

18A:39-17 to 18A:39-18

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:39-17 to 18A:39-18

(School bus
drivers--criminal
history checks)

LAWS OF: 1989

CHAPTER: 104

Bill No: S3056

Sponsor(s): Paterniti

Date Introduced: December 8, 1988

Committee: Assembly: -----

Senate: Education

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: June 19, 1989

Senate: February 27, 1989

Date of Approval: June 29, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping--attached:

"Legislature advances anti-crime measures," 6-20-89 Home News

[FIRST REPRINT]
SENATE, No. 3056

STATE OF NEW JERSEY

INTRODUCED DECEMBER 8, 1988

By Senator PATERNITI

1 AN ACT concerning the qualifications of school bus drivers and
revising the statutory law.

3

BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

1. N.J.S.18A:39-17 is amended to read as follows:

7 18A:39-17. In each school year, prior to the assignment of any
driver or substitute driver to any vehicle operated by the board of
9 education of any district as a school bus, there shall be filed by
the secretary of such board with the county superintendent the
11 name [, address, photograph and fingerprints] and social security
number of each such driver or substitute driver and certification
13 of a valid school bus driver's license and criminal background
check.

15 (cf: N.J.S.18A:39-17)

2. N.J.S.18A:39-18 is amended to read as follows:

17 18A:39-18. In each school year, prior to the beginning of
transportation of school pupils under a contract awarded by a
19 board of education, the contractor shall furnish to the county
superintendent [,] the name, [address, photograph and
21 fingerprints] social security number, and certification of a valid
school bus driver's license and criminal background check of each
23 driver or substitute driver to be assigned to any vehicle in the
performance of his contract [, except any such driver or
25 substitute driver whose fingerprints shall have been filed by the
contractor with the federal bureau of investigation. If, during
27 the school year, the assignment of additional drivers or substitute
drivers is to be made, the same information as to such drivers or
29 substitute drivers, except any such drivers or substitute drivers
whose fingerprints shall have been filed by the contractor with
31 the federal bureau of investigation, shall immediately be
furnished the county superintendent].

33 (cf: N.J.S.18A:39-18)

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
1 Senate SED committee amendments adopted February 6, 1989.

1 3. N.J.S.18A:39-20 is amended to read as follows:

2 18A:39-20. No board of education or contractor shall approve
3 or assign a driver, as a driver or substitute driver of a school bus,
4 without first complying with the provisions of this chapter, and
5 any person violating, or failing to comply with, such provisions
6 shall be guilty of a misdemeanor and subject to a fine of not more
7 than \$500.00.

8 However, a board of education¹ or a contractor¹ may employ
9 a bus driver provisionally for a period not to exceed six months,
10 pending completion of a criminal history records check required
11 pursuant to section 6 of P.L. , c. (C.) (now pending before
12 the Legislature as this bill) provided that the candidate submits
13 to the commissioner a sworn statement attesting that the
14 candidate has not been convicted of any crime or disorderly
15 persons offense as described in that section.

(cf: N.J.S.18A:39-20)

17 4. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to
18 read as follows:

19 1. No facility, center, school, school system under the
20 supervision of the Department of Education and board of
21 education which cares for, or is involved in the education of
22 children under the age of 18, other than on a voluntary basis,
23 shall employ or contract for the services of any teaching staff
24 member or substitute teacher, teacher aide, child study team
25 member, school physician, school nurse, custodian, school
26 maintenance worker, cafeteria worker, [bus driver,] school law
27 enforcement officer, school secretary or clerical worker or any
28 other person serving in a position which involves regular contact
29 with pupils except individuals serving as school bus drivers unless
30 the employer has first determined consistent with the
31 requirements and standards of this act, that no criminal history
32 record information exists on file in the Federal Bureau of
33 Investigation, Identification Division, or the State Bureau of
34 Identification which would disqualify that individual from being
35 employed or utilized in such capacity or position. An individual
36 employed by a board of education or a school bus contractor
37 holding a contract with a board of education, in the capacity of a
38 school bus driver, shall be required to meet the criminal history
39 record requirements pursuant to section 6 of P.L. ,

