



House of Representatives

General Assembly

File No. 327

January Session, 2007

Substitute House Bill No. 6955

House of Representatives, April 4, 2007

The Committee on Education reported through REP. FLEISCHMANN of the 18th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING OPERATOR'S LICENSES BEARING A SCHOOL BUS ENDORSEMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 14-44 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2007*):

3 (a) (1) No person shall operate a commercial motor vehicle used for
4 passenger transportation on any public highway of this state until [he]
5 such person has obtained a commercial driver's license with a
6 passenger endorsement from the commissioner, except a nonresident
7 who holds such license with such endorsement issued by another state.
8 (2) No person shall operate a school bus until [he] such person has
9 obtained a commercial driver's license with a school bus endorsement,
10 except that a person who holds such a license without such
11 endorsements may operate a school bus without passengers for the
12 purpose of road testing or moving the vehicle. (3) No person shall
13 operate a taxicab, motor vehicle in livery service, motor bus or service

14 bus until such person has obtained an operator's license bearing an
15 endorsement of the appropriate type from the commissioner issued in
16 accordance with the provisions of this section and section 14-36a. (4)
17 No person shall operate a student transportation vehicle, as defined in
18 section 14-212, activity vehicle [,] or camp vehicle [, taxicab, motor
19 vehicle in livery service, motor bus or service bus] until [he] such
20 person has obtained an operator's license bearing an endorsement of
21 the appropriate type from the commissioner issued in accordance with
22 the provisions of this section and section 14-36a.

23 (b) No operator's license bearing an endorsement shall be issued or
24 renewed in accordance with the provisions of this section or section 14-
25 36a, until the commissioner, or [his] the commissioner's authorized
26 representative, is satisfied that the applicant is a proper person to
27 receive such an operator's license bearing an endorsement, holds a
28 valid motor vehicle operator's license, or, if necessary for the class of
29 vehicle operated, a commercial driver's license and is at least eighteen
30 years of age. Each applicant for such a permit, an operator's license
31 bearing an endorsement or the renewal of such a license shall furnish
32 the commissioner, or [his] the commissioner's authorized
33 representative, with satisfactory evidence, which may be required to
34 be under oath, to prove that [he has] such person: Has no criminal
35 record, [that he] has not been convicted of a violation of subsection (a)
36 of section 14-227a within five years of the date of application and that
37 no reason exists for a refusal to grant or renew such an operator's
38 license bearing an endorsement. Each applicant for such an operator's
39 license bearing an endorsement shall submit with [his] the application
40 proof satisfactory to the commissioner that [he] such applicant has
41 passed a physical examination [which has been taken within]
42 administered not more than ninety days prior to [his] the date of
43 application, and which is in compliance with safety regulations
44 established from time to time by the United States Department of
45 Transportation. Each applicant for renewal of such license shall
46 present evidence that such applicant is in compliance with the medical
47 qualifications established in 49 CFR 391, as amended. Each applicant
48 for such an operator's license bearing an endorsement shall be

49 fingerprinted before the license bearing an endorsement is issued.

50 (c) The commissioner may issue, withhold, renew, suspend, cancel
51 or revoke, any endorsement required to operate a motor vehicle that
52 transports passengers, as provided in subsection (c) of section 14-36a.
53 The commissioner may, in making his decision, consider the age,
54 accident and criminal record, moral character and physical condition
55 of any such applicant or endorsement holder and such other matters as
56 the commissioner may determine. The commissioner may require any
57 such applicant or endorsement holder to furnish the statements of two
58 or more reputable citizens, which may be required to be under oath,
59 vouching for the good character or other qualifications of the applicant
60 or endorsement holder.

61 (d) Upon the arrest of any person who holds an operator's license
62 bearing a school endorsement charged with a felony or violation of
63 section 53a-73a, the arresting officer or department, within forty-eight
64 hours, shall cause a report of such arrest to be made to the
65 commissioner. The report shall be made on a form approved by the
66 commissioner containing such information as the commissioner
67 prescribes. The commissioner may adopt regulations, in accordance
68 with chapter 54, to implement the provisions of this subsection.

