

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Education Committee

BILL: CS/SB 2478

SPONSOR: Education Committee and Senator Lynn

SUBJECT: Private School Bus Drivers

DATE: April 12, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	O'Farrell	ED	Fav/CS
2.	_____	_____	TR	_____
3.	_____	_____	EA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill relates to for-hire bus drivers who transport students. Counties must adopt an ordinance requiring these drivers to register with the county. Registration is required if the vehicle is regularly used for the transportation of students to or from school, or to or from school activities and the driver is paid for these services. The bill specifies the contents of the ordinance and requires counties to adopt the ordinance no later than January 1, 2006.

Also, the bill establishes minimum requirements that a driver must document as part of his or her registration with the county. Drivers must reimburse the county for any costs of background screening or any other administrative expenses related to the ordinance. The bill provides an exception to the registration requirements for drivers who are employed by public schools or private schools that meet the requirements of s. 1012.45, F.S., or s. 1002.42, F.S.

This bill creates s. 125.5805, F.S.

The effective date of the bill is July 1, 2005.

II. Present Situation:

School Bus Driver Requirements

Health Requirements/Substance Abuse Testing and Alcohol Detection

Under current law (s. 316.615(3), F.S.), all drivers who transport school children, regardless of school bus seating capacity, must pass an annual physical exam, meet physical requirements, and

post a certificate to drive the vehicle.¹ As used in this section, the term “school” includes all public and private nursery, preelementary, elementary, and secondary level schools. Specific federal requirements apply to all school bus drivers, including the substance abuse testing and alcohol detection requirements and the physical standards established by the Federal Motor Carrier Safety Administration.²

Background Screening

States must comply with federal commercial driver’s license requirements for background checks, including reviews of the applicant’s driving record to ensure that the person is not subject to any disqualification or any license suspension, revocation, or cancellation under state law, and that the person does not have a driver’s license from more than one state or jurisdiction.³

Current law relating to the general regulation of private schools (s. 1002.42, F.S.), sets forth fingerprinting requirements for state but not federal processing and checking for criminal backgrounds of the owners of private schools. An owner of a private school may require school employees, including school bus drivers, to file a complete set of fingerprints with the FDLE for processing and criminal records checking. Findings from the processing and checks must be reported to the owner for use in employment decisions.

Commercial Driver License (CDL)/Endorsement Requirements

Currently, every person who drives a commercial motor vehicle in this state is required to possess a valid commercial driver’s license (CDL), unless exempt.⁴ Currently, the law provides for three classes of commercial driver’s licenses (Class A, Class B, and Class C) and for two classes of non-commercial driver’s licenses (Class D and Class E). Federal and state laws list the offenses and periods for which a driver must be disqualified for a commercial driver’s license.

Section 322.57, F.S., establishes CDL endorsement requirements for commercial vehicle operators. Florida law currently requires school bus drivers to have the “P” or passenger endorsement on the driver’s license to operate any vehicle designed to carry 16 or more passengers. Until recently, this endorsement complied with federal law. Recent changes in the Federal Motor Carrier Safety Administration regulations require school bus drivers to be specifically tested and to hold a corresponding commercial driver’s license endorsement for operating school buses (the “S” endorsement). Compliance with these federal regulations is mandatory on the states with consequences of noncompliance ranging from loss of federal funds to decertification of the state to issue commercial driver’s licenses. States have been granted a grace period until September 2005, to achieve compliance.

¹ Failure to meet these requirements is a noncriminal traffic infraction, punishable as a nonmoving violation, pursuant to chapter 318, F.S.

² 49 C.F.R., Parts 382 and 391

³ 49 CFR part 384.

⁴ Section 322.53, F.S.

Public School Bus Driver Requirements

Current administrative rules (Rule 6A-3.0141, F.A.C.) subject public school bus drivers to the following initial employment requirements:⁵

- Have 5 years of licensed driving experience.
- Make an employment application;
- File a set of fingerprints for a required background check to determine a criminal record.

Prior to transporting students, bus drivers must:

- Hold a valid commercial driver license (CDL), Class A or B, with passenger endorsement.⁶
- Successfully complete 40 hours of pre-service training.
- Demonstrate the ability to prepare written reports.
- Be physically capable of operating the vehicle, as determined by a physical exam and a dexterity test.
- Demonstrate required physical and mental capabilities.

Also, school bus drivers must meet background screening requirements. Under s. 1012.465, F.S., school bus drivers are subject to the following requirements:

- Federal and state fingerprinting/ background checks (Level 2);⁷
- State checks every year; and
- Federal screening every 5 years.

The law provides for the immediate suspension of individuals who fail level 2 background screenings. These individuals may not have direct contact with students or have access to funds until the final resolution of any appeals.

