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

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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. FUSCHILLO, LARKIN, MAZIARZ -- 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 qualifications of bus drivers

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

Section 1. Section 509-d of the vehicle and traffic law is amended by adding a new subdivision 2-a to read as follows:

(2-A) INVESTIGATIONS AND INQUIRIES OF BUS DRIVERS OTHER THAN SCHOOL BUS DRIVERS. (A) A MOTOR CARRIER SHALL REQUEST THE DEPARTMENT TO INITIATE A CRIMINAL HISTORY CHECK FOR PERSONS HIRED OR RE-HIRED BY SUCH MOTOR CARRIER ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION AS DRIVERS OF BUSES, AS DEFINED IN PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION ONE OF SECTION FIVE HUNDRED NINE-A OF THIS ARTICLE, IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER REQUIRING SUCH BUS DRIVERS TO SUBMIT TO THE MANDATED FINGERPRINTING PROCEDURE. ADDITIONALLY, FOR DRIVERS OF BUSES, AS DEFINED IN PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION ONE OF SECTION FIVE HUNDRED NINE-A OF THIS ARTICLE, IN THE EMPLOY OF A MOTOR CARRIER ON THE EFFECTIVE DATE OF THIS SUBDIVISION, THE MOTOR CARRIER SHALL REQUEST ON OR BEFORE THE TIME OF ANY SUCH DRIVER'S FIRST RENEWAL OF LICENSE PURSUANT TO SUBDIVISION SIX OF SECTION FIVE HUNDRED TWO OF THIS TITLE THAT THE DEPARTMENT INITIATE A CRIMINAL HISTORY CHECK IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER. THE DEPARTMENT OF MOTOR VEHICLES AT THE REQUEST OF THE MOTOR CARRIER SHALL INITIATE A CRIMINAL HISTORY CHECK OF ALL BUS DRIVERS HIRED OR RE-HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION AND ALL CURRENT BUS DRIVERS ON OR BEFORE THE TIME OF THEIR FIRST RENEWAL OF LICENSE BY REQUIRING SUCH APPLICANTS TO SUBMIT TO THE MANDATED FINGERPRINTING PROCEDURE AS PART OF THE BUS DRIVER QUALIFICATION PROCEDURE. SUCH FINGERPRINTING PROCEDURE

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

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AND THE RELATED FEE AS WELL AS A PROCEDURE FOR THE RETURN OF SUCH FINGERPRINTS UPON APPLICATION OF A PERSON WHO HAS TERMINATED EMPLOYMENT AS A BUS DRIVER SHALL BE ESTABLISHED IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES. THE FEE TO BE PAID BY OR ON BEHALF OF THE APPLICANT OR BUS DRIVER SHALL BE NO MORE THAN FIVE DOLLARS OVER THE COST TO THE COMMISSIONER FOR THE CRIMINAL HISTORY CHECK. NO CAUSE OF ACTION AGAINST THE DEPARTMENT, THE DIVISION OF CRIMINAL JUSTICE SERVICES, A MOTOR CARRIER OR POLITICAL SUBDIVISION FOR DAMAGES RELATED TO THE DISSEMINATION OF CRIMINAL HISTORY RECORDS PURSUANT TO THIS SECTION SHALL EXIST WHEN SUCH DEPARTMENT, DIVISION, MOTOR CARRIER OR POLITICAL SUBDIVISION HAS REASONABLY AND IN GOOD FAITH RELIED UPON THE ACCURACY AND COMPLETENESS OF CRIMINAL HISTORY INFORMATION FURNISHED TO IT BY QUALIFIED AGENCIES. FINGERPRINTS SUBMITTED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO THIS SUBDIVISION MAY ALSO BE SUBMITTED TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK. NOTWITHSTANDING THE FOREGOING, THE DEPARTMENT MAY BY REGULATION ESTABLISH GUIDELINES AND PROCEDURES FOR EXEMPTING BUS DRIVERS WHO HAVE ALREADY BEEN SUBJECTED TO A CRIMINAL HISTORY CHECK AT THE TIME OF HIRE BY A MOTOR CARRIER.