- 1 c. (C:)(now pending before the Legislature as this bill). An
2 individual other than a school bus driver shall be disqualified from
3 employment or service under this act if the individual's criminal
4 history record check reveals a record of conviction of any of the
5 following crimes and offenses:
- 6 a. In New Jersey, any crime or disorderly persons offense:
- 7 (1) bearing upon or involving sexual offense or child
8 molestation as set forth in N.J.S.2C:14-1 et seq.; or
9 (2) endangering the welfare of children or incompetents, as
10 set forth in N.J.S.2C:24-4 and N.J.S.2C:24-7; or
- 11 b. In any other state or jurisdiction, of conduct which, if
12 committed in New Jersey, would constitute any of the crimes or
13 disorderly persons offenses described in this section of this act.
- 14 c. Notwithstanding the provisions of this subsection, no
15 individual shall be disqualified from employment or service under
16 this act on the basis of any conviction disclosed by a criminal
17 record check performed pursuant to this act if the individual has
18 affirmatively demonstrated to the Commissioner of Education
19 clear and convincing evidence of his or her rehabilitation. In
20 determining whether an individual has affirmatively
21 demonstrated rehabilitation, the following factors shall be
22 considered:
- 23 (1) The nature and responsibility of the position which the
24 convicted individual would hold;
- 25 (2) The nature and seriousness of the offense;
- 26 (3) The circumstances under which the offense occurred;
- 27 (4) The date of the offense;
- 28 (5) The age of the individual when the offense was
29 committed;
- 30 (6) Whether the offense was an isolated or repeated incident;
- 31 (7) Any social conditions which may have contributed to the
32 offense;
- 33 (8) Any evidence of rehabilitation, including good conduct in
34 prison or in the community, counseling or psychiatric treatment
35 received, acquisition of additional academic or vocational
36 schooling, successful participation in correctional work-release
37 programs, or the recommendation of persons who have had the
38 individual under their supervision.
- 39 (cf: P.L.1986, c.116, s.1)

1 5. R.S.39:3-10.1 is amended to read as follows:

2 R.S.39:3-10.1 No person shall drive any motor vehicle or
3 trackless trolley with a capacity of more than six passengers used
4 for the transportation of passengers for hire or for the
5 transportation of passengers to or from summer day camps or
6 summer residence camps or any bus as defined by the director
7 used for the transportation of passengers, except vehicles used in
8 ride-sharing arrangements, taxicabs, or any bus used to transport
9 children to and from school pursuant to N.J.S.18A:39-1 et seq. or
10 when being used by a private school to transport children to and
11 from school, unless specially licensed so to do by the director or
12 in the case of a nonresident, licensed pursuant to the laws of his
13 resident state with respect to the licensing of bus drivers. Such
14 license shall not be granted by the director until the applicant
15 therefor is at least 18 years of age and has passed a satisfactory
16 examination in ascertainment of his driving ability and
17 familiarity with the mechanism of said vehicle and has presented
18 evidence, satisfactory to the director of his previous experience
19 [(including proof that he has had at least three years of driving
20 experience)] ¹(including proof that he has had at least three years
21 of driving experience)¹, good character and physical fitness. Said
22 license shall be effective until suspended or revoked by the
23 director; provided, the special licensee is also the holder of a
24 license as provided for in R.S.39:3-10.

25 Every holder of a special license issued pursuant to this section
26 shall furnish to the director satisfactory evidence of continuing
27 physical fitness, good character and experience once in every 24
28 months after the issuance of the special license. In addition, any
29 person applying for a special license pursuant to this section for
30 the transporting of children to and from schools, pursuant to
31 N.J.S.18A:39-1 et seq., shall comply with the provisions of
32 section 6 of P.L. ,c. (C.) (now pending before the
33 Legislature as this bill).

34 The director may suspend or revoke a license granted under
35 authority of this section for a violation of any of the provisions of
36 this subtitle, or on other reasonable grounds, or where, in his
37 opinion, the licensee is either physically or morally unfit to retain
38 the same. Notwithstanding the provisions of any law to the
39 contrary the director shall, upon notice of disqualification from

1 the Commissioner of Education pursuant to section 6 of P.L. ,
 2 c. (C.) (now pending before the Legislature as this bill),
 3 immediately revoke the special license granted under authority of
 4 this section without the necessity of a further hearing.

5 The director may make such rules and regulations as he may
 6 deem necessary to carry out the provisions of this section.

