

# SENATE, No. 1835

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 10, 2010

**Sponsored by:**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Senator JENNIFER BECK**

**District 12 (Mercer and Monmouth)**

**Co-Sponsored by:**

**Senators Oroho and Ruiz**

**SYNOPSIS**

Expands type of school bus driver required to undergo DOE criminal record check process and requires matching of data files to ensure school bus drivers remain qualified pursuant to records maintained by DOE and MVC.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/1/2010)**

S1835 BATEMAN, BECK

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1 AN ACT concerning criminal history record checks, revising various  
2 parts of the statutory law, and supplementing P.L.1989, c.104  
3 (C.18A:39-19.1).

4

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

7

8 1. Section 1 of P.L.1989, c.229 (C.18A:6-4.13) is amended to  
9 read as follows:

10 1. Any nonpublic school may require all final candidates for  
11 employment or service under contract with the school as a teacher,  
12 substitute teacher, teacher aide, a school physician, school nurse,  
13 custodian, maintenance worker, **[bus driver,]** security guard,  
14 secretary or clerical worker or for any other position which involves  
15 regular contact with pupils, to demonstrate that no criminal history  
16 record information exists on file in the Federal Bureau of  
17 Investigation, Identification Division, or the State Bureau of  
18 Identification which would disqualify that individual from  
19 employment in the public schools of this State pursuant to the  
20 provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.). Application of  
21 this requirement by a nonpublic school shall be consistent and  
22 nondiscriminatory among candidates.

23 As used in this act, "nonpublic school" means an elementary or  
24 secondary school within the State, other than a public school,  
25 offering education in grades K-12 or any combination thereof,  
26 wherein a child may legally fulfill compulsory school attendance  
27 requirements.

28 (cf: P.L.1998, c.31, s.1)

29

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

32 6. a. Prior to employment as a school bus driver, and upon  
33 application for renewal of a school bus driver's license, a bus driver  
34 shall submit to the Commissioner of Education his or her name,  
35 address and fingerprints in accordance with procedures established  
36 by the commissioner. No criminal history record check or check for  
37 alcohol and drug-related motor vehicle violations shall be furnished  
38 without his or her written consent to such a check. The applicant  
39 shall bear the cost for the checks, including all costs for  
40 administering and processing the checks.

41 Upon receipt of the criminal history record information for an  
42 applicant from the Federal Bureau of Investigation and the Division  
43 of State Police, and information on the check for alcohol and drug-  
44 related motor vehicle violations from the **[Division of]** Motor

**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.

1 Vehicle **【Services】** Commission, the Commissioner of Education  
2 shall notify the applicant, in writing, of the applicant's qualification  
3 or disqualification as a school bus driver. If the applicant is  
4 disqualified, the convictions which constitute the basis for the  
5 disqualification shall be identified in the written notice to the  
6 applicant. A school bus driver, except as provided in subsection e.  
7 of this section, shall be permanently disqualified from employment  
8 or service if the individual's criminal history record reveals a record  
9 of conviction for which public school employment candidates are  
10 disqualified pursuant to section 1 of P.L.1986, c.116 (C.18A:6-7.1)  
11 or if the driver has been convicted at least two times within the last  
12 10 years for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512  
13 (C.39:4-50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13), or  
14 section 16 of P.L.1990, c.103 (C.39:3-10.24); or once for a  
15 violation of section 5 of P.L.1990, c.103 (C.39:3-10.13) or section  
16 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting school  
17 children.

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

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

33 Following qualification for employment as a school bus driver,  
34 the **【Division of】** Motor Vehicle **【Services】** Commission shall  
35 immediately forward to the Commissioner of Education any  
36 information which the **【division】** commission receives on a  
37 conviction for an alcohol or drug-related motor vehicle violation  
38 that would disqualify the driver from employment pursuant to the  
39 provisions of this subsection. The commissioner shall notify the  
40 employing board of education, nonpublic school, department, or  
41 contractor that the driver is no longer eligible for employment.

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

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

8 d. The applicant shall have 30 days from the date of the written  
9 notice of disqualification to challenge the accuracy of the criminal  
10 history record information or the record of convictions for an  
11 alcohol or drug-related motor vehicle violation. If no challenge is  
12 filed or if the determination of the accuracy of the criminal history  
13 record information or the record of convictions for an alcohol or  
14 drug-related motor vehicle violation upholds the disqualification,  
15 notification of the applicant's disqualification for employment shall  
16 be forwarded to the **【Division of】** Motor Vehicle **【Services】**  
17 Commission. The local board of education, the nonpublic school,  
18 the department, or the school bus contractor, and the Executive  
19 County Superintendent of Schools in the case of a school bus driver  
20 employed by a school district or a contractor holding a contract  
21 with a district, shall also be notified of the disqualification.  
22 Notwithstanding the provisions of any law to the contrary, the  
23 **【Director】** Chief Administrator of the **【Division of】** Motor Vehicle  
24 **【Services】** Commission shall, upon notice of disqualification from  
25 the Commissioner of Education, immediately revoke the applicant's  
26 special license issued pursuant to R.S.39:3-10.1 without necessity  
27 of a further hearing. Candidates' records shall be maintained in  
28 accordance with the provisions of section 4 of P.L.1986, c.116  
29 (C.18A:6-7.4).

