

New York State Department of Motor Vehicles
Bus Driver Unit

Article 19-A Information Packet

- **ARTICLE 19-A OF THE VEHICLE AND TRAFFIC LAW**
- **PART 6 OF THE COMMISSIONER'S REGULATIONS**



NYS Department of Motor Vehicles
6 Empire State Plaza
Albany, NY 12228

ARTICLE 19-A

SPECIAL REQUIREMENTS FOR BUS DRIVERS

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§ 509-a. Definitions. As used in this article the term: (1) bus shall mean every motor vehicle, owned, leased, rented or otherwise controlled by a motor carrier, which (a) is a school bus as defined in section one hundred forty-two of this chapter or has a seating capacity of more than ten adult passengers in addition to the driver and which is used for the transportation of persons under the age of twenty-one or persons of any age who are mentally or physically disabled to a place of vocational, academic or religious instruction or religious service including nursery schools, day care centers and camps, (b) is required to obtain approval to operate in the state as a common or contract carrier of passengers by motor vehicle from the commissioner of transportation, or the interstate commerce commission, (c) is regulated as a bus line by a city that has adopted an ordinance, local law or charter to regulate or franchise bus line operations pursuant to subdivision four of section eighty of the transportation law, (d) is regulated as a van service or other common carrier of passengers by motor vehicle covered under article seven of the transportation law by a city with a population of over one million pursuant to an

ordinance or local law adopted pursuant to subdivision five of section eighty of the transportation law or (e) is operated by a transit authority or municipality and is used to transport persons for hire. Provided, however, that bus shall not mean an authorized emergency vehicle operated in the course of an emergency, or a motor vehicle used in the transportation of agricultural workers to and from their place of employment;

(2) **driver or bus driver** shall mean every person: (i) who is self-employed and drives a bus for hire or profit; or (ii) who is employed by a motor carrier and operates a bus owned, leased or rented by such employer; or (iii) who as a volunteer drives a bus which is owned, leased or rented by a motor carrier. Provided, however, bus driver shall not include those persons who are engaged in the maintenance, repair or garaging of such buses and in the course of their duties must incidentally drive a bus without passengers, or who, as a volunteer, drive a bus with passengers for less than thirty days each year;

(3) **motor carrier** shall mean any person, corporation, municipality, or entity, public or private, who directs one or more bus drivers and who operates a bus wholly within or partly within and partly without this state in connection with the business of transporting passengers for hire or in the operation or administration of any business, or place of vocational, academic or religious instruction or religious service for persons under the age of twenty-one or persons of any age who are mentally disabled including nursery schools, day care centers and camps, or public agency, except such out-of-state public or governmental operators who may be exempted from the provisions of this article by the commissioner through regulation promulgated by the commissioner;

(4) **intoxicating liquor** shall mean and include, alcohol, spirits, liquor, wine, beer and cider having alcoholic content;

(5) **drug** shall mean any substance listed in section thirty-three hundred six of the public health law not dispensed or consumed pursuant to a lawful prescription;

(6) **controlled substance** shall mean any substance listed in section thirty-three hundred six of the public health law not dispensed or consumed pursuant to lawful prescription.

(7) **accident** shall include any accident with another vehicle, object or person, which occurs in this state or elsewhere, in which any person is killed or injured, or in which damage to the property of any one person, including the operator, in excess of one thousand five hundred dollars is sustained, or in which damage in excess of two thousand five hundred dollars is sustained to any bus as defined in section one hundred four of this chapter; provided however that accidents occurring outside this state shall not be recorded on the driver's license record.

§ 509-b. Qualifications of bus drivers. Notwithstanding any other provision of law, a person shall be qualified to operate a bus only if such person:

(1) is at least eighteen years old;

- (2) has been issued a currently valid driver's license or permit which is valid for the operation of the bus in this state;
 - (3) has passed the bus driver physical examination administered pursuant to regulations established by the commissioner; and
 - (4) is not disqualified to drive a motor vehicle pursuant to section five hundred nine-c or any other provision of this article.
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§ 509-bb. Reexamination of bus drivers. (1) Any person employed as a bus driver who has on three occasions been the operator of a motor vehicle involved in an accident of a nature or type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period, shall be subject to reexamination, including a road test, as provided in this section; provided, however, that if such person is subject to a period of disqualification pursuant to section five hundred nine-c or five hundred nine-cc of this article, such reexamination shall occur not more than forty-five days prior to the completion of such period of disqualification; and provided, further, that accidents in which the driver was completely without fault shall not be included in determining whether such reexamination is required.

(2) The commissioner may require any person who meets the criteria set forth in subdivision one of this section to submit to such an examination as the commissioner shall deem appropriate. Every required road test shall be administered on an appropriate vehicle defined as a bus pursuant to section five hundred nine-a of this article.

(3) For purposes of this section, one such accident shall not be counted if the person successfully completes a motor vehicle accident prevention course approved by the commissioner.

(4) Upon the failure of the licensee to successfully complete a reexamination authorized by this section, the commissioner shall take such reasonable action as may be required. Such action may consist of imposing restrictions on the use of the license of such person, suspending such license for a definite or indefinite period, or revoking such license. The commissioner may revoke or suspend for an indefinite period the license of any person who after reasonable notice fails or refuses to submit to such reexamination. No person whose license has been suspended or revoked under this section shall be qualified to operate a bus until such person successfully completes a reexamination authorized by this section.

(5) Upon a driver's successful completion of a reexamination required by this section, the commissioner shall issue an eighteen-month probationary license to such driver and all of the provisions of section five hundred ten-b of this article shall apply.

§ 509-c. Disqualification of bus drivers generally. (1) Other than persons requiring qualification under section five hundred nine-cc of this chapter, a person employed as a bus driver on September fifteenth, nineteen hundred eighty-five and who was subject to the

provisions of this article as it existed immediately prior to September fifteen, nineteen hundred eighty-five, shall be disqualified from operating a bus as follows:

(a) permanently, if that person has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law, provided, however, the provisions of this paragraph shall not apply to convictions, suspensions or revocations or forfeitures of bonds for collateral upon any of the charges listed in this paragraph for violations which occurred prior to September first, nineteen hundred seventy-four committed by a person employed as a bus driver on September first, nineteen hundred seventy-four. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

(b) for a period of five years from the date of last conviction specified herein, if that person (i) has been convicted of any violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce;

(ii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or offenses committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, committed within the preceding five year period;

(iii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter, or an offense committed outside of this state which would constitute a violation of any subdivision of section eleven hundred ninety-two of this chapter, committed within any ten year period after September fifteenth, nineteen hundred eighty-five; or (iv) has been convicted of leaving the scene of an accident which resulted in personal injury or death under subdivision two of section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of subdivision two of section six hundred of this chapter. Such disqualification shall be for a period of three years if such conviction occurred prior to September fifteenth, nineteen hundred eighty-five; or

(v) has been convicted of a violation of section 120.04, 120.04-a, 125.13, 125.14 or 235.07 of the penal law.

(c) for a period of five years from the date of last conviction, if that person has been convicted of a violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five;

(d) for a period of one year, if that person has accumulated nine or more points on his or her driving record for acts that occurred during an eighteen month period on or after September fifteenth, nineteen hundred eighty-five, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course.

(e) for a period of one year, if that person was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required;

(f) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test.

(g) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months.

(2) All other bus drivers who are not subject to subdivision one of this section shall be disqualified from operating a bus as follows:

(a) permanently, if that person has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation committed prior to September fifteenth, nineteen hundred eighty-five, of section 130.30, 30.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

(b) for a period of five years from the date of last conviction specified herein, if the person (i) has been convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce;

(ii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside of this state within any ten year period on or after September fifteenth, nineteen hundred eighty-five, which would constitute a violation of section eleven hundred ninety-two of this chapter; or

(iii) has been convicted of leaving the scene of an accident which resulted in personal injury or death under subdivision two of section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of subdivision two of section six hundred of this chapter; or

(iv) has been convicted of a violation of section 120.04, 120.04-a, 125.13 or 235.07 of the penal law.

(c) for a period of five years from the date of last conviction, if that person has been convicted of any violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five;

(d) for a period of one year, if that person accumulates nine or more points on his or her driving record for acts occurring during an eighteen month period, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course.

(e) for a period of one year, if that person was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required;

(f) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test.

(g) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months.

(3) A person shall be disqualified from operating a bus if that person has had any license, permit, or privilege to operate a motor vehicle suspended, revoked, withdrawn or denied and such license, permit or privilege has not been reinstated by the authority which took such action. Provided, however, that the provisions of this subdivision shall not apply to a person whose (i) license, permit or privilege to operate a motor vehicle cannot be reinstated because of non-residency in the state in which the license was suspended, revoked, withdrawn or denied or (ii) a person holds a conditional driver's license or a restricted use license issued by the commissioner pursuant to the provisions of article twenty-one or twenty-one-A of this chapter, and is not disqualified under any other provision of this article.

§ 509-cc. Disqualification of drivers of school buses. (1) A person employed as a driver of a school bus as defined in paragraph (a) of subdivision one of section five hundred nine-a of this chapter on September fifteenth, nineteen hundred eighty-five and who was subject to the provisions of this article as it existed immediately prior to September fifteen, nineteen hundred eighty-five, and was employed in this state as a driver of a school bus as defined in paragraph (a) of subdivision one of section five hundred nine-a of this chapter at any time during the first six months of nineteen hundred eighty-five, shall be disqualified from operating a school bus as follows:

(a) permanently, if that person

(i) has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation committed prior to September fifteenth, nineteen hundred eighty-five, of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law, provided, however, the provisions of this subparagraph shall not apply to convictions, suspensions or revocations or forfeitures of bonds for collateral upon any of the charges listed in this subparagraph for violations which occurred prior to September first, nineteen hundred seventy-four committed by a person employed as a bus driver on September first, nineteen hundred seventy-four. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children to the applicant's prospective employment, prior to granting such a certificate; or

(ii) has been convicted of an offense listed in paragraph (a) of subdivision four of this section that was committed on or after September fifteenth, nineteen hundred eighty-five. However, such disqualification may be waived by the commissioner provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate; or

(iii) has been convicted of an offense listed in paragraph (b) of subdivision four of this section that was committed on or after September fifteenth, nineteen hundred eighty-five. However, such disqualification shall be waived provided that five years have expired since the applicant discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to

operate a bus transporting school children, prior to granting such a certificate. Provided, however, that at the discretion of the commissioner, the certificate of relief from disabilities may remove disqualification at any time; or

(b) for a period of five years from the date of last conviction specified herein, if that person

(i) has been convicted within the preceding five years of an offense listed in paragraph (c) of subdivision four of this section that was committed on or after September fifteenth, nineteen hundred eighty-five. However, such disqualification shall be waived provided that the applicant has been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate;

(ii) has been convicted of any violation of section eleven hundred ninety-two of this chapter or an offense committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce;

(iii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or offenses committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, committed within the preceding five year period;

(iv) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter, or an offense committed outside of this state which would constitute a violation of any subdivision of section one thousand one hundred ninety-two of this chapter, committed within any ten year period after September fifteenth, nineteen hundred eighty-five; or

(v) has been convicted of leaving the scene of an accident which resulted in personal injury or death under section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of section six hundred of this chapter.