7 (cf: P.L.1985, c.246, s.1)

8 6. (New Section) Prior to employment as a school bus driver,
 9 and upon ¹application for¹ renewal of a school bus driver's
 10 license, a bus driver shall submit to the Commissioner of
 11 Education his or her name, address and fingerprints taken on
 12 standard fingerprint cards by a State or municipal law
 13 enforcement agency. No criminal history record check shall be
 14 furnished without his or her written consent to such a check.

15 Upon receipt of the criminal history record information for an
 16 applicant from the Federal Bureau of Investigation and the
 17 Division of State Police, the Commissioner of Education shall
 18 notify the applicant, in writing, of the applicant's qualification
 19 or disqualification as a school bus driver. A school bus driver
 20 shall be disqualified from employment or service if the
 21 individual's criminal history record reveals a record of conviction
 22 of any of the following crimes and offenses:

23 a. A crime or offense bearing upon or involving a sexual
 24 offense or child molestation or endangering the welfare of
 25 children or incompetents, as specified in section 1 of P.L.1986,
 26 c.116 (C.18A:6-7.1).

27 b. A crime or offense involving the manufacture,
 28 transportation, sale, possession, or habitual use of a "controlled
 29 dangerous substance" as defined in the "New Jersey Controlled
 30 Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.).

31 c. A crime or offense involving the use of force or the threat
 32 of force to or upon a person or property including: armed
 33 robbery, assault, kidnapping, arson, manslaughter and murder.

34 A school bus driver shall also be disqualified if ~~the~~ individual's
 35 bus driver's license is currently revoked or suspended by the
 36 ¹[Department] Division¹ of Motor Vehicles in accordance with
 37 R.S.39:3-10.1.

38 The applicant shall have 30 days from the date of the written
 39 notice of disqualification to petition the Commissioner of

1 Education for a hearing on the accuracy of the criminal history
2 record information or to establish the applicant's rehabilitation
3 under subsection c. of section 1 of P.L.1986, c.116 (C.18A:6-7.1).
4 If the applicant is disqualified, the convictions which constitute
5 the basis for disqualification shall be identified in the written
6 notice with copies forwarded to the Division of Motor Vehicles
7 ¹[, the]. The¹ local board of education, the school bus contractor
8 and the County Superintendent of Schools ¹shall also be notified
9 of the disqualification¹. Notwithstanding the provisions of any
10 law to the contrary, the Director of the Division of Motor
11 Vehicles shall, upon notice of disqualification from the
12 Commissioner of Education, immediately revoke the applicant's
13 special license issued pursuant to R.S.39:3-10.1 without necessity
14 of a further hearing. Candidates' records shall be maintained in
15 accordance with the provisions of section 4 of P.L.1986, c.114
(C.18A:6-7.4).

17 7. N.J.S.18A:39-19 is repealed.

18 8. This act shall take effect July 1 next following enactment.

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EDUCATION
Transportation

23

24 Modifies and clarifies criminal history record check provisions for
25 school bus drivers.

1 under subsection c. of section 1 of P.L.1986, c.116 (C.18A:6-7.1).
If the applicant is disqualified, the convictions which constitute
3 the basis for disqualification shall be identified in the written
notice with copies forwarded to the Division of Motor Vehicles,
5 the local board of education, the school bus contractor and the
County Superintendent of Schools. Notwithstanding the
7 provisions of any law to the contrary, the Director of the Division
of Motor Vehicles shall, upon notice of disqualification from the
9 Commissioner of Education, immediately revoke the applicant's
special license issued pursuant to R.S.39:3-10.1 without necessity
11 of a further hearing. Candidates' records shall be maintained in
accordance with the provisions of section 4 of P.L.1986, c.114
13 (C.18A:6-7.4).

7. N.J.S.18A:39-19 is repealed.

15 8. This act shall take effect July 1 next following enactment.

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STATEMENT

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This bill modifies the criminal history record check procedure
21 for school bus drivers and clarifies the grounds under which a bus
driver may be disqualified. Under the bill each school bus driver,
23 employed by a school district or by a company under contract to
a school district, would have to submit certification of a valid
25 school bus driver's license and criminal background check to the
county superintendent of schools.

27 Prior to initial employment as a school bus driver, and upon
renewal of a school bus driver's license, a bus driver shall submit
29 to the Commissioner of Education his or her name, address and
fingerprints taken on standard fingerprint cards by a State or
31 municipal law enforcement agency.

