



Department of Motor Vehicles

6 EMPIRE STATE PLAZA • ALBANY, NY 12228

Albany, New York

January 7, 2019

TO: All Article 19-A Motor Carriers and Certified Examiners

SUBJECT: Chapter 207 of the Laws of 2018 – Pre-Employment and Random Drug and Alcohol Testing of School Bus Drivers

Effective December 22, 2018, Chapter 207 of the Laws of 2018 amends the Vehicle and Traffic Law and Education Law regarding pre-employment and random drug and alcohol testing of school bus drivers.

The amendments are as follows:

- Section 509-g of the Vehicle and Traffic Law is amended to add a new subdivision 6 to read:
 6. (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 a school bus, as defined by section one hundred forty-two of this chapter, regardless of commercial driver's license endorsement. Every such school bus 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. For the purposes of this section "motor carriers" shall mean a school or municipality that transports children to and from school or any person, corporation or entity in contract with a municipality or school district for the purposes of transporting children to and from school.
 - (b) Drug testing administered pursuant to this section 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.

- Section 509-1, subdivision 2(b) is amended to read (amendments in bold underline):
509-1. Drugs, controlled substances and intoxicating liquor.
2. No motor carrier shall require or permit a driver to:
(b) be on duty or operate a bus 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 six hours, **or eight hours when such driver operates a school bus as defined by section one hundred forty-two of this chapter.**
- Subparagraph 6 of paragraph e of subdivision 1 of section 3623-a of the Education Law is amended to read (amendment in bold underline):
(6) costs incurred by the employer for qualifying criminal history, driver's license, or other required testing attributable to special requirements for drivers of school buses pursuant to state or federal law **including pre-employment and random drug and alcohol testing as required under subdivision six of section five hundred nine-g of the vehicle and traffic law.**

A copy of Chapter 207 is attached for reference. Please share this information with appropriate staff. Thank you.

Theresa L. Egan
Executive Deputy Commissioner

Attachment

LAWS OF NEW YORK, 2018

CHAPTER 207

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 school bus drivers

Became a law August 24, 2018, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

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

Section 1. Section 509-g of the vehicle and traffic law is amended by adding a new subdivision 6 to read as follows:

6. (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 a school bus, as defined by section one hundred forty-two of this chapter, regardless of commercial driver's license endorsement. Every such school bus 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. For the purposes of this section "motor carriers" shall mean a school or municipality that transports children to and from school or any person, corporation or entity in contract with a municipality or school district for the purposes of transporting children to and from school.

(b) Drug testing administered pursuant to this section 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. Section 509-l of the vehicle and traffic law, as amended by chapter 675 of the laws of 1985, is amended to read as follows:

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

(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 six hours before going on duty or operating, or having physical control of a bus, 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 bus, 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 bus. However, this paragraph does 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.

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

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

(b) be on duty or operate a bus if, by such person's general appear-

ance 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 six hours, or eight hours when such driver operates a school bus as defined by section one hundred

forty-two of this chapter.

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

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

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