

CHAPTER 66

AN ACT concerning the qualifications of school bus drivers, amending various parts of the statutory law and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

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

1. Section 12 of P.L.1998, c.31 (C.18A:6-7.1c) is amended to read as follows:

C.18A:6-7.1c Employment of applicant on emergent basis, conditions.

12. A board of education or contracted service provider may employ an applicant on an emergent basis for a period not to exceed three months, pending completion of a criminal history records check and, with respect to a bus driver applicant, a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1), if the board or service provider demonstrates to the Commissioner of Education that special circumstances exist which justify the emergent employment. The board's or service provider's request to the commissioner shall include: (1) a description of the vacant position that needs to be filled; (2) a statement describing the board's or contract provider's good faith efforts to fill the position on a timely basis or a statement describing the unanticipated need for the applicant's employment; and (3) a sworn statement submitted by the applicant attesting that the applicant has not been convicted or does not have a charge pending for a crime or any other offense enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1) or a record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1).

In the event that the background check is not completed within three months, the board or contracted service provider may petition the commissioner for an extension of time, not to exceed two months, in order to retain the employee.

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

Names, certain information relative to bus drivers to be filed by secretary of board of education.

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 education of any district as a school bus, there shall be filed by the secretary of such board with the county superintendent the name and social security number of each such driver or substitute driver and certification of a valid school bus driver's license, criminal background check, and evidence of a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1).

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

Information relative to bus drivers furnished by contractor.

18A:39-18. In each school year, prior to the beginning of transportation of school pupils under a contract awarded by a board of education, the contractor shall furnish to the county superintendent the name, social security number, and certification of a valid school bus driver's license and criminal background check, and evidence of a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1) of each driver or substitute driver to be assigned to any vehicle in the performance of his contract.

4. Section 6 of P.L.1989, c.104 (C.18A:39-19.1) is amended to read as follows:

C.18A:39-19.1 Bus drivers required to submit certain information to commissioner; notice of pending charges.

6. a. Prior to 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 in accordance with procedures established by the commissioner. No criminal history record check or check for alcohol and drug-related motor vehicle violations shall be furnished without his or her written consent to such a check. The applicant shall bear the cost for the checks, including all costs for administering and processing the checks.

Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, and information on the check for alcohol and drug-related motor vehicle violations from the Division of Motor Vehicle Services, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification as a school bus driver. If the applicant is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the applicant. A school bus driver, except as provided in subsection e. of this section, shall be permanently disqualified from employment or service if the individual's criminal history record reveals a record of conviction for which public school employment candidates are disqualified pursuant to section 1 of P.L.1986, c.116 (C.18A:6-7.1) or if the driver has been convicted at least two times within the last 10 years for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13), or section 16 of P.L.1990, c.103 (C.39:3-10.24); or once for a violation of section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting school children.

Following qualification for employment as a school bus driver pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against the school bus driver. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the employing board of education or contractor, and the board or contractor shall take appropriate action. If the pending charge results in conviction, the school bus driver shall not be eligible for continued employment.

A school bus driver shall not be eligible to operate a school bus if the individual's bus driver's license is currently revoked or suspended by the Division of Motor Vehicle Services in accordance with R.S.39:3-10.1.

Following qualification for employment as a school bus driver, the Division of Motor Vehicle Services shall immediately forward to the Commissioner of Education any information which the division receives on a conviction for an alcohol or drug-related motor vehicle violation that would disqualify the driver from employment pursuant to the provisions of this subsection. The commissioner shall notify the employing board of education or contractor that the driver is no longer eligible for employment.

b. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal history record check or a check for alcohol and drug-related motor vehicle violations performed pursuant to this section without an opportunity to challenge the accuracy of the disqualifying records.

c. When charges are pending for a crime or any other offense enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the employing board of education or contractor shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

d. The applicant shall have 30 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information or the record of convictions for an alcohol or drug-related motor vehicle violation. If no challenge is filed or if the determination of the accuracy of the criminal history record information or the record of convictions for an alcohol or drug-related motor vehicle violation upholds the disqualification, notification of the applicant's disqualification for employment shall be forwarded to the Division of Motor Vehicle Services. The local board of education or the school bus contractor and the County Superintendent of Schools shall also be notified of the disqualification. Notwithstanding the provisions of any law to the contrary, the Director of the Division of Motor Vehicle Services shall, upon notice of disqualification from the Commissioner of Education, immediately revoke the applicant's special license issued pursuant to R.S.39:3-10.1 without necessity of a further hearing. Candidates' records shall be maintained in accordance with the provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).

e. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of a school bus

driver employed by a board of education or a contracted service provider who is required to undergo a check upon application for renewal of a school bus driver's license, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

f. (1) Notwithstanding any provision of this section to the contrary, the check for alcohol and drug-related motor vehicle violations shall be conducted in accordance with the provisions of this section prior to initial employment as a school bus driver and upon application for renewal of a school bus driver's license until such time as the provisions of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, are effective and implemented by the State.

(2) Notwithstanding any provision of this section to the contrary, upon the implementation by the State of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, a check for alcohol and drug-related motor vehicle violations shall be conducted in accordance with the provisions of this section prior to initial employment as a school bus driver. A check for alcohol and drug-related motor vehicle violations conducted for any subsequent renewal of a school bus driver's license shall be subject to the provisions of the "Motor Carrier Safety Improvement Act of 1999," Pub. L.106-159.

(3) Upon the implementation by the State of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, following qualification for employment as a school bus driver, the Division of Motor Vehicle Services shall immediately notify the Commissioner of Education of the suspension or revocation of a school bus driver's commercial driver's license. The commissioner shall notify the employing board of education or contractor of the suspension or revocation, and the employment of the school bus driver shall be immediately terminated. In the case of a school bus driver whose commercial driver's license has been suspended, the driver may apply for re-employment at the end of the period of suspension.

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

Compliance required for assigning bus driver; violations; fine.

18A:39-20. No board of education or contractor shall knowingly approve or knowingly assign an individual, as a driver or substitute driver of a school bus, without first complying with the provisions of this chapter, and any person violating, or failing to comply with such provisions shall be subject to a fine of not more than \$5,000 for each driver unlawfully approved or assigned.

C.39:3-10.32 Additional penalties.

6. In addition to any other penalty provided by law, a school bus driver who violates section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting school children shall be guilty of a disorderly persons offense.

Notwithstanding any other provision of law to the contrary, a conviction under this section shall not merge with a conviction for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of P.L.1990, c.103 (C.39:3-10.24).

7. This act shall take effect on the first day of the sixth month after enactment; except that the State Board of Education and the Division of Motor Vehicle Services may take such administrative and regulatory action in advance as shall be necessary to implement the provisions of this act.

Approved May 5, 2003.