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

883

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law and the vehicle and traffic law, in relation to disqualification of persons employed as school bus monitors and bus drivers

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

Section 1. The education law is amended by adding a new section 3635-d to read as follows:

S 3635-D. DISQUALIFICATION OF SCHOOL BUS MONITORS. 1. A PERSON SHALL BE DISQUALIFIED FROM ACTING AS A SCHOOL BUS MONITOR AS FOLLOWS:

(A) PERMANENTLY, IF THAT PERSON HAS BEEN CONVICTED OF AN OFFENSE LISTED IN PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION FIVE HUNDRED NINE-CC OF THE VEHICLE AND TRAFFIC LAW. HOWEVER, SUCH DISQUALIFICATION MAY BE WAIVED BY THE COMMISSIONER PROVIDED THAT FIVE YEARS HAVE EXPIRED SINCE THE APPLICANT WAS DISCHARGED OR RELEASED FROM A SENTENCE OF IMPRISONMENT IMPOSED PURSUANT TO CONVICTION OF AN OFFENSE THAT REQUIRES DISQUALIFICATION UNDER THIS PARAGRAPH AND THAT THE APPLICANT SHALL HAVE BEEN GRANTED A CERTIFICATE OF RELIEF FROM DISABILITIES OR A CERTIFICATE OF GOOD CONDUCT PURSUANT TO ARTICLE TWENTY-THREE OF THE CORRECTION LAW. WHEN THE CERTIFICATE IS ISSUED BY A COURT FOR A CONVICTION WHICH OCCURRED IN THIS STATE, IT SHALL ONLY BE ISSUED BY THE COURT HAVING JURISDICTION OVER SUCH CONVICTION. SUCH CERTIFICATE SHALL SPECIFICALLY INDICATE THAT THE AUTHORITY GRANTING SUCH CERTIFICATE HAS CONSIDERED THE BEARING, IF ANY, THE CRIMINAL OFFENSE OR OFFENSES FOR WHICH THE PERSON WAS CONVICTED WILL HAVE ON THE APPLICANT'S FITNESS TO MONITOR AND ENSURE THE SAFETY OF CHILDREN RIDING ON A SCHOOL BUS, PRIOR TO GRANTING SUCH A CERTIFICATE;

(B) PERMANENTLY, IF THAT PERSON HAS BEEN CONVICTED OF AN OFFENSE LISTED IN PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION FIVE HUNDRED NINE-CC OF THE VEHICLE AND TRAFFIC LAW. HOWEVER, SUCH DISQUALIFICATION SHALL BE

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

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WAIVED PROVIDED THAT FIVE YEARS HAVE EXPIRED SINCE THE APPLICANT WAS INCARCERATED PURSUANT TO A SENTENCE OF IMPRISONMENT IMPOSED ON CONVICTION OF AN OFFENSE THAT REQUIRES DISQUALIFICATION UNDER THIS PARAGRAPH AND THAT THE APPLICANT SHALL HAVE BEEN GRANTED A CERTIFICATE OF RELIEF FROM DISABILITIES OR A CERTIFICATE OF GOOD CONDUCT PURSUANT TO ARTICLE TWENTY-THREE OF THE CORRECTION LAW. WHEN THE CERTIFICATE IS ISSUED BY A COURT FOR A CONVICTION WHICH OCCURRED IN THIS STATE, IT SHALL ONLY BE ISSUED BY THE COURT HAVING JURISDICTION OVER SUCH CONVICTION. SUCH CERTIFICATE SHALL SPECIFICALLY INDICATE THAT THE AUTHORITY GRANTING SUCH CERTIFICATE HAS CONSIDERED THE BEARING, IF ANY, THE CRIMINAL OFFENSE OR OFFENSES FOR WHICH THE PERSON WAS CONVICTED WILL HAVE ON THE APPLICANT'S FITNESS TO MONITOR AND ENSURE THE SAFETY OF CHILDREN RIDING ON A SCHOOL BUS, PRIOR TO GRANTING SUCH A CERTIFICATE. PROVIDED, HOWEVER, THAT AT THE DISCRETION OF THE COMMISSIONER THE CERTIFICATE OF RELIEF FROM DISABILITIES OR A CERTIFICATE OF GOOD CONDUCT PURSUANT TO ARTICLE TWENTY-THREE OF THE CORRECTION LAW MAY REMOVE DISQUALIFICATION AT ANY TIME;

