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

3518

2011-2012 Regular Sessions

I N A S S E M B L Y

January 25, 2011

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the drivers of certain school buses

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

Section 1. The vehicle and traffic law is amended by adding a new section 509-dd to read as follows:

S 509-DD. APPLICATION OF ARTICLE TO DRIVERS OF CERTAIN SCHOOL BUSES. 1. (A) ANY INDIVIDUAL WHO OPERATES A VEHICLE OF ANY SIZE USED TO TRANSPORT PERSONS UNDER THE AGE OF TWENTY-ONE, OR PERSONS OF ANY AGE WHO ARE MENTALLY OR PHYSICALLY DISABLED, TO A PLACE OF VOCATIONAL, ACADEMIC OR RELIGIOUS INSTRUCTION OR RELIGIOUS SERVICE INCLUDING NURSERY SCHOOLS, DAY CARE CENTERS AND CAMPS AND WHO IS EMPLOYED BY A MOTOR CARRIER WHICH IS EXCLUSIVELY ENGAGED IN THE BUSINESS OF TRANSPORTING PASSENGERS FOR HIRE AND WHICH DOES NOT PERFORM ANY OTHER FUNCTION THAT IS NOT RELATED TO THE TRANSPORTATION OF PASSENGERS, AND WHO IS NOT OTHERWISE SUBJECT TO THE PROVISIONS OF THIS ARTICLE, SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE, PROVIDED HOWEVER THAT SUCH INDIVIDUAL SHALL NOT BE REQUIRED TO HOLD A COMMERCIAL DRIVER'S LICENSE IF SUCH LICENSE IS NOT OTHERWISE REQUIRED TO OPERATE THE VEHICLE PURSUANT TO SECTIONS FIVE HUNDRED ONE AND FIVE HUNDRED ONE-A OF THIS TITLE.

(B) ANY INDIVIDUAL WHO OPERATES A VEHICLE OF ANY SIZE USED TO TRANSPORT PERSONS UNDER THE AGE OF TWENTY-ONE, OR PERSONS OF ANY AGE WHO ARE MENTALLY OR PHYSICALLY DISABLED, TO A PLACE OF VOCATIONAL, ACADEMIC OR RELIGIOUS INSTRUCTION OR RELIGIOUS SERVICE INCLUDING NURSERY SCHOOLS, DAY CARE CENTERS AND CAMPS AND WHO IS SELF-EMPLOYED AND IS EXCLUSIVELY ENGAGED IN THE BUSINESS OF TRANSPORTING PASSENGERS FOR HIRE AND WHO DOES NOT PERFORM ANY OTHER FUNCTION THAT IS NOT RELATED TO THE TRANSPORTATION OF PASSENGERS, AND WHO IS NOT OTHERWISE SUBJECT TO THE PROVISIONS OF THIS ARTICLE, SHALL BE SUBJECT TO THE FOLLOWING PROVISIONS, PROVIDED

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

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HOWEVER THAT SUCH INDIVIDUAL SHALL NOT BE REQUIRED TO HOLD A COMMERCIAL DRIVER'S LICENSE IF SUCH LICENSE IS NOT OTHERWISE REQUIRED TO OPERATE THE VEHICLE PURSUANT TO SECTIONS FIVE HUNDRED ONE AND FIVE HUNDRED ONE-A OF THIS TITLE. SUCH INDIVIDUAL SHALL BE:

(I) AT LEAST EIGHTEEN YEARS OF AGE;

(II) SUBJECT TO THE PROVISIONS OF SECTIONS FIVE HUNDRED NINE-CC, FIVE HUNDRED NINE-K AND FIVE HUNDRED NINE-L OF THIS ARTICLE; AND

