

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:

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

3 § 507-a. Special requirements for for-hire vehicle motor carriers and
4 drivers; drugs and alcohol. 1. (a) All motor carriers shall be required
5 to conduct pre-employment and random drug and alcohol testing in accord-
6 ance with the provisions and requirements of Part 382 of Title 49 of the
7 Code of Federal Regulations on all drivers of any for-hire vehicle
8 having a seating capacity of nine or more passengers, including the
9 driver, regardless of a commercial driver's license endorsement. Every
10 such driver shall be included in the random testing pool from which
11 drivers are randomly selected for testing, and every such driver shall
12 submit to such testing when selected, as required in Part 382 of Title
13 49 of the Code of Federal Regulations.

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

17 2. No person shall:

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

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1 (a) consume a drug, controlled substance or an intoxicating liquor,
2 regardless of its alcoholic content, or be under the influence of an
3 intoxicating liquor or drug, within eight hours before going on duty or
4 operating, or having physical control of a for-hire vehicle having a
5 seating capacity of nine or more passengers, including the driver; or

6 (b) consume a drug, controlled substance or an intoxicating liquor,
7 regardless of its alcoholic content while on duty, or operating, or in
8 physical control of a for-hire vehicle having a seating capacity of nine
9 or more passengers, including the driver; or

10 (c) possess a drug, controlled substance or an intoxicating liquor,
11 regardless of its alcoholic content, while on duty, operating or in
12 physical control of a for-hire vehicle having a seating capacity of nine
13 or more passengers, including the driver. However, this paragraph shall
14 not apply to possession of a drug, controlled substance or an intoxicat-
15 ing liquor which is transported as part of a shipment or personal
16 effects of a passenger or to alcoholic beverages which are in sealed
17 containers.

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

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

20 (b) be on duty or operate a for-hire vehicle having a seating capacity
21 of nine or more passengers, including the driver, if by such person's
22 general appearance or by such person's conduct or by other substantiat-
23 ing evidence, such person appears to have consumed a drug, controlled
24 substance or an intoxicating liquor within the preceding eight hours
25 before such driver operates such for-hire vehicle.

26 4. (a) Every motor carrier shall submit an affidavit to the commis-
27 sioner attesting to compliance with this section. Such affidavit shall
28 be submitted annually beginning no later than six months after the
29 effective date of this subdivision, in a manner prescribed by regu-
30 lations established by the commissioner.

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

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

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

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

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

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

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