69 (e) Prior to issuing an operator's license bearing a school
70 endorsement or bearing the appropriate type of endorsement for
71 operation of a student transportation vehicle pursuant to subdivision
72 (4) of subsection (a) of this section, the commissioner shall require each
73 applicant to submit to state and national criminal history records
74 checks, and a check of the state child abuse registry established
75 pursuant to section 17a-101k for perpetrator information. The criminal
76 history records checks required pursuant to this subsection shall be
77 conducted in accordance with section 29-17a. If notice of a state
78 criminal history record is received, the commissioner may refuse to
79 issue an operator's license bearing such an endorsement and, in such
80 case, shall immediately notify the applicant, in writing, of such refusal.
81 Subject to the provisions of section 46a-80, if notice of a national

82 criminal history record is received, the commissioner may withdraw
83 the operator's license bearing [a school] such an endorsement
84 immediately and, in such case, shall immediately notify the holder of
85 such license and the holder's employer, in writing, of such withdrawal.
86 If notice that the applicant is listed as a perpetrator of abuse on the
87 state child abuse registry established pursuant to section 17a-101k is
88 received, the commissioner shall refuse to issue an operator's license
89 bearing such an endorsement and, in such case, shall immediately
90 notify the applicant, in writing, of such refusal. The commissioner shall
91 not issue a temporary operator's license bearing a school endorsement
92 or bearing the appropriate type of endorsement for operation of a
93 student transportation vehicle.

94 (f) Any applicant who is refused an operator's license bearing an
95 endorsement or the renewal of such a license, or whose operator's
96 license bearing an endorsement or the renewal of such a license is
97 withdrawn or revoked on account of a criminal record, shall be
98 entitled to a hearing if requested in writing within twenty days. The
99 hearing shall be conducted in accordance with the requirements of
100 chapter 54 and the applicant may appeal from the final decision
101 rendered therein in accordance with section 4-183.

102 (g) Notwithstanding the provisions of section 14-10, the
103 commissioner [may] shall furnish to any board of education or to any
104 public or private organization that is actively engaged in providing
105 public transportation, including the transportation of school children, a
106 report containing the names and motor vehicle operator license
107 numbers of each person who has been issued an operator's license with
108 one or more endorsements, authorizing such person to transport
109 passengers in accordance with the provisions of section 14-36a, but
110 whose license or any such endorsement has been withdrawn,
111 suspended or revoked by the commissioner in accordance with the
112 provisions of this section, or any other provision of this title. The
113 report shall be issued and updated periodically in accordance with a
114 schedule to be established by the commissioner. Such report may be
115 transmitted or otherwise made available to authorized recipients by

116 electronic means.

117 (h) Violation of any provision of this section shall be an infraction.

118 Sec. 2. Subsection (c) of section 14-36d of the general statutes is
119 repealed and the following is substituted in lieu thereof (*Effective July*
120 *1, 2007*):

121 (c) [The] Except as provided in subsection (e) of section 14-44, as
122 amended by this act, the commissioner may issue a temporary license
123 without a picture of the licensee to out-of-state applicants, to members
124 of the armed forces and in such other situations as the commissioner
125 finds necessary, provided a temporary license shall be valid only until
126 the applicant has had time to appear and to have his picture taken and
127 a license containing his picture issued.

128 Sec. 3. Subsection (d) of section 14-276a of the general statutes is
129 repealed and the following is substituted in lieu thereof (*Effective July*
130 *1, 2007*):

131 (d) A carrier shall require each person whom it intends to employ to
132 operate a school bus, as defined in section 14-275, or a student
133 transportation vehicle, as defined in section 14-212, to submit to a
134 urinalysis drug test in accordance with the provisions of sections 31-
135 51v and 31-51w and shall require each person it employs to operate
136 such vehicles to submit to a urinalysis drug test on a random basis in
137 accordance with the provisions of section 31-51x, as amended by this
138 act. No carrier may employ or continue to employ any person who has
139 received a positive test result for such test which was confirmed as
140 provided in subdivisions (2) and (3) of section 31-51u. The
141 commissioner may, after notice and hearing, impose a civil penalty of
142 not more than [one thousand] two thousand five hundred dollars for
143 each offense on any carrier which violates any provision of this
144 subsection.

145 Sec. 4. Section 14-276 of the general statutes is repealed and the
146 following is substituted in lieu thereof (*Effective July 1, 2007*):

147 (a) Registered school buses while transporting school children shall
148 be operated by holders of a valid passenger and school endorsement
149 issued in accordance with section 14-44. Such endorsement shall be
150 held in addition to the commercial driver's license required for the
151 operation of such motor vehicles. A person who has attained the age of
152 seventy shall be allowed to hold a passenger and school endorsement
153 for the purpose of operating a school bus, provided he meets the
154 minimum physical requirements set by the Commissioner of Motor
155 Vehicles and agrees to submit to a physical examination at least twice a
156 year or when requested to do so by the superintendent of the school
157 system in which he intends to operate a school bus. Any person to
158 whom a town has awarded a contract for the transportation of school
159 children who permits the operation of a registered school bus while
160 transporting school children by any person who does not hold a
161 passenger and school endorsement shall be fined not less than [thirty-
162 five] five thousand dollars nor more than [ninety] ten thousand
163 dollars.