According to the DOE, school districts and charter schools treat their contract drivers the same as publicly employed school bus drivers with regard to all statutory and regulatory requirements, including preservice and in-service training, physical exams and dexterity tests, criminal background checks, driving history checks, drug and alcohol testing.⁸

III. Effect of Proposed Changes:

The bill creates s.125.5805, F.S., relating to for-hire bus drivers who transport students. The bill establishes minimum requirements that a driver must document as part of his or her registration with the county. The driver must document that he or she meets the Level 2 background

⁵ Section 1006.25, F.S., defines a “school bus” as a motor vehicle regularly used for the transportation of prekindergarten disability program and kindergarten through grade 12 students of the public schools to and from school or to and from school activities, and owned, operated, rented, contracted, or leased by any district school board. See also the definition of a school bus and school in s. 316.003 (45), F.S.

⁶ According to the Florida Department of Education, a CDL is considered a “national” license and standards for issuing these licenses are the same in every state.

⁷ Under s. 435.04, F.S., Level 2 security background investigations must ensure that no person has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under specified provisions of law or under any similar law of another jurisdiction,

⁸ The applicable laws and rules include ss. 1006.25, 1012.465, and 1012.45, F.S., and Rules 6A-3.0141, 6A-3.0151, and 6A-3.0171, F.A.C.

screening standards in chapter 435, F.S., and has a valid commercial driver's license with a passenger endorsement.

Drivers must reimburse the county for any costs of background screening or any other administrative expenses related to the ordinance. The bill provides an exception to the registration requirements for drivers who are employed by public schools or private schools that meet the requirements of s. 1012.45, F.S., or s. 1002.42, F.S.⁹

Counties must adopt an ordinance requiring specific motor vehicle drivers to register with the county. Registration is required if the vehicle is regularly used for the transportation of students to or from school, or to or from school activities and the driver is paid for these services. The bill specifies the contents of the ordinance and requires counties to adopt the ordinance no later than January 1, 2006.

The effective date of the bill is July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Inasmuch as this bill requires counties to incur expenses, i.e., pay additional costs associated with the registration of certain drivers, the bill falls within the purview of subsection (a) of Article VII, Section 18, Florida Constitution, which provides that cities and counties are not bound by general laws requiring them to spend funds or to take an action which requires the expenditure of funds unless certain specified exemptions or exceptions are met. None of the specified constitutional exemptions appear to apply.

As for applicable specified constitutional exceptions, the bill provides that drivers must reimburse the county for any expenses related to the administration of the ordinance; therefore, the only additional requirement necessary to remove the bill from the purview of this constitutional provision is a finding by the Legislature that the bill fulfills an important state interest. Absent a legislative determination that the bill fulfills an important state interest, counties will not be bound by the provisions of this bill should it become law.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ This provision requires school bus drivers to: be of good moral character; have good vision and hearing; be able-bodied, free from communicable disease, mentally alert, and sufficiently strong physically to handle the bus with ease; meet other qualifications in federal regulation (physical qualifications and examinations and controlled substance and alcohol use and testing); and hold a valid CDL with a passenger endorsement.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The fingerprint and background screening requirements of the bill will increase the cost for either the private school or the employee of the private school. The bill requires documentation of a Level 2 background check. However, the bill does not specify whether this requirement must be met only one time or through an initial screening with an FBI national records re-check every five years.

According to the FDLE, the costs of the initial screening total approximately \$47: \$23 for Florida records checks and \$24 for FBI national records checks. If there is an FBI national records re-check every five years, the fee is \$24 with an annual fee to retain the prints (\$6). There is no need for state screening at the time of the FBI re-check, because the arrest records will be screened against the retained prints on a regular basis.

Currently, some schools voluntarily participate in the Volunteer and Employee Criminal History System (VECHS). The initial costs for VECHS and Level 2 background screening of employees are the same.

B. Private Sector Impact:

There may be some costs for private schools or the employees in meeting the requirements in the bill.

C. Government Sector Impact:

Counties are required to register for-hire drivers. For-hire drivers are responsible for the county's costs to administer the ordinance. The cost associated with processing background checks by the Florida Department of Law Enforcement is unknown.

VI. Technical Deficiencies:

The bill provides an exemption from the requirements for for-hire bus drivers. The exemption includes drivers who are employed by private schools that meet the requirements in s. 1002.42, F.S. However, s. 1002.42, F.S., does not contain any requirements for school bus drivers. Consequently, it is not possible for a school bus driver to use this exemption as a means of meeting the requirements for drivers.

School districts and charter schools treat their contract drivers the same as publicly employed school bus drivers. For clarification the exemption from the requirements in the bill could be amended to specifically include school bus drivers under contract with school districts to provide transportation to public school students.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