(c) for a period of five years from the date of last conviction, if that person has been convicted of a violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five;

(d) for a period of one year, if that person has accumulated nine or more points on his or her driving record for acts that occurred during an eighteen month period on or after September fifteenth, nineteen hundred eighty-five, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course.

(e) for a period of one year, if that person or was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required;

(f) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test.

(g) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months.

(2) All other school bus drivers who are not subject to subdivision one of this section shall be disqualified from operating a bus as follows:

(a) permanently, if that person has been convicted of an offense listed in paragraph (a) of subdivision four of this section. However, such disqualification may be waived by the commissioner provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children to the applicant's prospective employment, prior to granting such a certificate.

(b) permanently, if that person has been convicted of an offense listed in paragraph (b) of subdivision four of this section. However, such disqualification shall be waived provided that five years have expired since the applicant was incarcerated pursuant to a sentence of imprisonment imposed on conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate. Provided, however, that at the discretion of the commissioner the certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law may remove disqualification at any time.

(c) for a period of five years from the date of last conviction specified herein, if that person (i) has been convicted within the preceding five years of an offense listed in paragraph (c) of subdivision four of this section. However, notwithstanding the provisions of subdivision three of section seven hundred one of the correction law. Such disqualification shall be waived provided that the applicant has been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the

certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate.

(ii) has been convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce;

(iii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside of this state within any ten year period on or after September fifteenth, nineteen hundred eighty-five, which would constitute a violation of section eleven hundred ninety-two of this chapter; or

(iv) has been convicted of leaving the scene of an accident which resulted in personal injury or death under subdivision two of section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of subdivision two of section six hundred of this chapter; or

(v) has been convicted of a violation of section 120.04, 120.04-a, 125.13, 125.14 or 235.07 of the penal law.

(d) for a period of five years from the date of last conviction, if that person has been convicted of a violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five;

(e) for a period of one year, if that person accumulates nine or more points on his or her driving record for acts occurring during an eighteen month period, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course.

(f) for a period of one year, if that person was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required;

(g) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test.

(h) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months.

(3) A person shall be disqualified from operating a school bus if that person has had any license, permit, or privilege to operate a motor vehicle suspended, revoked, withdrawn or denied and such license, permit or privilege has not been reinstated by the authority which took such action. Provided, however, that the provisions of this subdivision shall not apply to a person whose (i) license, permit or privilege to operate a motor vehicle cannot be reinstated because of non-residency in the state in which the license was suspended, revoked, withdrawn or denied or (ii) a person holds a conditional driver's license or a restricted use license issued by the commissioner pursuant to the provisions of article twenty-one or twenty-one-A of this chapter, and is not disqualified under any other provision of this article.

(4) (a) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (a) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 130.30, 130.35, 130.45, 130.50, 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

(b) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (b) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10, 125.11, 130.40, 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00, 230.05, 230.06, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

(5) As a part of such determination concerning whether an individual is disqualified from operating a school bus pursuant to this section, the department shall submit a prospective driver's fingerprints to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may submit such fingerprints to the federal bureau of investigation for a national criminal history record check.

§ 509-d. Qualification procedures for bus drivers, maintenance of files and availability to subsequent employers. (1) Before employing a new bus driver a motor carrier shall:

- (i) require such person to pass a medical examination to drive a bus as provided in section five hundred nine-g of this article;
- (ii) obtain a driving record from the appropriate agency in every state in which the person resided or worked and/or held a driver's license or learner's permit during the preceding three years in a manner prescribed by the commissioner;
- (iii) investigate the person's employment record during the preceding three years in a manner prescribed by the commissioner.

(2) Investigations and inquiries of drivers of school buses; maintenance of file; availability to subsequent employer. (a) A motor carrier shall request the department to initiate a criminal history check for persons employed as drivers of school buses, as defined in paragraph (a) of subdivision one of section five hundred nine-a of this chapter, on September fourteenth, nineteen hundred eighty-five by such motor carrier, in accordance with regulations of the commissioner by requiring such school bus drivers to submit to the mandated fingerprinting procedure. The department of motor vehicles at the request of the motor carrier shall initiate a criminal history check of all current school bus drivers of such motor carrier as well as those hired on or after September fifteenth, nineteen hundred eighty-five by requiring such drivers and applicants to submit to the mandated fingerprinting procedure as part of the school bus driver qualification procedure. Such fingerprinting procedure and the related fee as well as a procedure for the return of such fingerprints upon application of a person who has terminated employment as a school bus driver shall be established in accordance with regulations of the commissioner in consultation with the commissioner of the division of criminal justice services. The fee to be paid by or on behalf of the school bus driver or applicant shall be no more than five dollars over the cost to the commissioner for the criminal history check. No cause of action against the department, the division of criminal justice services, a motor carrier or political subdivision for damages related to the dissemination of criminal history records pursuant to this section shall exist when such department, division, motor carrier or political subdivision has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. Fingerprints submitted to the division of criminal justice services pursuant to this subdivision may also be submitted to the federal bureau of investigation for a national criminal history record check.

(b) After a motor carrier has completed the procedures set forth in paragraph (a) this of subdivision, it shall designate each new school bus driver as a conditional school bus driver as defined in section five hundred nine-h of this article, until the carrier is in receipt of information of the new school bus driver's qualification from the department and the

required driving records from each appropriate state agency. If the information received indicates that there is a pending criminal offense or driving violation that would require disqualification of a school bus driver under this article, the motor carrier shall require the applicant to provide documentation evidencing the disposition of such offense or violation in accordance with regulations established by the commissioner. The department, upon notice of disqualification to an applicant, shall include in such notice information regarding the applicant's right to appeal and contest any claimed ground for disqualification. Such notice shall also advise the applicant of his or her right to obtain, examine, inspect and copy any information used by the department in support of its determination of disqualification. In the event the applicant contests the existence of a criminal conviction in his or her name, such applicant may provide documentation evidencing the disposition of such offense or violation in accordance with regulations established by the commissioner.

(3) Each motor carrier shall retain the following records in each driver's file for a period of three years, in accordance with regulations established by the commissioner:

- (i) a driver abstract of operating record provided by the department and the written information provided by the appropriate agency of another state for each twelve month period;
- (ii) replies from the department regarding the driver's qualifications, as well as, any subsequent information concerning any pending criminal charges against such driver;
- (iii) the initial qualifying medical examination form and the biennial medical examination form completed by the carrier's physician;
- (iv) the annual defensive driving review forms completed pursuant to section five hundred nine-g of this article; and
- (v) the completed biennial behind-the-wheel examination forms as required under section five hundred nine-g of this article.

(4) Each motor carrier shall notify the commissioner on the form and in the manner established by regulation of the commissioner, within ten days, of the date on which a bus driver commences employment, leaves the carrier's employ or is disqualified. Such notification shall be provided in accordance with regulations established by the commissioner and shall include any information the motor carrier has relative to the bus driver's disqualification, including any information regarding criminal charges pending against the driver for violations which would disqualify the driver if a conviction resulted.

(5) Each motor carrier shall furnish the department, by October fifteenth, nineteen hundred eighty-five, a list of all bus drivers employed on September fourteenth, nineteen hundred eighty-five in accordance with regulations established by the commissioner.

(6) Each motor carrier shall furnish the department within ten days of receipt, with a copy of each bus driver's out-of-state driving record it has obtained, if such driver resides in another state, or has been employed in such other state within the past three years.

(7) Each motor carrier shall prepare a report setting forth: (a) the number of miles travelled by buses operated by such motor carrier in the preceding twelve months; (b) the number of convictions and accidents involving any driver employed by such motor carrier during the

preceding twelve months, as reported to such carrier pursuant to section five hundred nine-f of this chapter; and (c) the number of convictions and accidents per ten thousand miles travelled. Such report shall be filed with the department as an attachment to the affidavit of compliance required by subdivision (c) of section five hundred nine-j of this chapter, and a copy of such report shall be made available by the carrier to any person upon request.

§ 509-e. Annual review of driving record. Each motor carrier shall, at least once every twelve months, review the driving record of each bus driver it employs to determine whether that driver meets minimum requirements for safe driving and is qualified to drive a bus pursuant to section five hundred nine-b of this article. In reviewing a driving record, the motor carrier must consider any evidence that the bus driver has violated applicable provisions of the vehicle and traffic law. The motor carrier must also consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public. Such information shall be recorded in the employer's record.

§ 509-f. Record of violations. Each motor carrier shall, at least once every twelve months, require each bus driver it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he has forfeited bond or collateral and all accidents of a nature or type set forth in section five hundred nine-a of this article in which the driver was involved during the preceding twelve months whether such violations or accidents occurred in this state or elsewhere. Such information shall be recorded in the employer's record.

§ 509-g. Examinations and tests. Each motor carrier shall require the following from each driver it employs:

1. A biennial examination pursuant to regulations established by the commissioner, by a physician, a certified nurse practitioner to the extent authorized by law and consistent with the written practice agreement pursuant to subdivision three of section six thousand nine hundred two of the education law, or a registered physician assistant who is not the personal physician, nurse practitioner or physician assistant of the driver. Included shall be a requirement to conduct a vision test pursuant to regulations issued by the commissioner.
2. An annual check of the applicant's past driving record, and a personal interview.
3. Regular observation of the driver's defensive driving performance while operating his vehicle with passengers by competent supervisory employees of the carrier, or by competent

outside supervisory personnel, with written reports of the observations performed to be maintained in the driver's file.

4. A biennial behind-the-wheel driving test conducted by competent supervisory personnel of the carrier, or competent outside supervisory personnel, to include defensive driving performance. Such driving test may be conducted during the driver's normal daily operations and shall also include:

- (1) Pretrip inspection.
- (2) Placing the vehicle in operation.
- (3) Use of the vehicle's controls and emergency equipment.
- (4) Operating the vehicle in traffic and while passing other vehicles.
- (5) Turning the vehicle.
- (6) Braking and slowing the vehicle by means other than braking.
- (7) Backing and parking the vehicle.