(C) FOR A PERIOD OF FIVE YEARS FROM THE DATE OF LAST CONVICTION SPECIFIED HEREIN, IF THAT PERSON HAS BEEN CONVICTED WITHIN THE PRECEDING FIVE YEARS OF AN OFFENSE LISTED IN PARAGRAPH (C) OF SUBDIVISION FOUR OF SECTION FIVE HUNDRED NINE-CC OF THE VEHICLE AND TRAFFIC LAW. SUCH DISQUALIFICATION SHALL BE WAIVED PROVIDED THAT THE APPLICANT HAS BEEN GRANTED A CERTIFICATE OF RELIEF FROM DISABILITIES OR A CERTIFICATE OF GOOD CONDUCT PURSUANT TO ARTICLE TWENTY-THREE OF THE CORRECTION LAW. WHEN THE CERTIFICATE IS ISSUED BY A COURT FOR A CONVICTION WHICH OCCURRED IN THIS STATE, IT SHALL ONLY BE ISSUED BY THE COURT HAVING JURISDICTION OVER SUCH CONVICTION. SUCH CERTIFICATE SHALL SPECIFICALLY INDICATE THAT THE AUTHORITY GRANTING SUCH CERTIFICATE HAS CONSIDERED THE BEARING, IF ANY, THE CRIMINAL OFFENSE OR OFFENSES FOR WHICH THE PERSON WAS CONVICTED WILL HAVE ON THE APPLICANT'S FITNESS TO MONITOR AND ENSURE THE SAFETY OF CHILDREN RIDING ON A SCHOOL BUS, PRIOR TO GRANTING SUCH A CERTIFICATE; AND

(D) FOR A PERIOD OF FIVE YEARS FROM THE DATE OF LAST CONVICTION SPECIFIED HEREIN, IF THAT PERSON HAS BEEN CONVICTED WITHIN THE PRECEDING FIVE YEARS OF A VIOLATION OF SECTION 120.04, 120.04-A, 125.13, 125.14 OR 235.07 OF THE PENAL LAW.

FOR THE PURPOSES OF THIS SUBDIVISION A SCHOOL BUS MONITOR SHALL BE DEFINED AS ANY ADULT EMPLOYED BY A SCHOOL DISTRICT OR A PRIVATE ENTITY TO RIDE ON A SCHOOL BUS FOR THE PURPOSE OF ENSURING THE SAFETY OF ITS PASSENGERS OR FOR MONITORING THE CONDUCT OF THE BUS PASSENGERS.

2. AS A PART OF SUCH DETERMINATION CONCERNING WHETHER AN INDIVIDUAL IS DISQUALIFIED FROM ACTING AS A SCHOOL BUS MONITOR PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL SUBMIT A PROSPECTIVE MONITOR'S FINGERPRINTS TO THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR A STATE CRIMINAL HISTORY RECORD CHECK, AS DEFINED IN SUBDIVISION ONE OF SECTION THREE THOUSAND THIRTY-FIVE OF THIS CHAPTER, AND MAY SUBMIT SUCH FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK.

S 2. 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 FIVE YEARS FROM THE DATE OF LAST CONVICTION FOR VIOLATING PARAGRAPH (B) OF SUBDIVISION TWO-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER.

S 3. 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 FIVE YEARS FROM THE DATE OF LAST CONVICTION FOR VIOLATING PARAGRAPH (B) OF SUBDIVISION TWO-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that any rules or regulations necessary for the timely implementation of the provisions of this act are authorized to be made on or before such effective date.