STATE OF NEW YORK

712--A

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. PAULIN, SANTABARBARA, FAHY, ASHBY, M. G. MILLER, TAYLOR, ORTIZ, THIELE, McDONALD, ARROYO, GALEF, BLAKE, GOTTFRIED, WILLIAMS, COOK, CRUZ, GRIFFIN, WALSH, McDONOUGH, MIKULIN, FALL, LAWRENCE -- Multi-Sponsored by -- M. of A. DeSTEFANO, SIMON -- read once and referred to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to drug and alcohol testing for for-hire vehicle drivers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The vehicle and traffic law is amended by adding a new section 507-a to read as follows:

§ 507-a. Special requirements for for-hire vehicle motor carriers and drivers; drugs and alcohol. 1. (a) All motor carriers shall be required to conduct pre-employment and random drug and alcohol testing in accordance with the provisions and requirements of Part 382 of Title 49 of the Code of Federal Regulations on all drivers of any for-hire vehicle having a seating capacity of nine or more passengers, including the driver, regardless of a commercial driver's license endorsement. Every such driver shall be included in the random testing pool from which drivers are randomly selected for testing, and every such driver shall submit to such testing when selected, as required in Part 382 of Title 49 of the Code of Federal Regulations.

(b) Drug testing administered pursuant to this subdivision shall, at a minimum, be in conformance with drug testing procedures as set forth in Part 382 of Title 49 of the Code of Federal Regulations.

2. No person shall:

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

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(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 eight hours before going on duty or operating, or having physical control of a for-hire vehicle having a seating capacity of nine or more passengers, including the driver; 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 for-hire vehicle having a seating capacity of nine or more passengers, including the driver; 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 for-hire vehicle having a seating capacity of nine or more passengers, including the driver. However, this paragraph shall 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.

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

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

(b) be on duty or operate a for-hire vehicle having a seating capacity of nine or more passengers, including the driver, 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 eight hours before such driver operates such for-hire vehicle.

4. (a) Every motor carrier shall submit an affidavit to the commissioner attesting to compliance with this section. Such affidavit shall be submitted annually beginning no later than six months after the effective date of this subdivision, in a manner prescribed by regulations established by the commissioner.

(b) Where an affidavit is not submitted pursuant to this section, the commissioner may, in his or her discretion, suspend the registration of the for-hire vehicle or vehicles or deny registration or renewal to the for-hire vehicle or vehicles owned or operated by the motor carrier. Such suspension or denial shall only remain in effect as long as the motor carrier fails to submit such affidavit.

(c) The commissioner may require any motor carrier to pay to the people of this state a civil penalty, if after the motor carrier has had an opportunity to be heard, the commissioner finds that the motor carrier has violated any provision of this section or regulations promulgated pursuant to this section, or has made any false statement or misrepresentation on any affidavit of compliance filed with the commissioner. Any civil penalty assessed for a first violation shall not be less than five hundred dollars nor greater than two thousand five hundred dollars for each violation, false statement or misrepresentation found to have been made or committed, and for a second or subsequent violation, not arising out of the same incident, all of which were committed within a period of eighteen months, shall not be less than five hundred dollars nor greater than five thousand dollars for each violation, false statement or misrepresentation found to have been made or committed. If the registrant fails to pay such penalty within twenty days after the mailing of such order, postage prepaid, certified and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the for-hire vehicle registrations or out of state registration privilege of operation in the state of such motor carrier or may suspend

the same for such periods as the commissioner may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law after reimbursing the department for the actual costs of public education activities undertaken by the department to implement this section, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner.

(d) Upon the suspension of a vehicle registration pursuant to paragraph (b) or (c) of this subdivision, the commissioner shall have the authority to deny a registration or renewal application to any other person for the same for-hire vehicle and may deny a registration or renewal application for any other for-hire motor vehicle registered in the name of the applicant where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this section. Such suspension or denial shall remain in effect only as long as the suspension entered pursuant to paragraph (b) or (c) of this subdivision remains in effect.

5. For purposes of this section, the term "motor carrier" shall mean any person, firm, corporation, association or entity which directs one or more drivers of a for-hire vehicle or vehicles, having a seating capacity of nine or more passengers, including the driver, and which operates such for-hire vehicle or vehicles in the business of transporting passengers for compensation, and the term "for-hire vehicle" shall mean a taxicab or livery having a seating capacity of nine or more passengers, including the driver, including an altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers, including the driver.

§ 2. The commissioner of motor vehicles shall undertake a public education campaign to alert motor carriers and drivers of for-hire vehicles of the provisions of section 507-a of the vehicle and traffic law, as added by section one of this act. For the purposes of this section, the terms "motor carrier" and "for-hire vehicle" shall have the same meanings as defined by subdivision 5 of such section 507-a.

§ 3. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.