164 [(b) Violation of the provisions of this section shall be an infraction.]

165 (b) No later than the fifteenth day of each month, a carrier shall
166 submit a list of each person whom it employs to operate a school bus,
167 as defined in section 14-275, or a student transportation vehicle, as
168 defined in section 14-212, to the Commissioner of Motor Vehicles. The
169 commissioner shall verify that each such person has a valid license
170 with the proper endorsement.

171 (c) Except as otherwise provided in subsection (a) of this section,
172 any person who violates this section shall be fined not less than one
173 thousand dollars or more than two thousand five hundred dollars.

174 Sec. 5. Subsection (b) of section 31-51x of the general statutes is
175 repealed and the following is substituted in lieu thereof (*Effective July*
176 *1, 2007*):

177 (b) Notwithstanding the provisions of subsection (a) of this section,
178 an employer may require an employee to submit to a urinalysis drug

179 test on a random basis if (1) such test is authorized under federal law,
 180 (2) the employee serves in an occupation which has been designated as
 181 a high-risk or safety-sensitive occupation pursuant to regulations
 182 adopted by the Labor Commissioner pursuant to chapter 54, or is
 183 employed to operate a school bus, as defined in section 14-275, or a
 184 student transportation vehicle, as defined in section 14-212, or (3) the
 185 urinalysis is conducted as part of an employee assistance program
 186 sponsored or authorized by the employer in which the employee
 187 voluntarily participates.

188 Sec. 6. Section 14-44f of the general statutes is repealed and the
 189 following is substituted in lieu thereof (*Effective July 1, 2007*):

190 If the commissioner finds that an applicant for a commercial driver's
 191 license or the holder of such license has supplied false information in
 192 order to obtain the license, [he] the commissioner shall withhold the
 193 issuance of the license or suspend the license for sixty days, and
 194 thereafter until the true and correct information is submitted. If such
 195 applicant is seeking a commercial driver's license with a school bus
 196 endorsement, such applicant's false statement shall be punishable
 197 under section 53a-157b. The application for such license with a school
 198 bus endorsement shall provide notice that false statements on such
 199 application are punishable under section 53a-157b.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2007</i>	14-44
Sec. 2	<i>July 1, 2007</i>	14-36d(c)
Sec. 3	<i>July 1, 2007</i>	14-276a(d)
Sec. 4	<i>July 1, 2007</i>	14-276
Sec. 5	<i>July 1, 2007</i>	31-51x(b)
Sec. 6	<i>July 1, 2007</i>	14-44f

Statement of Legislative Commissioners:

In subsection (e) of section 1, the language on the results of the check of the child abuse registry was moved for clarity. In section 3, language was added to clarify that the random testing is for employees for

accuracy and consistency with section 5. In section 4, the penalty provision was rewritten for clarity.

ED *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Motor Vehicles	TF - Cost	570,000	20,000
Labor Dept.	GF - None	None	None
Criminal Justice Agencies	GF - Cost	Minimal	Minimal
Judicial Dept.	All Funds - Revenue Impact	Minimal	Minimal
Children & Families, Dept.	GF - Cost	See Below	See Below

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact: None

Explanation

Section 1 of the bill requires the Department of Motor Vehicles (DMV) to perform additional background checks on new applicants or renewals for various licenses and endorsements against the state child abuse registry before issuing such license or endorsement. There is a one-time cost of \$50,000 occurring in FY 08 for computer programming changes in addition to an ongoing cost of \$20,000 per year for information technology charges.

Section 2 of the bill adopts current practice to statute and has no fiscal impact. The DMV no longer issues any type of license without a photograph of the applicant embossed on the license.

Section 3 of the bill is not anticipated to result in any fiscal impact to the DMV. The department currently inspects carriers as part of the general audit for compliance of the Federal Motor Carrier Safety Improvement Act program. DMV has the authority to shut down a business that fails to comply within 15 days of the audit.

