

5503

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. FUSCHILLO -- 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 random drug and alcohol testing 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-g of the vehicle and traffic law is amended by
2 adding two new subdivisions 6 and 7 to read as follows:
3 6. RANDOM DRUG AND ALCOHOL TESTING. (A) ALL MOTOR CARRIERS, AS DEFINED
4 BY SECTION FIVE HUNDRED NINE-A OF THIS TITLE, SHALL BE REQUIRED TO
5 ADMINISTER RANDOM DRUG AND ALCOHOL TESTS TO ALL DRIVERS, AS DEFINED BY
6 SECTION FIVE HUNDRED NINE-A OF THIS TITLE, OF SCHOOL BUSES, AS DEFINED
7 BY SECTION ONE HUNDRED FORTY-TWO OF THIS CHAPTER, REGARDLESS OF COMMER-
8 CIAL DRIVER'S LICENSE ENDORSEMENT.
9 (B) (I) FAILURE OF A RANDOM DRUG AND ALCOHOL TEST BY A DRIVER SHALL BE
10 REPORTED TO THE COMMISSIONER OF MOTOR VEHICLES BY THE MOTOR CARRIER
11 IMMEDIATELY UPON NOTIFICATION OF FAILURE;
12 (II) THE COMMISSIONER SHALL RECORD ON THE DRIVER'S DEPARTMENT OF MOTOR
13 VEHICLE DRIVER ABSTRACT THE FAILURE OF THE DRUG AND ALCOHOL TEST AND
14 STATE THAT THE TEST WAS ADMINISTERED DURING NORMAL WORK HOURS; AND
15 (III) THE DRIVER SHALL BE DISQUALIFIED FROM OPERATING A SCHOOL BUS FOR
16 THE PERIOD OF ONE YEAR PURSUANT TO PARAGRAPH H OF SUBDIVISION ONE AND
17 PARAGRAPH I OF SUBDIVISION TWO OF SECTION FIVE HUNDRED NINE-CC OF THIS
18 ARTICLE.
19 7. THE MINIMUM ANNUAL PERCENTAGE RATE FOR RANDOM DRUG AND ALCOHOL
20 TESTING SHALL BE ONE HUNDRED PERCENT OF THE DRIVER POSITIONS FILLED BY
21 THE MOTOR CARRIER.
22 S 2. Paragraph (a) of subdivision 1 of section 509-cc of the vehicle
23 and traffic law is amended by adding a new subparagraph (iv) to read as
24 follows:

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

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(IV) HAS BEEN CONVICTED OF A VIOLATION OF SUBDIVISION ONE, TWO, THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER WHEREIN THE VIOLATOR IS OPERATING A SCHOOL BUS AS DEFINED IN SECTION ONE HUNDRED FORTY-TWO OF THIS CHAPTER AND SUCH SCHOOL BUS IS CARRYING AT LEAST ONE STUDENT PASSENGER; OR

S 3. Subdivision 2 of section 509-cc of the vehicle and traffic law is amended by adding a new paragraph (b-1) to read as follows:

(B-1) PERMANENTLY, IF THAT PERSON HAS BEEN CONVICTED OF A VIOLATION OF SUBDIVISION ONE, TWO, THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER WHEREIN THE VIOLATOR IS OPERATING A SCHOOL BUS AS DEFINED IN SECTION ONE HUNDRED FORTY-TWO OF THIS CHAPTER AND SUCH SCHOOL BUS IS CARRYING AT LEAST ONE STUDENT PASSENGER.

S 4. Subdivision 1 of section 509-cc of the vehicle and traffic law is amended by adding a new paragraph (h) to read as follows:

(H) FOR A PERIOD OF ONE YEAR, IF THAT PERSON FAILS TO PASS A DRUG AND ALCOHOL TEST PURSUANT TO SECTION FIVE HUNDRED NINE-G OF THIS ARTICLE.

S 5. Subdivision 2 of section 509-cc of the vehicle and traffic law is amended by adding a new paragraph (i) to read as follows:

(I) FOR A PERIOD OF ONE YEAR, IF THAT PERSON FAILS TO PASS A DRUG AND ALCOHOL TEST PURSUANT TO SECTION FIVE HUNDRED NINE-G OF THIS ARTICLE.

S 6. Section 509-l of the vehicle and traffic law, as amended by chapter 675 of the laws of 1985, is amended to read as follows:

S 509-l. Drugs, controlled substance and intoxicating liquor. 1. No person shall:

(a) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor or drug, within [six] EIGHT hours before going on duty or operating, or having physical control of a bus, or

(b) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, or operating, or in physical control of a bus, or

(c) possess a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, operating or in physical control of a bus. However, this paragraph does not apply to possession of a drug, controlled substance or an intoxicating liquor which is transported as part of a shipment or personal effects of a passenger or to alcoholic beverages which are in sealed containers.

2. No motor carrier shall require or permit a driver to:

(a) violate any provision of subdivision one of this section; or

(b) be on duty or operate a bus if, by such person's general appearance or by such person's conduct or by other substantiating evidence, such person appears to have consumed a drug, controlled substance or an intoxicating liquor within the preceding [six] EIGHT hours.

S 7. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the commissioner of motor vehicles may add, amend, or repeal any rule or regulation necessary to timely implement the provisions of this act on its effective date.