATER THAN SEVEN YEARS AFTER THE VEHICLE WAS
12 FIRST LICENSED.

13 S 5. Subdivision 1 of section 509-a of the vehicle and traffic law,
14 as amended by chapter 853 of the laws of 1992, is amended to read as
15 follows:

16 (1) bus shall mean every motor vehicle, owned, leased, rented or
17 otherwise controlled by a motor carrier, which

18 (a) is a school bus as defined in section one hundred forty-two of
19 this chapter or has a seating capacity of more than ten adult passengers
20 in addition to the driver and which is used for the transportation of
21 persons under the age of twenty-one or persons of any age who are
22 mentally or physically disabled to a place of vocational, academic or
23 religious instruction or religious service including nursery schools,
24 day care centers and camps,

25 (b) is required to obtain approval to operate in the state as a common
26 or contract carrier of passengers by motor vehicle from the commissioner
27 of transportation, or the interstate commerce commission,

28 (c) is regulated as a bus line by a city that has adopted an ordi-
29 nance, local law or charter to regulate or franchise bus line operations
30 pursuant to subdivision four of section eighty of the transportation
31 law,

32 (d) is regulated as a van service or other common carrier of passen-
33 gers by motor vehicle covered under article seven of the transportation
34 law by a city with a population of over one million pursuant to an ordi-
35 nance or local law adopted pursuant to subdivision five of section
36 eighty of the transportation law [or],

37 (e) is operated by a transit authority or municipality and is used to
38 transport persons for hire, OR

39 (F) IS A MOTOR VEHICLE FOR THE TRANSPORTATION OF DISABLED PERSONS OR
40 PERSONS IN NEED OF NON-EMERGENCY MEDICAL TRANSPORTATION PURSUANT TO
41 SECTION THREE HUNDRED SIXTY-FIVE-H OF THE SOCIAL SERVICES LAW.

42 Provided, however, that bus shall not mean an authorized emergency
43 vehicle operated in the course of an emergency, or a motor vehicle used
44 in the transportation of agricultural workers to and from their place of
45 employment;

46 S 6. Subdivision 2 of section 509-d of the vehicle and traffic law, as
47 added by chapter 675 of the laws of 1985, paragraph (a) as amended by
48 chapter 164 of the laws of 2003, is amended to read as follows:

49 (2) Investigations and inquiries of drivers of [school] CERTAIN buses;
50 maintenance of file; availability to subsequent employer. (a) A motor
51 carrier shall request the department to initiate a criminal history
52 check for persons employed as drivers of school buses, as defined in
53 paragraph (a) of subdivision one of section five hundred nine-a of this
54 [chapter] ARTICLE, on September fourteenth, nineteen hundred eighty-five
55 by such motor carrier, in accordance with regulations of the commission-
56 er by requiring such school bus drivers to submit to the mandated fing-

1 erprinting procedure. The department [of motor vehicles] at the request
2 of the motor carrier shall initiate a criminal history check of all
3 current school bus drivers of such motor carrier as well as those hired
4 on or after September fifteenth, nineteen hundred eighty-five by requir-
5 ing such drivers and applicants to submit to the mandated fingerprinting
6 procedure as part of the school bus driver qualification procedure. Such
7 fingerprinting procedure and the related fee as well as a procedure for
8 the return of such fingerprints upon application of a person who has
9 terminated employment as a school bus driver shall be established in
10 accordance with regulations of the commissioner in consultation with the
11 commissioner of [the division of] criminal justice services. The fee to
12 be paid by or on behalf of the school bus driver or applicant shall be
13 no more than five dollars over the cost to the commissioner for the
14 criminal history check. No cause of action against the department, the
15 division of criminal justice services, a motor carrier or political
16 subdivision for damages related to the dissemination of criminal history
17 records pursuant to this section shall exist when such department, divi-
18 sion, motor carrier or political subdivision has reasonably and in good
19 faith relied upon the accuracy and completeness of criminal history
20 information furnished to it by qualified agencies. Fingerprints submit-
21 ted to the division of criminal justice services pursuant to this subdivi-
22 sion may also be submitted to the federal bureau of investigation for
23 a national criminal history record check.