5. In addition to the provisions outlined above, all motor carriers shall require each driver biennially to complete a written or oral examination testing his knowledge of the rules of the road, defensive driving practices and the laws regulating driving a bus in this state. Such examination may be conducted during the driver's normal daily operations.

§ 509-h. Operation by person not licensed to drive a bus. The motor carrier shall not knowingly permit any person to operate a bus carrying passengers unless the driver meets all of the requirements of this article; except that a motor carrier may permit a conditional school bus driver who is not otherwise disqualified under the provisions of this article to operate a bus for a period not to exceed ninety days or a longer period if granted a written extension of such ninety day period by the department pursuant to regulations established by the commissioner. Such regulation shall authorize extension for at least that period of time necessary to review information regarding the prior criminal history of the applicant.

§ 509-i. Notification of a conviction resulting from a violation of this chapter in this state or a motor vehicle conviction in another state and license revocation. 1. A driver who receives a notice that his or her license, permit or privilege to operate a motor vehicle has been revoked, suspended or withdrawn or who is convicted of a violation of such provisions of this chapter as shall constitute a misdemeanor or a felony in any jurisdiction shall notify the motor carrier that employs such person of the contents of the notice before the end of the business day following the day he or she received it. A driver who fails to notify his or her employer of such suspension, revocation or conviction of a violation of such provisions of this chapter as shall constitute a misdemeanor or a felony shall be subject to a five (5) working day suspension, or a suspension equivalent to the number of working days such driver was not in compliance with this article, whichever is longer.

1-a. A driver who is convicted of a traffic infraction in any jurisdiction shall notify his or her employer within five (5) working days from the date of conviction. A driver who fails to notify his or her employer of such conviction within the five (5) working day period shall be subject to a five (5) working day suspension; provided, however, that a first such infraction occurring on or before September sixteenth, nineteen hundred eighty-six, shall not subject such violator to the said suspension.

1-b. A driver who is involved in an accident of a nature or type set forth in section five hundred nine-a of this article in any jurisdiction shall notify his or her employer within five working days from the date of the accident. A driver who fails to notify his or her employer of such accident within the five working day period shall be subject to a five working day suspension.

2. Any driver who is convicted of an offense listed in section five hundred nine-c of this article that would disqualify such driver from operating a bus shall provide notice of such conviction in writing by the following business day to the motor carrier that employs such person. The motor carrier shall not permit any driver who fails to provide such notice to operate a bus.

3. The commissioner upon receipt of information that a driver's license, permit or privilege to operate a motor vehicle has been revoked, suspended or withdrawn in this state or elsewhere shall notify all motor carriers who have notified the commissioner of the employment of such driver; and may, if requested by a political subdivision which contracts with a motor carrier for the transportation of school children, provide such notice to the political subdivision.

4. In addition to the requirements of subdivision three of this section, the commissioner shall notify the motor carrier of any conviction for any traffic violation or accident resulting from operation of a motor vehicle against a bus driver employed by the motor carrier, shall require payment of the fee necessary to defray the cost of the notification, and shall require all motor carriers to establish an escrow account with the department which shall be used to pay for the costs incurred by the department when it informs the motor carrier of a driver's conviction or accident; and may, if requested by a political subdivision which contracts with a motor carrier for the transportation of school children, provide such notice to the political subdivision.

§ 509-j. Compliance required. (a) Every motor carrier, its officers, agents, representatives, and employees responsible for the management, maintenance, operation or driving of motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in and comply with this article.

(b) Nothing contained herein shall prevent a motor carrier or political subdivision from imposing qualifications that are more stringent than those contained in this article or from disqualifying a person who has been issued a conditional or restricted use license pursuant to the provisions of article twenty-one or twenty-one-A of this chapter.

(c) Every motor carrier shall submit an affidavit to the commissioner attesting to compliance with this article. Such affidavit shall be submitted annually, in a manner prescribed by regulations of the commissioner, and shall include as an attachment thereto a copy of the report required by subdivision seven of section five hundred nine-d of this chapter.

(d) Notwithstanding any provision of any other article of this law, where an affidavit is not submitted pursuant to this section, the commissioner may, in his discretion, suspend the registration of the vehicle or the vehicles or deny registration or renewal to the vehicle or vehicles owned or operated by the motor carrier or suspend the motor carrier's privilege of operation in this state. Such suspension or denial shall only remain in effect as long as the motor carrier fails to submit such affidavit.

(e) The commissioner or any person deputized by the commissioner, may require any motor carrier to pay to the people of this state a civil penalty, if after the motor carrier has had an opportunity to be heard, the commissioner finds that the motor carrier has violated any provision of this article or regulations promulgated therein, or has made any false statement or misrepresentation on any affidavit of compliance filed with the commissioner or with respect to violations of paragraphs (i) and (ii) of subdivision one, paragraphs (a) and (b) of subdivision two, and subdivisions three, four and five of section five hundred nine-d, section five hundred nine-g, section five hundred nine-h and subdivision two of section five hundred nine-l of this article the commissioner may in lieu of or in addition to a civil penalty suspend all of a motor carrier's registrations. Any civil penalty assessed for a first violation shall not be less than five hundred dollars nor greater than two thousand five hundred dollars for each violation, false statement or representation found to have been made or committed, and for a second or subsequent violation, not arising out of the same incident, all of which were committed within a period of eighteen months, shall not be less than five hundred dollars nor greater than five thousand dollars for each violation, false statement or representation found to have been made or committed. If the registrant fails to pay such penalty within twenty days after the mailing of such order, postage prepaid, certified and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the vehicle registrations or out of state registration privilege of operation in the state of such motor carrier or may suspend the same for such periods as the commissioner may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner.

(f) As an alternative to civil action under subdivision (e) of this section and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the same force and effect as a judgment duly docketed in the office of a county clerk and may be enforced in the same manner and with the same effect as that provided by law.

(g) Upon the suspension of a vehicle registration pursuant to subdivision (d) or (e) of this section, the commissioner shall have the authority to deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this article. Such suspension or denial shall remain in effect only as long as the suspension entered pursuant to subdivision (d) or (e) of this section remains in effect.

§ 509-k. Ill or fatigued operator. No driver shall operate a bus and a motor carrier shall not permit a driver to operate a bus while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness or any other cause, as to make it unsafe for him to begin or continue to operate the bus. At the request of the driver or the motor carrier such illness, fatigue, or other cause shall be certified by a qualified physician. However, in a case of grave emergency where the hazard to occupants of the bus or other users of the highway would be increased by compliance with this section, the driver may continue to operate the bus to the nearest place at which that hazard is removed.

§ 509-l. Drugs, controlled substance and intoxicating liquor. 1. No person shall:

- (a) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor or drug, within six hours before going on duty or operating, or having physical control of a bus, or
- (b) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, or operating, or in physical control of a bus, or
- (c) possess a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, operating or in physical control of a bus. However, this paragraph does not apply to possession of a drug, controlled substance or an intoxicating liquor which is transported as part of a shipment or personal effects of a passenger or to alcoholic beverages which are in sealed containers.

2. No motor carrier shall require or permit a driver to:

- (a) violate any provision of subdivision one of this section; or
- (b) be on duty or operate a bus if, by such person's general appearance or by such person's conduct or by other substantiating evidence, such person appears to have consumed a drug, controlled substance or an intoxicating liquor within the preceding six hours.

§ 509-m. Duties of the department. The department of motor vehicles shall:

- 1. At least once every three years, review the bus driver files of each motor carrier, provided, however, that the commissioner may review such bus driver files at his discretion at any other time during regular business hours.

2. Establish regulations and forms for the orderly administration of and compliance with this article. Regulations shall also be established which are necessary for implementation of the process for appeal pursuant to subdivision two of section five hundred nine-d of this article.
3. Provide each motor carrier with notice whenever one of the drivers of such motor carrier has received revocation or suspension of a driver's license, learner's permit or privilege to operate.
4. Provide a motor carrier who has complied with the requirements of subdivision four of section five hundred nine-i of this article with information on any employee of the motor carrier regarding a conviction for a violation of this chapter.
5. Upon receipt of the criminal history record report of a school bus driver, notify the motor carrier of disqualification of an applicant or school bus driver which would or could disqualify such driver under the provisions of section five hundred nine-cc of this article. Notification to the carrier shall be without specification of the grounds for disqualification, those grounds to be made available only to the school bus driver or his or her representative.
6. In order to effectuate the provisions of this article, establish procedures, by regulation, to conduct curbside verification of bus driver and motor carrier identity to determine whether or not such motor carrier has notified the commissioner of the bus driver's employment as required by subdivision four of section five hundred nine-d of this article and whether or not such motor carrier has complied with the provisions of this article and with any regulations promulgated there under; provided, however, such verifications shall be conducted so as not to disrupt the flow of traffic or endanger public safety.
7. The commissioner shall prepare and distribute a form for the provision of objective data concerning the driving history of a bus driver who is subject to regulation under this article. Such form shall be completed by current or former employers of such bus drivers upon the request of a prospective or subsequent employer.

§ 509-n. Exempt carriers; reporting requirements. 1. A motor carrier subject to the motor carrier regulations of the United States department of transportation will be exempt from all of the annual and biennial requirements of this article, except the annual requirement which mandates that an affidavit of compliance be filed with the commissioner, provided that (i) such motor carrier does not operate in this state a school bus as defined in section one hundred forty-two of this chapter or a bus used for the transportation of persons under the age of twenty-one or persons of any age who are mentally disabled to a place of vocational, academic or religious instruction or religious service including nursery schools, day care centers and camps or (ii) such motor carrier did not operate in the state during the previous calendar year more than one hundred days or more than ten thousand bus vehicle miles. Provided, however, for the purpose of this subdivision a school bus shall not mean a bus operated by a motor carrier subject to the motor carrier regulations of the United States department of transportation, that occasionally transports pupils or persons of any age who are mentally disabled and who are not residents of this state on chaperoned chartered trips in New York state.

2. A motor carrier subject to the motor carrier regulations of the United States department of transportation who is not exempt pursuant to the provisions of subdivision one of this section may apply to the commissioner for a waiver for those bus drivers, other than those drivers who operate a school bus as defined in section one hundred forty-two of this chapter or a bus used for the transportation of persons under the age of twenty-one to a place of vocational, academic or religious instruction or service including schools and camps, who operate a bus in this state less than thirty days each year. Such application shall include a description of a training and qualifying program which has demonstrated the motor carrier's procedures for qualifying bus drivers. Such program shall include an appropriate health and driving record review and such other information as shall be required by the commissioner to satisfy the intent of this article in an effective manner.

