

# STATE OF NEW YORK

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208--B

2017-2018 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 4, 2017

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Introduced by M. of A. LUPARDO, THIELE, BARRETT, HEVESI, SEPULVEDA, GJONAJ, ABINANTI, JAFFEE, GALEF, HARRIS, MAGNARELLI, D'URSO, LOPEZ, MONTESANO, MURRAY, McDONOUGH, FRIEND, BLANKENBUSH, PALMESANO, WALSH, PALUMBO -- Multi-Sponsored by -- M. of A. FINCH, GIGLIO, GRAF, HAWLEY, JONES, SIMON, SKARTADOS -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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 pre-employment and random drug and alcohol testing of bus drivers and school bus attendants

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 a new subdivision 6 to read as follows:

3 6. (a) All motor carriers shall be required to conduct pre-employment  
4 and random drug and alcohol testing in accordance with the provisions  
5 and requirements of Part 382 of Title 49 of the Code of Federal Regu-  
6 lations on all drivers, as defined by section one hundred forty-two of  
7 this chapter, regardless of commercial driver's license endorsement.  
8 Every such driver shall be included in the random testing pool from  
9 which drivers are randomly selected for testing, and every such driver  
10 shall submit to such testing when selected, as required in Part 382 of  
11 Title 49 of the Code of Federal Regulations. For the purposes of this  
12 section "motor carriers" shall mean a school or municipality that trans-  
13 ports children to and from school or any person, corporation or entity  
14 in contract with a municipality or school district for the purposes of  
15 transporting children to and from school.

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

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1 (b) (i) Failure of a pre-employment or random drug and alcohol test by  
2 a driver shall be reported to the commissioner of motor vehicles by the  
3 motor carrier immediately upon notification of failure;

4 (ii) The driver shall be disqualified from operating a school bus for  
5 the period of one year pursuant to paragraph (h) of subdivision one and  
6 paragraph (i) of subdivision two of section five hundred nine-cc of this  
7 article.

8 (iii) Drug testing administered pursuant to this section shall, at a  
9 minimum, be in conformance with drug testing procedures as set forth in  
10 Part 382 of Title 49 of the code of federal regulations.

11 § 2. Section 509-1 of the vehicle and traffic law, as amended by chap-  
12 ter 675 of the laws of 1985, is amended to read as follows:

13 § 509-1. Drugs, controlled [~~substance~~] substances and intoxicating  
14 liquor. 1. No person shall:

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

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

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

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

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

30 (b) be on duty or operate a bus if, by such person's general appear-  
31 ance or by such person's conduct or by other substantiating evidence,  
32 such person appears to have consumed a drug, controlled substance or an  
33 intoxicating liquor within the preceding six hours, or eight hours when  
34 such driver operates a school bus as defined by section one hundred  
35 forty-two of this chapter.

36 § 3. Subparagraph 6 of paragraph e of subdivision 1 of section 3623-a  
37 of the education law, as added by chapter 474 of the laws of 1996, is  
38 amended to read as follows:

39 (6) costs incurred by the employer for qualifying criminal history,  
40 drivers license, or other required testing attributable to special  
41 requirements for drivers of school buses pursuant to state or federal  
42 law including pre-employment and random drug and alcohol testing as  
43 required under subdivision six of section five hundred nine-g of the  
44 vehicle and traffic law;

45 § 4. This act shall take effect on the one hundred twentieth day after  
46 it shall have become a law. Effective immediately, the commissioner of  
47 motor vehicles may add, amend, or repeal any rule or regulation neces-  
48 sary to timely implement the provisions of this act on its effective  
49 date.