24 (b) A MOTOR CARRIER SHALL REQUEST THE DEPARTMENT TO INITIATE A CRIMI-
25 NAL HISTORY CHECK FOR PERSONS EMPLOYED AS DRIVERS OF MOTOR VEHICLES USED
26 FOR THE TRANSPORTATION OF DISABLED PERSONS OR PERSONS IN NEED OF NON-EM-
27 ERGENCY MEDICAL TRANSPORTATION, AS PROVIDED IN SECTION THREE HUNDRED
28 SIXTY-FIVE-H OF THE SOCIAL SERVICES LAW, IN ACCORDANCE WITH REGULATIONS
29 OF THE COMMISSIONER BY REQUIRING SUCH DRIVERS TO SUBMIT TO THE MANDATED
30 FINGERPRINTING PROCEDURE. THE DEPARTMENT AT THE REQUEST OF THE MOTOR
31 CARRIER SHALL INITIATE A CRIMINAL HISTORY CHECK OF ALL SUCH CURRENT
32 DRIVERS OF SUCH MOTOR CARRIER BY REQUIRING SUCH DRIVERS AND APPLICANTS
33 TO SUBMIT TO THE MANDATED FINGERPRINTING PROCEDURE AS PART OF THE DRIVER
34 QUALIFICATION PROCEDURE. SUCH FINGERPRINTING PROCEDURE AND THE RELATED
35 FEE AS WELL AS A PROCEDURE FOR THE RETURN OF SUCH FINGERPRINTS UPON
36 APPLICATION OF A PERSON WHO HAS TERMINATED EMPLOYMENT AS SUCH A DRIVER
37 SHALL BE ESTABLISHED IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER
38 IN CONSULTATION WITH THE COMMISSIONER OF CRIMINAL JUSTICE SERVICES. THE
39 FEE TO BE PAID BY OR ON BEHALF OF THE DRIVER OR APPLICANT SHALL BE NO
40 MORE THAN FIVE DOLLARS OVER THE COST TO THE COMMISSIONER FOR THE CRIMI-
41 NAL HISTORY CHECK. NO CAUSE OF ACTION AGAINST THE DEPARTMENT, THE DIVI-
42 SION OF CRIMINAL JUSTICE SERVICES, A MOTOR CARRIER OR POLITICAL SUBDIVI-
43 SION FOR DAMAGES RELATED TO THE DISSEMINATION OF CRIMINAL HISTORY
44 RECORDS PURSUANT TO THIS SECTION SHALL EXIST WHEN SUCH DEPARTMENT, DIVI-
45 SION, MOTOR CARRIER OR POLITICAL SUBDIVISION HAS REASONABLY AND IN GOOD
46 FAITH RELIED UPON THE ACCURACY AND COMPLETENESS OF CRIMINAL HISTORY
47 INFORMATION FURNISHED TO IT BY QUALIFIED AGENCIES. FINGERPRINTS SUBMIT-
48 TED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO THIS SUBDI-
49 VISION MAY ALSO BE SUBMITTED TO THE FEDERAL BUREAU OF INVESTIGATION FOR
50 A NATIONAL CRIMINAL HISTORY RECORD CHECK.

51 (c) After a motor carrier has completed the procedures set forth in
52 EITHER paragraph (a) OR (B) OF this [of] subdivision, it shall designate
53 each new [school] bus driver as a conditional [school] bus driver [as
54 defined in section five hundred nine-h of this article], until the
55 carrier is in receipt of information of the new [school] bus driver's
56 qualification from the department and the required driving records from

1 each appropriate state agency. If the information received indicates
2 that there is a pending criminal offense or driving violation that would
3 require disqualification of a [school] bus driver under this article,
4 the motor carrier shall require the applicant to provide documentation
5 evidencing the disposition of such offense or violation in accordance
6 with regulations established by the commissioner. The department, upon
7 notice of disqualification to an applicant, shall include in such notice
8 information regarding the applicant's right to appeal and contest any
9 claimed ground for disqualification. Such notice shall also advise the
10 applicant of his or her right to obtain, examine, inspect and copy any
11 information used by the department in support of its determination of
12 disqualification. In the event the applicant contests the existence of a
13 criminal conviction in his or her name, such applicant may provide
14 documentation evidencing the disposition of such offense or violation in
15 accordance with regulations established by the commissioner.

16 S 7. Section 509-h of the vehicle and traffic law, as amended by chap-
17 ter 675 of the laws of 1985, is amended to read as follows:

18 S 509-h. Operation by person not licensed to drive a bus. The motor
19 carrier shall not knowingly permit any person to operate a bus carrying
20 passengers unless the driver meets all of the requirements of this arti-
21 cle; except that a motor carrier may permit a conditional [school] bus
22 driver who is not otherwise disqualified under the provisions of this
23 article to operate a bus for a period not to exceed ninety days or a
24 longer period if granted a written extension of such ninety day period
25 by the department pursuant to regulations established by the commission-
26 er. Such regulation shall authorize extension for at least that period
27 of time necessary to review information regarding the prior criminal
28 history of the applicant.

29 S 8. Section 509-l of the vehicle and traffic law is amended by adding
30 a new subdivision 3 to read as follows:

31 3. A MOTOR CARRIER SHALL REQUIRE EVERY PERSON EMPLOYED AS THE DRIVER
32 OF A BUS, AS DEFINED IN PARAGRAPH (A) OR (F) OF SUBDIVISION ONE OF
33 SECTION FIVE HUNDRED NINE-A OF THIS ARTICLE, TO SUBMIT TO DRUG TESTING
34 AT THE EXPENSE OF SUCH MOTOR CARRIER IN ACCORDANCE WITH REGULATIONS
35 PROMULGATED BY THE COMMISSIONER. ALL SUCH DRIVERS SHALL SUBMIT TO DRUG
36 TESTING UPON BEING HIRED AND NOT LESS OFTEN THAN ONCE EACH YEAR THERE-
37 AFTER. ANY DRIVER WHO TESTS POSITIVE FOR A CONTROLLED SUBSTANCE OR ALCO-
38 HOLIC BEVERAGE SHALL NOT BE PERMITTED TO OPERATE SUCH A BUS. THE DRUG
39 TEST SHALL BE ADMINISTERED BY A PERSON OR ENTITY HOLDING THE REQUISITE
40 PERMIT FROM THE DEPARTMENT OF HEALTH. IN THE EVENT THE BUS DRIVER
41 CONTESTS THE RESULTS OF THE DRUG TEST, THE MOTOR CARRIER SHALL ALLOW THE
42 DRIVER TO PROVIDE ONE ADDITIONAL SAMPLE FOR TESTING AT SUCH DRIVER'S
43 EXPENSE.

44 S 9. This act shall take effect on the sixtieth day after it shall
45 have become a law.