

5171--B

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I N S E N A T E

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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 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

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

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

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1 CRIMINAL HISTORY CHECK OF ALL BUS DRIVERS HIRED OR RE-HIRED ON OR AFTER
2 THE EFFECTIVE DATE OF THIS SUBDIVISION AND ALL CURRENT BUS DRIVERS ON OR
3 BEFORE THE TIME OF THEIR FIRST RENEWAL OF LICENSE BY REQUIRING SUCH
4 APPLICANTS TO SUBMIT TO THE MANDATED FINGERPRINTING PROCEDURE AS PART OF
5 THE BUS DRIVER QUALIFICATION PROCEDURE. SUCH FINGERPRINTING PROCEDURE
6 AND THE RELATED FEE AS WELL AS A PROCEDURE FOR THE RETURN OF SUCH FING-
7 ERPRINTS UPON APPLICATION OF A PERSON WHO HAS TERMINATED EMPLOYMENT AS A
8 BUS DRIVER SHALL BE ESTABLISHED IN ACCORDANCE WITH REGULATIONS OF THE
9 COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF THE DIVISION OF
10 CRIMINAL JUSTICE SERVICES. THE FEE TO BE PAID BY OR ON BEHALF OF THE
11 APPLICANT OR BUS DRIVER SHALL BE NO MORE THAN FIVE DOLLARS OVER THE COST
12 TO THE COMMISSIONER FOR THE CRIMINAL HISTORY CHECK. NO CAUSE OF ACTION
13 AGAINST THE DEPARTMENT, THE DIVISION OF CRIMINAL JUSTICE SERVICES, A
14 MOTOR CARRIER OR POLITICAL SUBDIVISION FOR DAMAGES RELATED TO THE
15 DISSEMINATION OF CRIMINAL HISTORY RECORDS PURSUANT TO THIS SECTION SHALL
16 EXIST WHEN SUCH DEPARTMENT, DIVISION, MOTOR CARRIER OR POLITICAL SUBDI-
17 VISION HAS REASONABLY AND IN GOOD FAITH RELIED UPON THE ACCURACY AND
18 COMPLETENESS OF CRIMINAL HISTORY INFORMATION FURNISHED TO IT BY QUALI-
19 FIED AGENCIES. FINGERPRINTS SUBMITTED TO THE DIVISION OF CRIMINAL
20 JUSTICE SERVICES PURSUANT TO THIS SUBDIVISION MAY ALSO BE SUBMITTED TO
21 THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY
22 RECORD CHECK. NOTWITHSTANDING THE FOREGOING, THE DEPARTMENT MAY BY
23 REGULATION ESTABLISH GUIDELINES AND PROCEDURES FOR EXEMPTING BUS DRIVERS
24 WHO HAVE ALREADY BEEN SUBJECTED TO A CRIMINAL HISTORY CHECK AT THE TIME
25 OF HIRE BY A MOTOR CARRIER.

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

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

49 S 509-h. Operation by person not [licensed] QUALIFIED to drive a bus.
50 The motor carrier shall not knowingly permit any person to operate a bus
51 carrying passengers unless the driver meets all of the requirements of
52 this article; except that a motor carrier may permit a conditional BUS
53 DRIVER OR CONDITIONAL school bus driver who is not otherwise disquali-
54 fied under the provisions of this article to operate a bus for a period
55 not to exceed ninety days or a longer period if granted a written exten-
56 sion of such ninety day period by the department pursuant to regulations

1 established by the commissioner. Such regulation shall authorize exten-
2 sion for at least that period of time necessary to review information
3 regarding the prior criminal history of the applicant.

4 S 3. The vehicle and traffic law is amended by adding a new section
5 509-hh to read as follows:

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

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

31 3. FOR PURPOSES OF THIS SECTION, THE TERM "MOTOR CARRIER" SHALL NOT
32 INCLUDE (A) A STATE, LOCAL, INTERSTATE OR INTERNATIONAL AUTHORITY AS
33 DEFINED IN SECTION TWO OF THE PUBLIC AUTHORITIES LAW, OR (B) A SCHOOL
34 DISTRICT AS DEFINED IN SECTION NINETEEN HUNDRED EIGHTY OF THE EDUCATION
35 LAW.

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

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

46 S 5. This act shall take effect on the ninetieth day after it shall
47 have become a law.