3. The annual affidavit of compliance required under subdivision one shall certify to the commissioner that the motor carrier does not employ a bus driver who would operate a bus in New York state and who is disqualified under section five hundred nine-c of this article, and also shall certify the number of days and vehicle miles of bus service that the carrier provided in the state during the previous calendar year. A motor carrier exempted by this section shall furnish to the commissioner upon request any records concerning drivers required to be kept by the motor carrier regulations of the United States department of transportation within ten days of receipt of such request. Failure of a motor carrier to furnish such records requested within the ten day period shall be a violation of this article.

§ 509-o. Penalties. Upon conviction for the violation of any provision of this article the court shall impose a sentence consisting of a fine of not less than one hundred dollars nor more than two hundred fifty dollars.

Part 6 Special Requirements for Bus Drivers
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General

Section 6.1 Introduction. Article 19-A was enacted to further highway safety by creating standards for the qualification of bus drivers. A person shall not be permitted to operate a bus unless he or she is qualified as provided in the article and this Part promulgated thereunder. This Part implements the purpose of Article 19-A. It is not intended to be construed to nullify any contractual agreements between a motor carrier and its employees which are not in conflict with the law or this Part. This Part provides a comprehensive guide to enable a motor carrier to comply with the requirements of Article 19-A.

6.2 Definitions. The following definitions shall apply to this Part.

(a) Bus. Bus shall mean every motor vehicle, owned, leased, rented or otherwise controlled by a motor carrier which:

- (1) is a school bus as defined in subdivision (b) of this section; or
- (2) is required to obtain approval to operate in the state as a common or contract carrier of passengers by motor vehicle from the New York State Department of Transportation, or the U.S. Department of Transportation the Interstate Commerce Commission; or
- (3) is regulated as a bus line by a city that has adopted an ordinance, local law or charter to regulate or franchise bus line operations pursuant to Section 80(4) of the New York State Transportation Law; or
- (4) is regulated as a van service or other common carrier of passengers by motor vehicle covered under Article 7 of the New York State Transportation Law by a city with a population of over one million pursuant to an ordinance or local law adopted pursuant to Section 80(5) of the New York State Transportation Law; or
- (5) is operated by a transit authority or municipality and is used to transport persons for hire. Provided, however, that bus shall not mean an authorized emergency vehicle operated in the course of an emergency, or a motor vehicle used in the transportation of agricultural workers to and from their place of employment. (Note: Whenever the term "bus" is used in this Part, it shall refer to the above definition of a "bus.")

(b) School bus. School bus shall mean every motor vehicle which:

- (1) is owned by a public or governmental agency or private school and operated for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities or privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities or
- (2) has a seating capacity of 11 or more adult passengers in addition to the driver and which is used for the transportation of persons under the age of twenty-one or persons of any age who are mentally or physically disabled to a place of vocational, academic or religious instruction or religious service including nursery schools, day care centers and camps.
- (3) however, the term school bus shall not include a bus operated by a motor carrier subject to the motor carrier regulations of the United States Department of

Transportation, which occasionally transports pupils or persons of any age who are mentally and/or physically disabled, who are not residents of this state on chaperoned chartered trips in New York State.

(c) Seating capacity. For the purpose of this Part, seating capacity of any vehicle shall be determined each time the vehicle is being operated. Seating capacity shall be the greater of the number of passengers, other than the driver, using either designed adult passenger capacity or actual passenger usage criteria. Designed adult passenger capacity shall be based on 16 seat inches per passenger for seats accommodating one or two passengers and 17 seat inches per passenger on a bench-type seat accommodating three or more passengers.

(d) Driver. Driver or bus driver shall mean every person: (1) who is self-employed and drives a bus for hire or profit; or (2) who is employed by a motor carrier and operates a bus owned, leased or rented by such employer; provided, however, bus driver shall not include those persons who: (1) are engaged in the maintenance, repair or garaging of such buses and in the course of their duties must incidentally drive a bus without passengers, or (2) are volunteer school bus drivers as defined in subdivision (t) of this section..

(e) Motor Carrier. Motor carrier shall mean any person, corporation, municipality, or entity, public or private, who directs one or more bus drivers and who operates a bus wholly within or partly within and partly without this state in connection with the business of transporting passengers for hire or in the operation or administration of any business, or place of vocational, academic or religious instruction or religious service for persons under the age of twenty-one or persons of any age who are mentally or physically disabled including nursery schools, day care centers and camps, or public agency, except such out-of-state public or governmental operators who may be exempted from the provisions of this Part pursuant to section 6.14. Motor carrier shall also mean:

- (1) one who operates under an authority leased from another corporation or business; or
- (2) any corporation or business which has authority to operate under USDOT, ICC or NYSDOT rules who may lease or sell such authority; and
- (3) motor carrier shall not mean an out-of-state public or governmental operator or any corporation or business which has authority to operate under USDOT, ICC or NYSDOT rules or who has leased or sold such authority.

(f) Intoxicating liquor. Intoxicating liquor shall mean and include, alcohol, spirits, liquor, wine, beer and cider having alcoholic content.

(g) Drug. Drug shall mean any substance listed in section thirty-three hundred six of the Public Health Law not dispensed or consumed pursuant to a lawful prescription. Refer to Section 3306 of the Public Health Law at <http://public.leginfo.state.ny.us/menuf.cgi>. Under “Laws of New York” select PBH.

(h) Controlled substance. Controlled substance shall mean any substance listed in section thirty-three hundred six of the Public Health Law not dispensed or consumed pursuant to lawful prescription.

Refer to Section 3306 of the Public Health Law at <http://public.leginfo.state.ny.us/menuf.cgi>. Under "Laws of New York" select PBH.

(i) Regular observation. Regular observation shall mean an observation of a bus driver's performance within a consecutive 12-month period by a Department of Motor Vehicles certified 19-A examiner.

(j) Defensive driving performance. Defensive driving performance shall mean a demonstrated ability to safely operate the vehicle while employing accident avoidance techniques as determined by a certified 19-A examiner.

(k) Certified examiner. An individual who has met the eligibility requirements of Section 6.13 of this Part and is certified by the Department of Motor Vehicles. Such certified examiner duties include the testing and evaluation of drivers as required by the biennial written/oral examination; as well as the biennial behind the wheel road test and the annual defensive driving performance procedures set forth in this Part. In addition, certified examiners shall mean competent supervisory employees, supervisory personnel and competent employees of an outside supervisory agency if such individuals have met the requirements of, and have been certified in accordance with, Section 6.13 of this Part.

(l) Biennial. Biennial shall mean a consecutive 24-month period.

(m) Written or oral examinations. Written or oral examinations shall mean examinations conducted in accordance with instructions, and procedures as set forth in section 6.12 of this Part.

(n) Medical examination. Medical examination shall mean a physical examination given by a physician or a nurse practitioner as set forth in section 6.10 of this Part. (Amended 4/16/03)

(o) Road test examination. Road test examination shall mean an examination as set forth in section 6.11 of this Part given by an individual certified by the Department of Motor Vehicles as set forth in section 6.13 of this Part.

(p) Transportation for hire. Transportation for hire shall mean transportation of passengers for which monies are paid to the motor carrier for the transportation service provided. It shall not include transportation of passengers by a person operating his or her own vehicle with a seating capacity of ten or less adults where the only payment made to such person is a mileage fee intended to cover the actual cost of such operation, nor shall it include a parent transporting only his or her child.

(q) School. School shall refer to public and private elementary and secondary schools or a place of vocational, academic or religious instruction or service, including a nursery school, day care center, or camp for persons under the age of twenty-one, or persons of any age who are mentally or physically disabled. Provided, however, a school shall not include a college, university or a post-secondary institution.

(r) Conditional bus driver. Conditional bus driver shall mean a driver who has been hired by a motor carrier and reported to the Department of Motor Vehicles, Bus Driver Certification Unit and is undergoing a driver qualification review.

(s) School bus driver. School bus driver shall mean every driver who operates a school bus as defined in Section 6.2(b) of this Part.

(t) Volunteer school bus driver. Volunteer school bus driver shall mean every person who occasionally transports passengers to and from extra curricular activities sponsored by a school or religious organization fewer than 30 days per calendar year and where such driving is unpaid and incidental to any terms or contract of hire. It shall not include an individual who transports passengers in a bus as defined by Section 6.2(a) and (b) of this Part in accordance with his or her contract of hire or terms of employment over a scheduled route which involves the receiving and discharging of passengers on any road, highway, public or private street, or driveway. A volunteer may be a teacher, coach, minister, or parent, etc., but may not be anyone who is employed on a full time, substitute, replacement, or fill-in basis as a self employed driver or as a driver for a contract carrier.

(u) Accident shall include any accident with another vehicle, object or person, which occurs in this state or elsewhere, in which any person is killed or injured, or in which damage to the property of any one person, including the operator, in excess of one thousand five hundred dollars is sustained, or in which damage in excess of two thousand five hundred dollars is sustained to any bus as defined in section one hundred four of the Vehicle and Traffic Law; provided however that accidents occurring outside this state shall not be recorded on the driver's license record. Bus is defined in Section 104 as, "every motor vehicle having a seating capacity of fifteen or more passengers in addition to the driver and used for the transportation of persons.

(v) For the purposes of this Part, the following terms shall mean as described:

- (1) "BDCU" shall mean the New York State Department of Motor Vehicles Bus Driver Certification Unit;
- (2) "CDL" shall mean Commercial Driver's License;
- (3) "DCJS" shall mean the New York State Department of Criminal Justice Services;
- (4) "DMV" shall mean the New York State Department of Motor Vehicles;
- (5) "FBI" shall mean the United States Federal Bureau of Investigation;
- (6) "ICC" shall mean the United States Interstate Commerce Commission;
- (7) "USDOT" shall mean the United States Department of Transportation;
- (8) "DOT" shall mean the New York State Department of Transportation;
- (9) "SED" shall mean the New York State Education Department.

Initial Employment Investigations and Inquiries for All Bus Drivers

6.3 Employment Requirements for All Bus Drivers

(a) A motor carrier may only employ an individual as a driver who is qualified under this section and who is not disqualified under Section 6.27 of this Part. The Department of Motor Vehicles

will notify the carrier regarding the driver being qualified or disqualified in accordance with this section.

(b) Bus driver qualification under Article 19-A of the Vehicle and Traffic Law is the responsibility of both the Department of Motor Vehicles and the carrier. The carrier may establish qualifications for hiring or continuing the employment of drivers that are more stringent than those contained in this Part.