Upon receipt of the criminal history record information for an
33 applicant from the Federal Bureau of Investigation and the
Division of State Police, the Commissioner of Education shall
35 notify the applicant, in writing, of the applicant's qualification
or disqualification as a school bus driver. A school bus driver
37 shall be disqualified from employment or service if the
individual's criminal history record reveals a record of conviction
39 of any of the following crimes and offenses:

1 a. A crime or offense bearing upon or involving a sexual
offense or child molestation or endangering the welfare of
3 children or incompetents.

b. A crime or offense involving the manufacture,
5 transportation, sale, possession, or habitual use of a controlled
dangerous substance.

7 c. A crime or offense involving the use of force or the threat
of force to or upon a person or property including: armed
9 robbery, assault, kidnapping, arson, manslaughter and murder.

A school bus driver shall also be disqualified if the individual's
11 bus driver's license is currently revoked or suspended by the
Department of Motor Vehicles.

13 The applicant shall have 30 days from the date of the written
notice of disqualification to petition the Commissioner of
15 Education for a hearing on the accuracy of the criminal history
record information or to establish his or her rehabilitation under
17 subsection c. of section 1 of P.L.1986, c.116 (C.18A:6-7.1). If the
applicant is disqualified, the convictions which constitute the
19 basis for disqualification shall be identified in the written notice
with copies forwarded to the Division of Motor Vehicles, the
21 local board of education, the school bus contractor and the
County Superintendent of Schools.

23 The bill repeals N.J.S.18A:39-19 which empowered the county
superintendent to disqualify a school bus driver for conviction of
25 a crime or offense "of such character as to make it undesirable
that he should act as a driver of a school bus."

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EDUCATION
Transportation

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Modifies and clarifies criminal history record check provisions for
33 school bus drivers.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 3056

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 6, 1989

The Senate Education Committee favorably reports Senate Bill No. 3056 with committee amendments.

As amended, this bill modifies the criminal history record check procedure for school bus drivers and clarifies the grounds under which a bus driver may be disqualified. Under the bill each school bus driver, employed by a school district or by a company under contract to a school district, would have to submit certification of a valid school bus driver's license and criminal background check to the county superintendent of schools.

Prior to initial employment as a school bus driver, and upon application for renewal of a school bus driver's license, a bus driver shall submit to the Commissioner of Education his or her name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency.

Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification as a school bus driver. A school bus driver shall be disqualified from employment or service if the individual's criminal history record reveals a record of conviction of any of the following crimes and offenses:

a. A crime or offense bearing upon or involving a sexual offense or child molestation or endangering the welfare of children or incompetents.

b. A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a controlled dangerous substance.

c. A crime or offense involving the use of force or the threat of force to or upon a person or property including: armed robbery, assault, kidnapping, arson, manslaughter and murder.

A school bus driver shall also be disqualified if the individual's bus driver's license is currently revoked or suspended by the Department of Motor Vehicles.

The applicant shall have 30 days from the date of the written notice of disqualification to petition the Commissioner of Education for a hearing on the accuracy of the criminal history record information or to establish his or her rehabilitation under subsection c. of section 1 of P.L.1986, c.116 (C.18A:6-7.1). If the applicant is disqualified, the convictions which constitute the basis for disqualification shall be identified in the written notice with copies forwarded to the Division of Motor Vehicles. The local board of education, the school bus contractor and the county superintendent of schools shall also be notified of the disqualification.

The bill repeals N.J.S.18A:39-19 which empowered the county superintendent to disqualify a school bus driver for conviction of a crime or offense "of such character as to make it undesirable that he should act as a driver of a school bus."

The committee amendments delete from the bill a provision which would have eliminated the current requirement of three years of driving experience for an individual to obtain a bus driver's license (R.S.39:3-10.1). The amendments also rectify an incorrect reference to the title of the Division of Motor Vehicles, clarify the timing of background checks for relicensing, and specify that the six month provisional employment process apply to drivers working for contractors as well as those employed directly by boards of education. In addition, the amendments provide that the actual criminal history record would only go to the driver and the Division of Motor Vehicles. The school board, bus contractor and county superintendent would be notified of the disqualification, but would not receive a copy of the criminal history record.