(B) AFTER A MOTOR CARRIER HAS COMPLETED THE PROCEDURES SET FORTH IN PARAGRAPH (A) THIS OF SUBDIVISION, IT SHALL DESIGNATE EACH NEW BUS DRIVER AS A CONDITIONAL BUS DRIVER AS DEFINED IN SECTION FIVE HUNDRED NINE-H OF THIS ARTICLE, UNTIL THE CARRIER IS IN RECEIPT OF INFORMATION OF THE NEW BUS DRIVER'S QUALIFICATION FROM THE DEPARTMENT AND THE REQUIRED DRIVING RECORDS FROM EACH APPROPRIATE STATE AGENCY. IF THE INFORMATION RECEIVED INDICATES THAT THERE IS A PENDING CRIMINAL OFFENSE OR DRIVING VIOLATION THAT WOULD REQUIRE DISQUALIFICATION OF A BUS DRIVER UNDER THIS ARTICLE, THE MOTOR CARRIER SHALL REQUIRE THE APPLICANT TO PROVIDE DOCUMENTATION EVIDENCING THE DISPOSITION OF SUCH OFFENSE OR VIOLATION IN ACCORDANCE WITH REGULATIONS ESTABLISHED BY THE COMMISSIONER. THE DEPARTMENT, UPON NOTICE OF DISQUALIFICATION TO AN APPLICANT, SHALL INCLUDE IN SUCH NOTICE INFORMATION REGARDING THE APPLICANT'S RIGHT TO APPEAL AND CONTEST ANY CLAIMED GROUND FOR DISQUALIFICATION. SUCH NOTICE SHALL ALSO ADVISE THE APPLICANT OF HIS OR HER RIGHT TO OBTAIN, EXAMINE, INSPECT AND COPY ANY INFORMATION USED BY THE DEPARTMENT IN SUPPORT OF ITS DETERMINATION OF DISQUALIFICATION. IN THE EVENT THE APPLICANT CONTESTS THE EXISTENCE OF A CRIMINAL CONVICTION IN HIS OR HER NAME, SUCH APPLICANT MAY PROVIDE DOCUMENTATION EVIDENCING THE DISPOSITION OF SUCH OFFENSE OR VIOLATION IN ACCORDANCE WITH REGULATIONS ESTABLISHED BY THE COMMISSIONER.

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

S 509-h. Operation by person not [licensed] QUALIFIED to drive a bus. The motor carrier shall not knowingly permit any person to operate a bus carrying passengers unless the driver meets all of the requirements of this article; except that a motor carrier may permit a conditional BUS DRIVER OR CONDITIONAL school bus driver who is not otherwise disqualified under the provisions of this article to operate a bus for a period not to exceed ninety days or a longer period if granted a written extension of such ninety day period by the department pursuant to regulations established by the commissioner. Such regulation shall authorize extension for at least that period of time necessary to review information regarding the prior criminal history of the applicant.

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

S 509-HH. DUTY OF CERTAIN MOTOR CARRIERS TO SUPPLY IDENTIFYING INFORMATION AND BUS REGISTRATION INFORMATION TO THE DEPARTMENT; REQUIREMENTS REGARDING CERTAIN BUS REGISTRATIONS AND REGISTRATIONS. 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, EVERY MOTOR CARRIER MUST PROVIDE TO THE DEPARTMENT IDENTIFYING INFORMATION AND BUS REGISTRATION INFORMATION ON A FORM OR FORMS PREPARED AND FURNISHED BY THE DEPARTMENT FOR THAT PURPOSE. IDENTIFYING INFORMATION SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, INFORMATION REGARDING: THE BUSINESS NAME, OWNERSHIP, BUSINESS ADDRESS, AND FEDERAL OR STATE IDENTIFICATION NUMBERS OF THE MOTOR CARRIER. BUS REGISTRATION INFORMATION SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, INFORMATION REASONABLY REQUIRED BY THE DEPARTMENT IN CARRYING OUT ITS DUTIES UNDER THIS ARTICLE REGARDING THE REGISTRATION OF BUSES OWNED, LEASED, RENTED, OR OTHERWISE CONTROLLED BY THE MOTOR CARRIER. IDENTIFYING INFORMATION AND BUS REGISTRATION INFORMATION MUST CONTAIN OR BE ACCOMPANIED BY SUCH SUPPORTING DOCUMENTATION AS MAY BE REQUESTED OR REQUIRED BY THE DEPARTMENT. A MOTOR CARRIER MUST NOTIFY THE DEPARTMENT IN WRITING OF ANY CHANGE IN ANY INFORMATION PROVIDED BY THE MOTOR CARRIER TO THE DEPARTMENT PURSUANT TO THIS SECTION WITHIN TEN DAYS OF THE CHANGE.

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

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

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

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

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