(c) Each motor carrier shall:

- (1) classify each new driver it employs as a "conditional driver" as defined in Section 6.2(r) of this part for a period of not more than 90 days from the date of hiring, unless the carrier is granted an extension in writing by BDCU of the Department of Motor Vehicles,
- (2) investigate the driver's employment record during the preceding three years.
- (3) require each applicant to submit to and pass the physical examination to drive a bus set forth in Section 6.10 of this Part,
- (4) require each applicant to be at least 18 years of age. Drivers of school buses subject to SED regulations or who operate a vehicle in interstate commerce must be 21 years of age.
- (5) require each applicant to possess a currently valid driver's license or learner's permit in the class appropriate to the type of vehicle which the driver will operate in New York State and as defined in Section 6.2 of this Part.
- (6) review the applicants driver's license document for driving restrictions and endorsements.
- (7) determine that each applicant has not been disqualified to drive a bus pursuant to the provisions of Sections 6.27 of this Part,
- (8) obtain an abstract of a conditional driver's driving record from the appropriate agency in every state including New York, in which the person has resided, worked or has held a driver's license or learner's permit during the preceding three years. The inquiry shall be in the form and manner prescribed by these agencies. When the agency establishes a fee for supplying such information, the fee shall be paid by the motor carrier or school district,
- (9) forward to BDCU a copy of such person's driving record from each State, other than New York, within ten days of the date on which the carrier received such information,
- (10) The carrier must provide BDCU with an acceptable Article 19-A Driver Application (DS-870) for the conditional driver within ten days of the hiring date of the conditional driver.

(d) The Department of Motor Vehicles shall, upon receipt of the Article 19-A Driver Application (DS-870) and out-of-state driving records (when applicable), review these items and the driver's New York State driving record and notify the carrier regarding the driver's qualification or disqualification to drive a bus pursuant to this section and Section 6.4 of this Part.

6.4 Qualification of School Bus Drivers

(a) In addition to the qualification procedures which must be followed for each bus driver and the forms which must be submitted for each bus driver as set forth in Section 6.3 of this Part, any motor carrier which employs a driver who operates a school bus as defined in Section 6.2(b) of this Part must require such driver to be fingerprinted according to the following procedure.

(1) A set of fingerprints must be provided to BDCU for both the DCJS and the FBI on cards provided by the Department of Motor Vehicles, along with the driver's Article 19-A Driver Application, form DS-870. The person administering the fingerprinting must:

- (i) ask for identification and verify the identity of the bus driver or applicant.
- (ii) check the quality of the fingerprints. Fully rolled, clear fingerprint impressions allow for accurate pattern recognition and ridge counting. When fingerprints are being taken, use permanent black printer's ink and distribute it evenly on the pad. Do not use porelons pads. Roll fingerprints fully (from nail to nail). Be sure impressions are taken in the sequence indicated on the card. Please note in the appropriate box on the card if there is an amputation, physical deformity, etc. that makes it impossible to take all the required impressions. ALSO NOTE: If the driver has worked with chemicals, dyes, abrasives, or other substances which affect the quality of fingerprints, provide this information on the DCJS fingerprint card under item 30, Additional Information. On the FBI card, use the space in the upper right corner on the instruction side of the card.

(2) The carrier must complete the DCJS Fingerprint Transmittal Form listing up to 10 drivers in the space provided.

(3) The carrier must submit the DCJS and FBI fingerprint cards, the DCJS fingerprint transmittal form, and the appropriate fee in the form of a single check (i.e. bank teller check, certified check, bank draft) or money order made payable to the "Commissioner of Motor Vehicles", and send it to: Bus Driver Certification Unit; New York State Department of Motor Vehicles; Empire State Plaza, Albany, New York 12228-0220. NOTE: FBI and DCJS fingerprint cards found to be unreadable and returned to the carrier for re-rolling and resubmission may require an additional fee.

(b) Previously Fingerprinted Drivers--School bus drivers previously fingerprinted by a former carrier which employed them in accordance with this Part, may not need to be refingerprinted by a new employer/carrier. Verification of prior fingerprinting must be made by contacting BDCU. If it is verified, the completed Article 19-A Driver Application form (DS-870) is the only item which should be submitted for that driver. The corresponding set of fingerprints and fee are not required.

(c) "Conditional" School Bus Driver--Pending criminal history clearance, the motor carrier shall classify each new school bus driver as conditionally hired for a period not to exceed 90 days from the date of hiring. Such period may only be extended with the written permission of BDCU.

(d) BDCU is authorized by law to access criminal conviction records maintained in the files of DCJS and the FBI Identification Division, for the purposes of determining an individual's qualification for employment as a driver of a school bus operating in New York State.

(1) If the Department receives notification from DCJS or the Federal Bureau of Investigation that the driver has a criminal conviction which will disqualify him or her as set forth in Section 6.28 of this Part, it shall advise the driver, motor carrier, and/or school district/contractor of such disqualification. Upon receipt of

such notice of disqualification, the motor carrier shall not permit the person to operate a school bus.

(2) If the Department receives notification from DCJS or the FBI that the school bus driver has a pending criminal offense which could disqualify the person upon conviction, it shall advise the driver, motor carrier, and/or school district/contract of such possible disqualification, but shall not specify the offense. The motor carrier and/or school district shall require the applicant to provide documentation to BDCU upon disposition of such offense, consisting of an original document, not a photostatic copy, with the seal of the court and the signature of the presiding Justice or court clerk. The documentation will be forwarded by BDCU to the Bureau of Identification and Criminal History Operations of DCJS or the Identification Division of the FBI for verification.

(e) Appeal Process. Upon notification from DCJS or the FBI that a driver has been convicted of or is charged with a criminal offense which would or could disqualify him or her as a school bus driver under 6.28 of this Part, the DMV shall notify the driver of his or her right to appeal. If the driver or applicant is challenging the accuracy or completeness of court disposition information on file with DCJS or the FBI, he or she shall be advised of the procedures to be utilized in appealing this information.

An appeal of disqualification based upon a conviction may not be appealed to the Department's Appeals Board. In such cases, the driver may pursue a legal remedy in the courts pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. If the disqualification arises out of matter which is not a conviction, the driver may appeal to the Appeal's Board within 60 days of the determination of disqualification. The Appeals Board may be contacted at the Empire State Plaza, Albany, N.Y. 12228.

6.5 Transfers, Drivers Already Qualified.

(a) The motor carrier which is hiring the driver must complete and submit to the BDCU the Article 19-A Driver Application (DS-870) for the driver within 10 days of hiring a new driver.

(b) The motor carrier which was the former employer must complete and submit to the BDCU the Article 19-A Bus Driver Add/Drop Notice (DS-885) for the driver within 10 days of the driver's date of leaving its employ.

(c) School bus drivers who already have been fingerprinted for an FBI and DCJS review and have been qualified by DMV do not need to be refingerprinted. However, verification of prior fingerprinting must be made with the BDCU. (See Section 6.4 (b) of this Part.)

(d) If the annual or biennial procedures have been completed by the former employer for a driver who is transferring to another motor carrier, the new carrier which has obtained the 19-A records from such former employer does not have to complete those procedures until such driver is scheduled to be tested on his/her annual or biennial cycle.

6.6 Leave of Absence Requirements

(a) For drivers who are permanently leaving the carriers service, the motor carrier must complete the Article 19-A Bus Driver Add/Drop Notice (DS-885) indicating the driver's date of separation. The DS-885 must be mailed to BDCU within 10 days of the effective date of such separation.

(b) For drivers who are temporarily leaving the carrier's service and whose absence will interfere with carriers ability to conduct the annual and biennial procedures, the carrier will complete the

Article 19-A Bus Driver Add/Drop Notice (DS-885) and mail it to BDCU. This must be done within 10 days of the effective date of such leave.

(c) For drivers being reinstated after a temporary leave or being reinstated by the same carrier at any time, the carrier must complete the DS-885 indicating reinstatement and mail it to BDCU within 10 days of the date of reinstatement. Any annual and biennial procedures which were required to be performed during the driver's leave should be conducted within 30 days of the date of reinstatement. Annual and biennial procedures not due during the period of leave shall be conducted on the dates previously assigned for the driver. EXCEPTION: IF A MEDICAL EXAMINATION WAS DUE DURING THE LEAVE PERIOD SUCH MEDICAL EXAM SHALL BE CONDUCTED BEFORE THE DRIVER IS PERMITTED TO RESUME HIS OR HER DUTIES TO DRIVE.

(d) A motor carrier which employs drivers on a short-term seasonal basis must establish annual and biennial procedure schedules effective with the original date of hire.

(e) A copy of the Article 19-A Bus Driver Add/Drop Notice (DS-885) must be filed in the record of drivers listed on such form.

6.7 New Company. Newly established bus carriers must provide the following to the New York State Department of Motor Vehicles, BDCU, Empire State Plaza, Albany, New York 12228-0220:

(a) A completed Article 19-A Driver Application (DS-870) for each driver it employs. The form must be complete and provide information about the carrier, the school districts, camps, nursery schools, day care centers, or mental health facilities and any other contracts served by the carrier.

(b) The complete corporate identification including federal, state, and state education (if applicable) identification numbers, or "doing business as" or partnership forms filed with the appropriate county clerk. The names and identification of all motor carrier operations acquired including motor carriers operating as DBAs (doing business as . . .).

(c) Certification that the carrier is qualifying all drivers in accordance with Section 6.3 of this Part, and if the drivers are school bus drivers, that they are being fingerprinted in accordance with Section 6.4 of this Part.

Annual Procedures for Motor Carriers

6.8(a) Annual review of driving record. The provisions of this section do not require termination of employment as a bus driver based upon any single incident or series of incidents (other than convictions which require disqualification as set forth in Sections 6.27 and 6.28 of this Part), but rather permit the motor carrier to apply reasonable standards in making a determination based upon the entire driving record. Except as required by Sections 6.27 and 6.28, any termination of employment based on the provisions of this section is, therefore, the determination of the motor carrier using its independent judgment.

Each motor carrier shall:

(1) at least once every 12 months, require each bus driver it employs to prepare and furnish the carrier with a list of all violations and accidents as defined in Section 6.2 of this Part, of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or of which he or she has forfeited bond or collateral during the preceding 12 months whether such violations or accidents occurred in this State or elsewhere. Such

information shall be recorded in the employee's record as presented on the Annual Review of Employee Driving Record Form (DS-872).