Section 4 of the bill increases the financial penalty that may be imposed on any carrier who fails to carry out the required monthly

check on drivers' licensure status. Current law makes this an infraction, punishable by a fine of \$35, which is rarely imposed. The bill eliminates this infraction, which would have a negligible fiscal impact. Instead the bill establishes two fines, between \$5,000 and \$10,000, that may be imposed. It is unclear how this fine would be enforced and, as a consequence, the potential revenue gain cannot be determined at this time.

There is a cost of \$500,000 occurring in FY 08 to the DMV to meet provisions of section 4 of the bill. The DMV will require three additional staff at a cost of \$150,000 and computer programming for an automated system at a cost estimated to be \$350,000 to develop. Currently, carriers are able to check on-line electronically the status of their drivers at the DMV. Data is updated every two weeks.

The bill requires applicants for an operator's license bearing a school endorsement or an endorsement to operate a student transportation vehicle to submit to a check of the state child abuse registry. It allows the commissioner of motor vehicles to deny a license to any such person identified on the registry as a perpetrator, and extends a right to a hearing to individuals so notified.

Approximately 6,000 persons would have to obtain a child abuse registry check conducted by the Department of Children and Families in FY 08. This number would increase to about 8,000 in FY 09 given full year implementation. The agency's Hotline would require a half-time Social Worker position to conduct the checks. An FY 08 cost of \$40,900 would be associated with this position and associated other expenses (\$32,350 DCF; \$8,550 fringe benefits). In FY 09 the annualized cost for the additional position would be approximately \$63,100, (\$43,150 DCF; \$19,950 fringe benefits)

It should be noted that the above analysis assumes that registry checks would only be required of new and renewal applicants for endorsement. Should a more comprehensive check of all license endorsement holders be undertaken, the DCF would incur additional first year costs of approximately \$150,000 for data processing

consultant services needed to modify its computer interface with DMV. Additionally, expenses would be incurred for three Social Worker positions on a durational basis in the first year, at a cost of approximately \$267,250 (\$198,850 DCF; \$68,400 fringe benefits).

Section 5 of the bill is not anticipated to result in any fiscal impact to the Department of Labor.

Section 6 makes it a crime, punishable by up to one year imprisonment and/or a fine of up to \$2,000, for any applicant for a commercial driver's license with a school bus endorsement to make a false statement in his/her application. Any revenue gain from criminal fines imposed under this provision would be minimal. It is anticipated that any cost associated with incarceration or probation supervision under this provision would also be minimal.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6955*****AN ACT CONCERNING OPERATOR'S LICENSES BEARING A SCHOOL BUS ENDORSEMENT.*****SUMMARY:**

This bill imposes additional background check requirements on applicants for licenses and endorsements to drive school buses and school transportation vehicles (STVs), including a check of the state child abuse registry. It (1) requires each carrier to check monthly on whether the school bus and STV drivers it employs are properly licensed and (2) requires, rather than allows, the Department of Motor Vehicle (DMV) commissioner to periodically notify public transportation providers, including school districts, of anyone whose commercial driver's license or passenger endorsement he has suspended, withdrawn, or revoked. It imposes a fine of between \$1,000 and \$2,500 on any carrier who fails to carry out the required monthly checks on drivers' licensure status. By law, school districts that employ their own school bus and STV drivers are considered carriers.

The bill extends required random drug testing to those employed to drive STVs that carry 10 or fewer students and bars carriers from continuing to employ any school bus or STV driver who tests positive for drugs, even in a non-safety-sensitive position.

The bill increases penalties on (1) carriers who fail to implement required drug testing for school bus and STV drivers and applicants and (2) school transportation contractors who allow anyone not properly licensed to drive a school bus carrying school children.

Finally, the bill bars the DMV commissioner from issuing temporary licenses with school bus or STV endorsements.

EFFECTIVE DATE: July 1, 2007

DRIVER BACKGROUND CHECKS

Before the DMV commissioner may issue a license with a school bus or STV endorsement, the bill requires him to check each applicant against the state child abuse registry maintained by the Department of Children and Families (DCF). The registry lists individuals the DCF commissioner finds are responsible for child abuse or neglect. Under the bill, the DMV commissioner must refuse endorsements to applicants listed as perpetrators of abuse and immediately notify the applicant, in writing, of the refusal.

The bill also subjects applicants for STV endorsements to the same state and national criminal history records checks as already apply to applicants for school bus driver endorsements. As is the case for school bus endorsement applicants, the bill allows the DMV commissioner to refuse to issue an STV endorsement when he receives notice that the applicant has a state or national criminal history record.

