

5503--A

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sens. FUSCHILLO, LARKIN, MAZIARZ -- 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 Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law and the education 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 SHALL BE  
4 REQUIRED TO ADMINISTER RANDOM DRUG AND ALCOHOL TESTS TO ALL DRIVERS, AS  
5 DEFINED BY SECTION FIVE HUNDRED NINE-A OF THIS ARTICLE, OF SCHOOL BUSES,  
6 AS DEFINED BY SECTION ONE HUNDRED FORTY-TWO OF THIS CHAPTER, REGARDLESS  
7 OF COMMERCIAL DRIVER'S LICENSE ENDORSEMENT. FOR THE PURPOSES OF THIS  
8 SECTION "MOTOR CARRIERS" SHALL MEAN ANY PERSON, CORPORATION OR ENTITY IN  
9 CONTRACT WITH A MUNICIPALITY OR SCHOOL DISTRICT FOR THE PURPOSES OF  
10 TRANSPORTING CHILDREN TO AND FROM SCHOOL, OR A MUNICIPALITY OR SCHOOL  
11 DISTRICT THAT TRANSPORTS CHILDREN TO AND FROM SCHOOL.  
12 (B) (I) FAILURE OF A RANDOM DRUG AND ALCOHOL TEST BY A DRIVER SHALL BE  
13 REPORTED TO THE COMMISSIONER OF MOTOR VEHICLES BY THE MOTOR CARRIER  
14 IMMEDIATELY UPON NOTIFICATION OF FAILURE;  
15 (II) THE COMMISSIONER SHALL RECORD ON THE DRIVER'S DEPARTMENT OF MOTOR  
16 VEHICLE DRIVER ABSTRACT THE FAILURE OF THE DRUG AND ALCOHOL TEST AND  
17 STATE THAT THE TEST WAS ADMINISTERED DURING NORMAL WORK HOURS; AND  
18 (III) THE DRIVER SHALL BE DISQUALIFIED FROM OPERATING A SCHOOL BUS FOR  
19 THE PERIOD OF ONE YEAR PURSUANT TO PARAGRAPH (H) OF SUBDIVISION ONE AND  
20 PARAGRAPH (I) OF SUBDIVISION TWO OF SECTION FIVE HUNDRED NINE-CC OF THIS  
21 ARTICLE.

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

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1 7. THE MINIMUM ANNUAL PERCENTAGE RATE FOR RANDOM DRUG AND ALCOHOL  
2 TESTING SHALL BE ONE HUNDRED PERCENT OF THE DRIVER POSITIONS FILLED BY  
3 THE MOTOR CARRIER.

4 S 2. Paragraph (a) of subdivision 1 of section 509-cc of the vehicle  
5 and traffic law is amended by adding a new subparagraph (iv) to read as  
6 follows:

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

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

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

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

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

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

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

27 S 6. Section 509-1 of the vehicle and traffic law, as amended by chap-  
28 ter 675 of the laws of 1985, is amended to read as follows:

29 S 509-1. Drugs, controlled [substance] SUBSTANCES and intoxicating  
30 liquor. 1. No person shall:

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

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

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

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

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

46 (b) be on duty or operate a bus if, by such person's general appear-  
47 ance or by such person's conduct or by other substantiating evidence,  
48 such person appears to have consumed a drug, controlled substance or an  
49 intoxicating liquor within the preceding six hours, OR EIGHT HOURS WHEN  
50 SUCH DRIVER OPERATES A SCHOOL BUS AS DEFINED BY SECTION ONE HUNDRED  
51 FORTY-TWO OF THIS CHAPTER.

52 S 7. Subparagraph 6 of paragraph e of subdivision 1 of section 3623-a  
53 of the education law, as added by chapter 474 of the laws of 1996, is  
54 amended to read as follows:

55 (6) costs incurred by the employer for qualifying criminal history,  
56 drivers license, or other required testing attributable to special

1 requirements for drivers of school buses pursuant to state or federal  
2 law INCLUDING RANDOM DRUG AND ALCOHOL TESTING AS REQUIRED UNDER SUBDIVI-  
3 SION SIX AND SUBDIVISION SEVEN OF SECTION FIVE HUNDRED NINE-G OF THE  
4 VEHICLE AND TRAFFIC LAW;

5 S 8. This act shall take effect on the one hundred twentieth day after  
6 it shall have become a law. Effective immediately, the commissioner of  
7 motor vehicles may add, amend, or repeal any rule or regulation neces-  
8 sary to timely implement the provisions of this act on its effective  
9 date.