(2) if a bus driver is a resident of, or is licensed by, a State other than New York, the motor carrier must also obtain an abstract of operating record from the appropriate agency in the bus driver's state of residence. For these drivers, the motor carrier is required to forward to the BDCU a copy of the bus driver's operating record issued by the appropriate agency in the bus driver's state of residence within 10 days of receipt; and

(3) at least once every 12 months, review the driving record of each driver it employs to determine whether that each driver meets minimum requirements for safe driving and is qualified to drive a bus pursuant to Sections 6.3 and 6.4 of this Part. Such review shall include the information supplied under paragraph (1) of this subdivision and the information supplied by the mandatory notification program pursuant to Section 6.17 of this Part. Such review shall determine whether the bus driver has a currently valid driver's license or learner's permit in the class and with the proper endorsements appropriate to the type of vehicle the driver operates in the course of his or her employment. In reviewing a driving record, the motor carrier or school district must consider any evidence that the bus driver has violated applicable provisions of the Vehicle and Traffic Law. The motor carrier must also consider the driver's accident record and any evidence that the driver has violated laws governing the operating of motor vehicles, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public.

(b) Annual personal interview. A motor carrier shall conduct an annual review of the driver's operating record, and a personal interview. The personal interview shall consist of questions to ascertain whether or not the information the motor carrier has on file for the driver is accurate, and that the employee has been instructed in, and is in compliance with, the provisions of Article 19-A. As part of such annual interview, the motor carrier shall instruct the driver about the provisions of 6.15(d) of this Part which relate to the accumulation of three accidents within an 18 month period. The carrier shall instruct the driver about the potential driver's license sanctions and disqualification provisions as set forth in Section 6.15. The carrier shall also inform the driver about the motor vehicle accident prevention course provided for in Section 6.15(d)(3) of this Part. Copies of all abstracts should be attached to the Annual Review of Employees Driving Record. Compliance with this section shall be shown by completing the Annual Review of Employees Driving Record form (DS-872).

(c) Defensive driving performance--regular observation. Regular observation of a driver's defensive driving performance while operating the bus with passengers shall be made by individuals certified by DMV (see Section 6.13 of this Part). If an employee does not demonstrate satisfactory defensive driving techniques, the law does not require that the driver be disqualified. However, the motor carrier shall note on the Annual Defensive Driving Review Form (DS-873) what the specific deficiency was and what corrective measures (i.e., retraining, retesting, additional defensive driving performance reviews) were taken to bring the driver's performance up to satisfactory standards.

NOTE: The regular observation of a driver's defensive driving performance must be conducted at least once within every 12 month period and may not be combined with, nor conducted on the same day as, the biennial behind the wheel road test.

(d) Each motor carrier shall annually prepare a report setting forth: (a) the number of miles traveled by buses operated by such motor carrier in the preceding twelve months; (b) the number of convictions and accidents involving any driver employed by such motor carrier during the preceding twelve months, as reported to such carrier pursuant to this section; and (c) the number of convictions and accidents per ten thousand miles traveled. Such report shall be filed with the department as an attachment to the affidavit of compliance required by section 6.9 of this Part, and a copy of such report shall be made available by the carrier to any person upon request.

6.9 Annual Affidavit of Compliance. Carriers are required to affirm their compliance to Article 19-A by July 1 of each year. Failure to submit an acceptable and correct affidavit of compliance as specified on the affidavit form may result in suspension of all the vehicle registrations and the motor carrier's privilege of operation in this State. Such affidavit shall include the report required by Section 6.8(d) of this Part.

(a) The Department of Motor Vehicles will provide the carrier with the Affidavit of Compliance (DS-3), Instructions for Completing the Annual Affidavit of Compliance (DS-3.1), a listing of the drivers currently reported to the BDCU by the motor carrier, and the Annual statistical report required by 6.8(d).

(b) The carrier will review the listing of drivers, make certain all drivers are qualified, that the most current address and name of all drivers is provided, and provide a corrected list of drivers to the Department:

(1) for drivers no longer in the carrier's employment, complete Article 19-A Bus Driver Add/Drop Notice (DS-885) and attach it to the DS-3.

(2) for drivers who do not appear on the list, submit Article 19-A Driver Application (DS-870); a set of completed fingerprint cards - DCJS and FBI (for school bus drivers only); DCJS Fingerprint Transmittal Form (for school bus drivers only); and the appropriate fee with the completed affidavit (DS-3).

Note: A carrier is required to update its roster whenever an employee is hired or terminated.

(c) Sign, date, and have the Affidavit of Compliance notarized. Return the completed Affidavit with all supporting documentation directly to:

BDCU

New York State Department
of Motor Vehicles

Empire State Plaza

Albany, New York 12228-0220

(d) When the Affidavit of Compliance is received, reviewed, and accepted by the BDCU, the motor carrier will be sent a letter of acknowledgment.

Biennial Procedures for Motor Carriers

6.10 Physical qualifications for drivers to be considered in initial pre-employment and subsequent biennial physical examinations.

Note: New York State Department of Education requires all elementary and secondary school bus drivers to have an annual medical examination. Drivers must comply with all rules and regulations promulgated by such Department.

(a) A person shall not drive a bus unless he or she is physically qualified to do so.

(b) A person is physically qualified to drive a bus if he or she:

(1) is certified as medically qualified pursuant to this Part. An employer may require that a driver undergo the examination required by this section upon return to work following an injury or illness which may interfere with the ability of such driver to operate and control a bus safely in conformance with his or her job duties.

(2) has no established medical history or clinical diagnosis of diabetes mellitus or if he or she has an established medical or clinical diagnosis of diabetes mellitus which has been stabilized by insulin therapy to the degree that her or his personal physician can certify that such person has not had an incident of hyperglycemic or hypoglycemic shock for a period of two years, or since the last physical examination given pursuant to the requirements of this Part, whichever is longer. However, the employee must remain under adequate medical supervision and follow-up. The follow-up shall consist of written certification every six months by the employee's personal physician that his or her condition has remained stabilized and an incident of hyperglycemic or hypoglycemic shock has not occurred since the last certification.

(3) has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure. The person conducting the examination shall make this determination in accordance with the guidelines set forth in this section;

(4) has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with the ability to control and drive a bus safely;

(5) has no current clinical diagnosis of high blood pressure likely to interfere with the ability to control and safely operate a bus;

(6) has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with the ability to control and safely operate a bus;

(7) has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control and safely operate a bus;

(8) has no mental, nervous, organic, or functional disease of psychiatric disorder likely to interfere with the ability to control and safely operate a bus;

(9)(i) has distant visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green and amber:

(ii) A waiver of the vision standards of subparagraph (a) of this paragraph may be given to a bus driver, except a school bus driver,

whenever such person has obtained a valid waiver of the vision standard from the Federal Highway Administration (FHWA). Such waiver shall be valid for the same period of time specified in the waiver issued by the FHWA.

(iii) The operator of a school bus subject to the regulations of the Commissioner of Education must meet all of the vision requirements as set forth in subparagraph (a) of this paragraph.

(10) first perceives a forced whispered voice in the better ear at not less than five feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5--1951.

(11) does not use an amphetamine, narcotic, or any habit-forming drug; and
(Added 11/4/98)

(12) has no current clinical diagnosis of alcoholism. (Added 11/4/98)

(c) Medical examination; certificate of physical examination. Except as provided in subdivision (d) of this section, the medical examination shall be performed by a licensed doctor of medicine or osteopathy or nurse practitioner who shall not be acting as the driver's personal physician or nurse practitioner during the course of the physical examination. A physician's assistant or advanced practice nurse may conduct the physical examination if they are acting under the direction and supervision of a physician and, if applicable, in accordance with a written practice or protocol agreement. In addition, when the medical examination is performed by a physician's assistant or an advanced practice nurse, the supervising or collaborating physician must approve the findings and sign the examination report. Any laboratory examination may be conducted to determine the driver's physical qualification as required in this Part. (Amended 4/16/03)

(d) A licensed optometrist or ophthalmologist may perform so much of the medical examination which pertains to visual acuity, field of vision, and the ability to recognize colors as specified in paragraph (9) of Section 6.10(b) of this Part.

(e) The medical examination shall be performed, and its results shall be recorded on the Examination to Determine Physical Condition of Driver under Article 19-A form (DS-874) and in accordance with the instructions provided in this section.

(1) the examining or collaborating physician or nurse practitioner must sign and date the medical examination form, (Amended 4/16/03)

(2) the form will be returned to the physician or nurse practitioner if any item is left blank. (Amended 4/16/03)

(f) The carrier will provide the examining physician or nurse practitioner with all forms, instructions, information, and appendices necessary to perform and evaluate the drivers' physical qualifications under Article 19-A. Such forms will be provided to the carrier by the Department of Motor Vehicles. (Amended 4/16/03)

(g) The carrier will be responsible for ensuring that all required medical examinations, reexaminations, treatments and follow-ups as required by the physician or nurse practitioner are in compliance with the provisions of this Part. (Amended 4/16/03)

(h) Notification in writing to the BDCU is required within 10 days when a driver has failed to pass the biennial physical examination and has completed and failed the re-examination and procedures as set forth in subdivision (b) of Section 6.15 of this Part.

Instructions for Performing and Recording Physical Examinations

The medical examiner should review these instruction before performing the physical examination. Using the examination form (DS-874) answer each question yes or no where appropriate. (Amended 4/16/03)

The medical examiner should be aware of the rigorous physical demands and mental and emotional responsibilities placed on the driver of a bus. In the interest of public safety the medical examiner is required to certify that the driver is medically qualified. (Amended 4/16/03)

General Information. The purpose of this history and physical examination is to certify the applicant's ability to operate a bus safely. The examination should be made carefully and be at least as complete as indicated on form DS-874.

General Appearance and Development. Note marked overweight, or any posture defect, perceptible limp, tremor, or other defects that might be caused by alcoholism, thyroid intoxication, or other illnesses. No driver shall use a narcotic or other habit-forming drug.

Head-Eyes. When other than the Snellen chart is used, the results of such test must be expressed in value comparable to the standard Snellen test. If the applicant wears corrective lenses, these should be worn while applicant's visual acuity is being tested. If corrective lenses are necessary, indicate on the examination form by checking the box, "Qualified only when wearing corrective lenses". In recording distance vision use 20 feet as normal. Report all vision as a fraction with 20 as numerator and the smallest types read at 20 feet as denominator. The driver must have a distant visual acuity 20/40 (Snellen) in each eye with a field of vision of at least 70 degrees in the horizontal meridian in each eye. Note ptosis, discharge, visual fields, ocular muscle imbalance, color blindness, corneal scar, exophthalmos, or strabismus, uncorrected by corrective lenses. Monocular drivers are not qualified to operate buses. If the driver habitually wears contact lenses, or intends to do so while driving, there should be sufficient evidence to indicate that he or she has good tolerance and is well adapted to their use. The use of contact lenses should be noted on the record.