By law, a "student transportation vehicle" is any vehicle, other than a registered school bus that a carrier uses to transport students under age 21, including special education students. A "carrier" is a school district, a school district's contractor, or any other person compensated for transporting students. Carriers also include corporations, institutions, and nonprofit organizations that provide transportation as an ancillary service primarily to people under age 18.

PERIODIC LICENSE AND ENDORSEMENT STATUS CHECKS

The bill (1) requires each carrier to submit a list of its school bus and STV drivers to the DMV commissioner by the 15th of every month and (2) requires the commissioner to verify that each such driver has a valid license with the proper endorsement. It subjects carriers who violate this requirement to a fine of \$1,000 to \$2,500.

The bill also requires, rather than allows, the commissioner to give boards of education and other public and private organizations actively engaged in providing public transportation a report

containing the names and license numbers of anyone whose license or endorsement he has withdrawn, suspended, or revoked. The requirement applies to those with endorsements to drive school buses, STVs, taxis, livery vehicles, motor and service buses, activity vehicles, and camp vehicles. The commissioner must periodically update the report, according to a schedule he establishes. He can transmit or make the report available electronically.

DRUG TESTING

Current state law requires carriers to conduct pre-employment urinalysis drug tests of all school bus and STV drivers they intend to employ. Federal and state laws also require carriers to conduct random drug and alcohol testing of their employees who drive school buses designed to seat more than 10 passengers. This bill subjects all school bus and STV drivers to random drug testing, thus extending testing to those who drive STVs designed to carry 10 or fewer passengers. Under current law and this bill, drug testing must comply with existing state laws governing employment and pre-employment drug testing.

The bill bars a carrier from continuing to employ someone who tests positive for drugs. Under current law, a driver with a positive drug test result must be removed from safety-sensitive duty but need not be terminated from all employment with the carrier (CGS § 14-261b and 49 USC § 31306).

The bill increases, from \$1,000 to \$2,500 per offense, the civil penalty against carriers who (1) fail to conduct pre-employment and random post-employment drug testing of school bus and STV drivers they employ or intend to employ or (2) hire applicants or continue to employ drivers who tested positive for drugs (see COMMENT).

PENALTIES

Using a Driver Who is Not Properly Licensed

The bill increases the penalty against a town's school transportation contractor who permits anyone without a passenger and school endorsement to drive a school bus carrying school children. The

current fine is from \$35 to \$90. The bill increases it to between \$5,000 and \$10,000. It also eliminates the offense's designation as an infraction (see BACKGROUND).

The law already imposes a penalty on any employer, including a school district that employs its own school bus and STV drivers, that knowingly allows someone to drive a commercial vehicle while his license is invalid, when he has more than one license, or he is otherwise disqualified from driving. The penalty is a civil fine of at least \$2,750 and at most \$11,000 (CGS § 14-44i(g)).

False Statements on School Bus Endorsement Applications

The bill explicitly applies the penalty for 2nd-degree false statement to any applicant who supplies false information on an application for a commercial driver's license with a school bus endorsement. This provision appears to have no substantive effect because, under current law, anyone who files an application for a commercial drivers' license with any type of endorsement must already certify to the accuracy and completeness of the application, subject to the penalty for 2nd-degree false statement (CGS § 14-44c (10)). The bill also expressly requires the application for a commercial driver's license with a school bus endorsement to provide notice of the penalty for false statement.

Second-degree false statement is a class A misdemeanor punishable by a fine of up to \$2,000, imprisonment for up to three months, or both.

BACKGROUND

Related Bill

sSB 1400 makes similar changes to requirements for those who hold commercial driver's licenses and operate school buses and STVs. The bill was reported favorably by the Transportation Committee on March 16.

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus a \$20 or \$35 surcharge and an

additional fee based on the amount of the fine. There may be other added charges depending upon the type of infraction. For example, certain motor vehicle infractions trigger a Transportation Fund surcharge of 50% of the fine. With the various additional charges, the total amount due can be over \$300 but often is less than \$100.

An infraction is not a crime; thus violators do not have criminal records and can pay the fine by mail without making a court appearance.

COMMENT

Inconsistent Penalties

Section 3 of the bill increases the penalty for a carrier who (1) fails to implement drug testing requirements for school bus and STV drivers or (2) continues to employ such a driver after the driver has received a positive test from \$1,000 to \$2,500 for each offense. But the bill does not change CGS § 14-261b(c), which that subjects a carrier who fails to comply with federal and state drug testing requirements for current employees to a civil penalty of \$300 for a first offense and \$1,000 for subsequent offenses.

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute

Yea 30 Nay 1 (03/19/2007)