30 e. **【This section shall first apply to criminal history record**  
31 **checks conducted on or after the effective date of P.L.1998, c.31**  
32 **(C.18A:6-7.1c et al.); except that in the case of a school bus driver**  
33 **employed by a board of education or a contracted service provider**  
34 **who is required to undergo a check upon application for renewal of**  
35 **a school bus driver's license, the individual shall be disqualified**  
36 **only for the following offenses】** A school bus driver employed on  
37 the effective date of P.L. , c. (C. ) (pending before the  
38 Legislature as this bill) shall be disqualified from employment only  
39 for the following crimes and offenses:

40 (1) any offense enumerated in **【this】** section 1 of P.L.1986,  
41 c.116 (C.18A:6-7.1) prior to the effective date of P.L.1998, c.31  
42 (C.18A:6-7.1c et al.); and

43 (2) any offense enumerated in **【this】** section **【 which had not**  
44 **been enumerated in this section prior to the effective date of**  
45 **P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of**  
46 **that offense on or after the effective date of that act】** 1 of P.L.1986,

1 c.116 (C.18A:6-7.1), if that offense was a disqualifying offense at  
2 the time the person committed that offense.

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

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

21 (3) Upon the implementation by the State of the "Motor Carrier  
22 Safety Improvement Act of 1999," Pub.L.106-159, following  
23 qualification for employment as a school bus driver, the **[Division**  
24 **of] Motor Vehicle [Services] Commission** shall immediately notify  
25 the Commissioner of Education of the suspension or revocation of a  
26 school bus driver's commercial driver's license. The commissioner  
27 shall notify the employing board of education, the nonpublic school,  
28 the department, or contractor of the suspension or revocation, and  
29 the employment of the school bus driver shall be immediately  
30 terminated. In the case of a school bus driver whose commercial  
31 driver's license has been suspended, the driver may apply for re-  
32 employment at the end of the period of suspension.

33 g. This section shall apply to a school bus driver who is  
34 employed by a school district, a nonpublic school, the Department  
35 of Human Services, the Department of Children and Families, the  
36 Department of Law and Public Safety, or a school bus contractor  
37 holding a contract with one of these entities.

38 h. Notwithstanding any provision of any law or regulation to  
39 the contrary, a criminal history record check of a school bus driver  
40 shall be conducted in accordance with the provisions of this section.  
41 (cf: P.L.2003, c.66, s.4)

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

44 18A:39-20. **[No] A** board of education, a nonpublic school, the  
45 Department of Human Services, the Department of Children and  
46 Families, the Department of Law and Public Safety, or a school bus  
47 contractor holding a contract with one of these entities shall not  
48 knowingly approve or knowingly assign an individual, as a driver or

1 substitute driver of a school bus, without first complying with the  
2 provisions of this chapter, and any person violating, or failing to  
3 comply with such provisions shall be subject to a fine of not more  
4 than \$5,000 for each driver unlawfully approved or assigned.  
5 (cf: P.L.2003, c.66, s.5)

6  
7 4. (New section) The Department of Education and the New  
8 Jersey Motor Vehicle Commission shall enter into an agreement to  
9 match, on a quarterly basis, the Motor Vehicle Commission's  
10 database concerning school bus drivers and the special licenses  
11 issued pursuant to R.S.39:3-10.1 with the Department of  
12 Education's database to determine if a school bus driver who has  
13 been disqualified from employment or service under the provisions  
14 of section 6 of P.L.1989, c.104 (C.18A:39-19.1) has had his special  
15 license revoked or if a school bus driver who has had his special  
16 license revoked or suspended continues to be employed as a school  
17 bus driver. If a match is identified and an individual who has been  
18 disqualified from employment or service under the provisions of  
19 section 6 of P.L.1989, c.104 (C.18A:39-19.1) has not had his  
20 special license revoked, the Commissioner of Education shall notify  
21 the Motor Vehicle Commission and it shall immediately revoke the  
22 individual's special license. If a match is identified and an  
23 individual who has had his special license revoked or suspended  
24 continues to be employed as a school bus driver, the Motor Vehicle  
25 Commission shall notify the Commissioner of Education and the  
26 individual's employment shall be terminated.

27  
28 5. This act shall take effect one year after the date of  
29 enactment; except that the Commissioner of Education and the  
30 Motor Vehicle Commission may take such administrative and  
31 regulatory action in advance as shall be necessary to implement the  
32 provisions of this act.

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STATEMENT

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37 Currently, only school bus drivers who work for a school district  
38 or a bus contractor holding a contract with a district are required to  
39 undergo a criminal record check under the jurisdiction of the  
40 Department of Education. As amended, this bill would require  
41 other school bus drivers to undergo this same record check. The  
42 bill specifically includes school bus drivers who are employed by  
43 the Department of Human Services, the Department of Children and  
44 Families, the Department of Law and Public Safety, or a school bus  
45 contractor holding a contract with one of these entities. This bill  
46 also includes school bus drivers who are employed by nonpublic  
47 schools or bus contractors holding a contract with one of these

**S1835 BATEMAN, BECK**

7

1 schools. Under current law it is optional for a nonpublic school to  
2 require its employees to undergo the criminal record check.

3 The criminal record check conducted through the Department of  
4 Education includes input from not only the Division of State Police,  
5 but also from the Federal Bureau of Investigation. Using  
6 information from both entities provides a comprehensive review  
7 that transcends state lines and jurisdictions.

8 This bill also requires that the Motor Vehicle Commission and  
9 the Department of Education compare data files on a regular basis  
10 to ensure that any school bus driver disqualified by the department  
11 also has his special license revoked by the Motor Vehicle  
12 Commission. The special license, or “S” endorsement on the  
13 commercial driver’s license, is one that is necessary to transport  
14 school age children. Comparing files will also assist in identifying  
15 school bus drivers who have had their special license revoked or  
16 suspended but who are still employed as school bus drivers. The  
17 Motor Vehicle Commission will notify the Department of  
18 Education of these cases and their employment will be terminated.