Ears. Note evidence of mastoid or middle ear disease, discharge, symptoms of aural vertigo, or Meniere's Syndrome. When recording hearing, record distance from patient at which a forced whispered voice can first be heard. If audiometer is used to test hearing, record decibel loss at 500 Hz, 1,000 Hz, and 2,000 Hz. If the driver is qualified only when wearing a hearing aid the following statement must be marked on the examination report: "Qualified only when wearing a hearing aid".

Throat. Note evidence of disease, irremediable deformities of the throat likely to interfere with eating or breathing, or any laryngeal condition which could interfere with the safe operation of a bus.

Thorax-Heart. Stethoscopic examination is required. Note murmurs and arrhythmias, and any past or present history of cardiovascular disease, of a variety known to be accompanied by syncope, dyspnea, collapse, enlarged heart, or congestive heart failures. Electrocardiogram is required when findings so indicate.

Blood Pressure. Record with either spring or mercury column type of sphygmomanometer. If the blood pressure is consistently above 160/90 mm. Hg., further tests may be necessary to determine whether the driver is qualified to operate a bus. **LUNGS.** If any lung disease is detected, state whether active or arrested; if arrested, your opinion as to how long it has been quiescent.

Gastrointestinal System. Note any disease of the gastrointestinal system.

Abdomen. Note wounds, injuries, scars or weakness of muscles of abdominal walls sufficient to interfere with normal function. Any hernia should be noted if present. State how long and if adequately contained by truss.

Abnorman Masses. If present, note location, if tender, and whether or not applicant knows how long they have been present. If the diagnosis suggests that the condition might interfere with the control and safe operation of a bus, more stringent tests must be made before the applicant can be certified.

Tenderness. When noted, state where most pronounced, and suspected cause. If the diagnosis suggests that the condition might interfere with the control and safe operation of a bus, more stringent tests must be made before the applicant can be certified.

Genito-Urinary. Urinalysis is required. Acute infections of the genito-urinary tract, as defined by local and State public health laws, indications from urinalysis of unstabilized diabetes, symptomatic albumin-urea in the urine, or other findings indicative of health conditions likely to interfere with the control and safe operation of a bus, will disqualify an applicant from operating a bus.

Neurological. If positive Romberg is reported, indicate degrees of impairment. Pupillary reflexes should be reported for both light and accommodation. Knee jerks are to be reported absent only when not obtainable upon reinforcement and as increased when foot is actually lifted from the floor following a light blow on the patella, sensory vibratory and positional abnormalities should be noted.

Extremities. Carefully examine upper and lower extremities. Record the loss or impairment of a leg, foot, toe, arm, hand, or fingers. Note any and all deformities, the presence of atrophy, semiparalysis or paralysis, or varicose veins. Determine whether sufficient grasp is present to enable the driver to secure and maintain a grip on the steering wheel. Determine whether sufficient mobility and strength exist to enable the driver to operate pedals properly. Particular attention should be given to and a record should be made of, any impairment or structural defect which may interfere with the driver's ability to operate a bus safely.

Spine. Note deformities, limitation of motion, or any history of pain, injuries, or disease, past or presently experienced in the cervical or lumbar spine region. If findings so dictate, radiologic and other examinations should be used to diagnose congenital or acquired defects; or spondylolisthesis and scoliosis.

Recto-Genital Studies. Diseases or conditions causing discomfort should be evaluated carefully to determine the extent to which the condition might be handicapping while lifting, pulling, or during periods of prolonged driving that might be necessary as part of the driver's duties.

Laboratory and Other Special Findings. Urinalysis is required, as well as such other tests as the medical history or findings upon physical examination may indicate are necessary. A serological test is required if the applicant has a history of luetic infection or present physical findings indicate the possibility of latent syphilis. Other studies deemed advisable may be ordered by the examining physician.

Diabetes. If insulin is necessary to control a diabetic condition, the driver is not qualified to operate a bus if the bus driver has an established medical history or clinical diagnosis of diabetes mellitus which has not been stabilized by insulin therapy to the degree that his or her personal physician can certify that such person has not had an incident of hypoglycemic shock for a period of two years, or since the last physical examination given pursuant to the requirements of this Part, whichever is longer. In a case where diabetes can be stabilized by a diet or hypoglycemic agent and falls within the criteria indicated above, while the driver should not be disqualified, he must be under adequate medical supervision and follow-up. The follow-up shall consist of certification every six months by the employee's personal physician that his or her condition has remained stabilized and that he or she has not had an incident of hypoglycemic shock since the last certification.

6.11 Biennial behind-the-wheel driving tests.

(a) A biennial behind-the-wheel driving test shall be conducted by an individual certified by the Department of Motor Vehicles (See Section 6.13). Such driving test shall be given in accordance with the following instructions. A driver is not a qualified driver if he or she fails the road test. A driver will remain disqualified until this road test is passed.

(b) A biennial behind-the-wheel road test may be conducted during the driver's normal work day schedule. The biennial behind-the-wheel road test shall be conducted in a representative vehicle of the type appropriate to the driver's class of license. Tests, including the pre-trip inspection will be conducted in accordance with the requirements of this section, and the results recorded on the Biennial Behind-the-Wheel Road Test form (DS-875) as prescribed by the Department of Motor Vehicles. The pre-trip inspection shall include a check of air brakes and may also include an inspection of any of the following: validation of vehicle stickers, check lights, horn, heater, defroster, emergency equipment, seats, gauges, mirrors and seat belts.

NOTE: The biennial behind-the-wheel road test may not be combined with, nor conducted on the same day as the annual defensive driving performance test.

6.12 Biennial oral or written examinations.

(a) Biennial oral or written examinations shall be administered by an individual who has been certified by the Department of Motor Vehicles. (See Section 6.13 of this Part). Examination questions will be provided by the Department of Motor Vehicles to the carrier and shall be in such form as the Commissioner shall determine. The carrier shall provide the driver with access to a copy of the current New York State Driver's and Commercial Driver's manuals, and a copy

of this Part so that these reference materials may be used in conjunction with the drivers completion of the written/oral tests. (see DS-875)

(b) The oral test form or summary of the oral test form and results shall be kept in the employee's file and should contain the name of the employee, the name and number of the certified examiner, the date of the examination, the number of test questions the employee answered correctly, as well as the employee's final grade on the examination.

(c) Notification to the BDCU is required within ten days when a driver has failed to pass either the biennial behind-the-wheel driving test or the biennial oral or written examination, and has completed and failed the re-examination procedures as set forth in subdivision (a) of Section 6.15 of this Part.

Employees Certified by the Department of Motor Vehicles

6.13 Certified examiners.

(a) Any individual conducting any of the examinations required by Section 6.8(c), defensive driving performance; 6.11, biennial behind-the-wheel driving test; and 6.12, the biennial oral or written examination, of this Part must be certified by the Department of Motor Vehicles or be a motor vehicle license examiner. In order to be certified, an individual must have an acceptable driving record (no more than seven points or more accumulated on his or her abstract of operating record within the preceding 18 month period). Such individual must have a valid driver's license with the appropriate endorsements and must be properly licensed in the class in which he or she will be testing drivers as required under this Part. In addition, the individual must meet the following qualifications:

(1) A person must have a minimum of two years of experience in driver training and evaluation of the driving ability of others; and either:

(i) have successfully completed a college level course with a minimum of four credit hours in driver education instruction and have, within the preceding three years, a minimum of eighteen months experience in the operation of the type of vehicle in which he or she will be testing while in the employ of an Article 19-A motor carrier; or

(ii) have successfully completed a course in driver training and traffic safety approved by the commissioner for the purpose of becoming a 19-A certified examiner, and have, within the preceding three years, a minimum of eighteen months experience in the operation of the type of vehicle in which he or she will be testing while in the employ of an Article 19-A carrier.

(2) If a person is unable to meet the requirements of (i) and (ii) above, he or she may complete an application for qualification and deliver it with special affidavits (which note in detail his or her experience and training and any other special circumstances which might qualify the person to become a certified examiner) to the Department of Motor Vehicles. The applicant should present such affidavits and application to DMV for final review and a decision on whether certification is granted.

(3) A person must pass an appropriate written, vision, and road test. An applicant must also participate in a qualifying interview conducted by the New York State Department of Motor Vehicles.

(b) In conjunction with the above certification requirements, additional information and verification may also be required.

(c) A certified examiner is required to attend at least once, every three years, an Article 19-A seminar approved by DMV.

(d) An examiner's certificate may be terminated (1) on a finding made by the commissioner of incompetence, malfeasance, misfeasance, misrepresentation or nonfeasance of the examiner; (2) if a certified examiner has accumulated seven or more points in an 18-month period on his or her license or if his or her license has been suspended or revoked; or (3) if such examiner is found to have violated any provisions of this Part, Article 19-A or any other section of the Vehicle and Traffic Law.

(e) Upon the termination of a certified examiner's certification, such examiner shall: (1) report the suspension or revocation to their employer, and to the DMV office that issued the certification.

(2) surrender his/her certified examiner certificate within 10 days to DMV. If an examiner's certification is terminated, the commissioner may require a motor carrier's employees to be retested, if they had previously been tested by such terminated examiner.

(f) Method of application. An applicant shall complete and file form DS-876, Application for Certified Examiner, with DMV.

(g) To return to certified examiner status, a former examiner must file a new application to be a certified examiner as required under Section 6.13 of this Part. In addition, retesting may be required.

(h) Period of validity of examiner's certificate. An examiner's certificate shall be valid from its date of issuance until the expiration of such person's driver's license. (NOTE: The certified examiner is responsible for renewing his or her certificate.)

Out-Of-State Carriers

6.14 Out-of-state carriers; reporting requirements.

(a) A motor carrier subject to the motor carrier regulations of the United States Department of Transportation will be exempt from all of the annual and biennial requirements of this Part, except the annual requirement which mandates that an affidavit of compliance be filed with the commissioner, provided that such carrier is exempt pursuant to Section 509-n of the Vehicle and Traffic Law.

(b) The annual affidavit of compliance required under subdivision (a) shall certify to the commissioner that the motor carrier does not employ a bus driver who would operate a bus in New York State who is disqualified under Sections 6.27 and/or 6.28 of this Part, and also shall certify the number of days and vehicle miles of bus service that the carrier provided in the state during the previous calendar year. Such certification shall be forwarded to BDCU by July 1 of each year. A motor carrier exempted by this section shall furnish to the commissioner's designee upon request any records concerning drivers required to be kept by the motor carrier regulations of the U.S. DOT within ten days of receipt of such request. Failure of a motor carrier to furnish such records requested within the ten day period shall be a violation of this Part.