(III) SUBJECT TO THE PROVISIONS OF SECTION FIVE HUNDRED NINE-D OF THIS ARTICLE REGARDING FINGERPRINTING AND CRIMINAL HISTORY CHECKS, PROVIDED HOWEVER, THAT SUCH INDIVIDUAL SHALL BE REQUIRED TO SUBMIT TO FINGERPRINTING AND A CRIMINAL HISTORY CHECK AS DIRECTED BY REGULATIONS TO BE ESTABLISHED BY THE COMMISSIONER AND PROVIDED FURTHER THAT SUCH INDIVIDUAL SHALL NOT TRANSPORT CHILDREN TO AND FROM SCHOOL AND SCHOOL ACTIVITIES UNTIL RECEIVING CLEARANCE FROM THE COMMISSIONER. ADDITIONALLY, THE COMMISSIONER SHALL PROMULGATE ANY OTHER REGULATIONS HE OR SHE DEEMS NECESSARY TO ENSURE COMPLIANCE WITH THIS SECTION.

2. FOR PURPOSES OF THIS SECTION, THE TERM "SCHOOL BUS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION ONE HUNDRED FORTY-TWO OF THIS CHAPTER.

3. FOR PURPOSES OF THIS SECTION, THE TERM "MOTOR CARRIER" SHALL MEAN ANY PERSON, CORPORATION, MUNICIPALITY, SCHOOL DISTRICT, OR ENTITY, PUBLIC OR PRIVATE WHO DIRECTS ONE OR MORE SCHOOL BUS DRIVERS AND WHO OPERATES A SCHOOL BUS WHOLLY WITHIN OR PARTLY WITHIN AND PARTLY WITHOUT THIS STATE IN CONNECTION WITH THE BUSINESS OF TRANSPORTING CHILDREN FOR HIRE, EXCEPT SUCH PUBLIC OR GOVERNMENTAL OPERATORS WHO MAY BE EXEMPTED FROM THE PROVISIONS OF THIS SECTION BY THE COMMISSIONER THROUGH REGULATION PROMULGATED BY THE COMMISSIONER.

4. FOR PURPOSES OF THIS SECTION, THE TERM "FOR HIRE" SHALL MEAN TRANSPORTATION OF PASSENGERS FOR WHICH MONIES ARE PAID TO THE MOTOR CARRIER OR INDIVIDUAL FOR THE TRANSPORTATION PROVIDED EXCEPT THAT IT SHALL NOT INCLUDE TRANSPORTATION OF PASSENGERS BY AN INDIVIDUAL OPERATING HIS OR HER OWN VEHICLE WHERE THE ONLY PAYMENT MADE TO SUCH PERSON IS A MILEAGE FEE INTENDED TO COVER THE ACTUAL COST OF SUCH OPERATION.

5. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO INDIVIDUALS WHO ARE ENGAGED IN THE MAINTENANCE, REPAIR OR GARAGING OF SCHOOL BUSES AND IN THE COURSE OF THEIR DUTIES SHALL INCIDENTALLY DRIVE A SCHOOL BUS WITHOUT PASSENGERS, OR WHO, AS A VOLUNTEER, DRIVE A SCHOOL BUS WITH PASSENGERS LESS THAN THIRTY DAYS EACH YEAR.

S 2. Subdivision 4 of section 509-cc of the vehicle and traffic law, as added by chapter 675 of the laws of 1985, paragraph (a) as amended by chapter 93 of the laws of 2006, paragraph (b) as amended by chapter 360 of the laws of 1986 and paragraph (c) as amended by chapter 405 of the laws of 2010, is amended to read as follows:

(4) (a) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (a) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 125.12, 125.11, 125.13, 125.14, 125.15, 125.20, 125.25, 125.26, 125.27, 130.30, 130.35, 130.45, 130.50, 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

(b) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (b) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 100.13, 105.15, 105.17, 115.08, 120.12, 125.10, [125.15,] 130.40, 130.53, 130.60, [130.65,] 130.65-A, 135.20, 160.15, 220.18, 220.21, 220.39, 220.44, 220.41, 220.43, 230.25, 260.00, [263.05, 263.10, 263.15,] 265.04 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.13, 125.14, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00, 230.04, 230.05, 230.06, 230.20, [230.25, 230.30, 230.32,] 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law, provided, however that the adoption of any rules or regulations necessary for the timely implementation of the provisions of this act are authorized and directed to be completed on or before such effective date.