Miscellaneous Provisions

6.15 Retests and Re-examinations.

(a) Upon a request by or on behalf of an employee for a re-examination of an examination required by Section 6.11 or 6.12 of this Part, a retest shall be given by the motor carrier. Such retest shall be given not less than two days nor more than ten days from the date of the first examination excluding Saturdays, Sundays and holidays. However, a motor carrier may require a

period of retraining for the employee who submitted the re-examination request before the retest is given to the employee.

(b) In the absence of any contractual agreement, upon submission of a medical report which conflicts with the medical findings made pursuant to Section 6.10 of this Part, the employee is entitled to be re-examined by a third physician or nurse practitioner agreed on by two parties. The cost of such re-examination shall be borne by the employer if the employee passes the re-examination, or by the employee if the employee fails the re-examination. (Amended 4/16/03)

(c) Until a re-examination is passed, the employee remains disqualified and cannot operate a bus.

(d) (1) Accident re-examinations. Any person employed as a bus driver who has on three occasions been the operator of a motor vehicle involved in an accident as defined in Section 6.2 of this Part, where such accidents occurred within an 18 month period, shall be subject to reexamination. Further, if a driver is subject to disqualification, as set forth in Sections 6.27 and 6.28 of this Part, such reexamination shall occur not more than 45 days prior to the completion of the period of disqualification period. An accident shall not be counted if it is determined that the driver was completely without fault. A driver shall be considered to be without fault in situations including, but not limited to, the following:

- (i) Pedestrian walked into side of stopped vehicle.
- (ii) Bicyclist collided with stopped vehicle.
- (iii) Authorized emergency vehicle, when involved in an emergency operation.
- (iv) Door opened into passing traffic - all vehicles except parked.
- (v) Load or parts of vehicle fell off - all vehicles except parked.
- (vi) Injured while vehicle in motion, no collision.
- (vii) Injured while hitching on vehicle, driver unaware.
- (viii) All animal accidents except cattle at a marked road crossing.
- (ix) Vehicle hit by stone or object thrown by person, if accident results.
- (x) Vehicle hit by stone or object hurled by wheel - all vehicles except parked.
- (xi) Object fell on vehicle.
- (xii) Vehicle struck hole, oil slick, etc., unless warning signs or barricades existed.
- (xiii) Moving or stopped vehicle caught fire.
- (xiv) Other unusual conditions. Each must be reviewed individually.

The Department may examine each of the 14 situations in their full context to determine if a driver is completely without fault.

Every person subject to a reexamination shall be required to take a road test in an appropriate vehicle defined as a bus in Section 6.2 of this Part, and which is representative of the class of vehicle such person is licensed to drive.

(2) One accident shall not be counted for the purposes of reexamination if the person successfully completes a motor vehicle accident prevention course approved by the Commissioner. Only one such course may be taken during an 18 month period for the purpose of this paragraph.

(3) Upon the failure of the licensee to successfully complete a reexamination, the commissioner shall take such reasonable action as may be required. Such action may consist of imposing restrictions on the use of the license of such person, suspending such license for a definite or indefinite period, or revoking such license. The Commissioner may revoke or suspend for an indefinite period the license of any person who after reasonable notice fails or refuses to submit to such reexamination. No person whose license has been suspended or revoked under this section shall be qualified to operate a bus until such person successfully completes a reexamination.

(4) Upon a driver's successful completion of a reexamination required by this section, the Commissioner shall issue an eighteen-month probationary license to such driver and all of the provisions of section five hundred ten-b of the Vehicle and Traffic Law shall apply to such license.

(5) Reexamination procedures. A driver subject to reexamination under this paragraph must be accompanied to the reexamination test site by a person validly licensed to operate the test vehicle. If the driver fails the reexamination, such accompanying driver must be prepared to drive the vehicle from the test site. A driver who fails a reexamination shall, at minimum, lose his privilege to operate a vehicle in the license class in which such driver was tested. Any further action taken against such driver's license shall be in the discretion of the motor vehicle license examiner.

6.16 Reproduction of Forms.

(a) All forms referred to in this Part are provided by the Department of Motor Vehicles and cannot be changed or altered.

(b) A motor carrier will be sent an initial supply of the forms referred to in this Part.

(c) Forms may be photocopied as needed, but must be of acceptable quality.

6.17 Conviction and accident notification program.

(a) A motor carrier shall participate in the conviction and accident notification program which will notify such carrier of any conviction or accident resulting from operation of a motor vehicle in New York as well as certain other out-of-state convictions by a bus driver employed by the motor carrier.

(b) To participate in such program a motor carrier must write to BDCU which will provide the carrier with an application for entry into the program and advise the carrier concerning the amount of money such carrier will have to place in escrow with the department to establish and maintain an escrow account.

(c) The department reserves the right to increase the minimum escrow balance for a carrier if it becomes evident after a reasonable period of time that the escrow balance is insufficient to cover the average amount of notices generated to such carrier by the department.

(d) The department will provide a monthly statement noting the escrow balance and amount of money necessary to replenish such minimum escrow balance, unless there has been no activity for a period of three months.

6.18 Curbside verification

(a) Agents of the commissioner shall conduct curbside verification of a vehicle as defined in Section 6.2(a) and (b), or of a driver as defined in Section 6.2(d), or of a motor carrier as defined in Section 6.2(e) of this Part to determine:

- (1) the identity of the registrant and owner of the vehicle, or
- (2) the vehicles' registration and insurance status, or
- (3) the identity of the driver, or
- (4) the status and validity of the drivers' license, or
- (5) the drivers' qualification and compliance with Article 19-A, or
- (6) the identity of the motor carrier, or
- (7) the motor carriers' qualification and compliance with Article 19-A.

(b) The verification process set forth in paragraph (a) of this section will be initiated if the Department of Motor Vehicles:

- (1) has been unsuccessful in obtaining driver or motor carrier compliance with any of the provisions of Article 19-A of the Vehicle and Traffic Law or of this Part, or
- (2) has received evidence of the existence of a driver or motor carrier heretofore unknown or unreported to the department, or
- (3) has received evidence that a driver or motor carrier has failed to comply with any of the provisions of Article 19-A of the Vehicle and Traffic Law, or of this Part, or
- (4) has conducted a motor carrier record review or departmental hearing and is verifying compliance therewith, or
- (5) is investigating a vehicular accident which occurred when a driver was operating a vehicle while in the employ of a motor carrier.

6.19 Records motor carriers are required to have on file.

(a) A motor carrier must keep all records with respect to original employment of a bus driver in the employee's file. All records and employee files must be kept for a minimum period of three years plus the current year by the motor carrier. All completed forms and examinations required to be kept in the employee's file pursuant to this Part are subject to inspection by Department of Motor Vehicles' authorized agents. In addition, all completed examination forms must be in the employee's file except when the motor carrier has received written permission from the Commissioner exempting such carrier from keeping a copy of all completed examinations in the employee's file.

(NOTE: If the examinations required by this Part have been conducted by one motor carrier within the time periods specified by this Part, they may be utilized by a second motor carrier who also employs or has employed the same bus driver. Reports obtained by the second carrier must be retained in accordance with Section 6.5 of this Part.)

(b) Unless waived by the commissioner's designee pursuant to section 6.14 of this part, a motor carrier must keep the following items in each employee's file:

- (1) A copy of the application for the position of bus driver, the Article 19-A Driver Application form (DS-870) (i.e., for all drivers hired after July 1, 1985).
- (2) The original annual review of employee's driving record form (DS-872), plus an abstract from this state and, if applicable, copies of abstracts from all other states and statements of personal interview.

- (3) The original annual observation of defensive driving performance form (DS-873).
 - (4) The original initial qualifying medical examination form (DS-874), biennial (annual for school bus drivers) physical examination form (DS-874), and all appropriate medical reexamination or medical follow-up reports.
 - (5) The original biennial oral and/or written examination (DS-875X) and Score Sheet (DS-875Y).
 - (6) The original biennial behind-the-wheel examination form (DS-875).
 - (7) All communications from the Department of Motor Vehicles regarding driver's qualifications, disqualifications, requalifications, criminal history clearance for school bus drivers; and any subsequent correspondence regarding a driver's compliance under Article 19-A including any add/drop notice form DS-885 on each driver.
- (c) The carrier must provide a safe, clean, and adequate work environment for DMV employees conducting such record review.
- (d) Record reviews may, at the discretion of the Commissioner of Motor Vehicles, be conducted at a site other than the carrier's place of business.

6.20 Bus drivers not properly licensed. The motor carrier shall not knowingly permit any person to operate a bus carrying passengers unless such operator has fulfilled the requirements of Sections 6.3, 6.8, 6.10, 6.11, and 6.12 of this Part. All bus drivers must possess a commercial driver license issued by a state or province that meets the requirements of the Federal Commercial Motor Vehicle Safety Act of 1986.

6.21 Notification of an accident or a conviction resulting from a violation of the Vehicle and Traffic Law or a motor vehicle conviction in another state and license revocation.

- (a) A driver who receives a notice that his or her license, permit or privilege to operate a motor vehicle has been revoked, suspended or withdrawn or who is convicted of a violation of such provisions of this Part as shall constitute a misdemeanor or a felony in any jurisdiction shall notify the motor carrier that employs such person of the contents of the notice before the end of the business day following the day he or she received it. A driver who fails to notify his or her employer of such suspension, revocation or conviction of a violation of such provisions of this Part as shall constitute a misdemeanor or a felony shall be subject to a five (5) working day suspension, or a suspension equivalent to the number of working days such driver was not in compliance with this Part, whichever is longer.
- (b) Any driver who is involved in an accident as defined in Section 6.2 of this Part, or who is convicted of a traffic infraction in any jurisdiction shall notify his or her employer within five (5) working days from the date of conviction or such accident. A driver who fails to notify his or her employer of such conviction or accident within the five (5) working day period shall be subject to a five (5) working day suspension. Working day, for the purposes of this section, shall mean any day in which a bus driver is scheduled to work, excluding regularly assigned days off.

6.22 Compliance required.

- (a) Every motor carrier or school district, its officers, agents, representatives, and employees responsible for the management, maintenance, operation or driving of motor vehicles, or the

hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in and comply with this Part.

(b) Nothing contained in this Part shall prevent a motor carrier from disqualifying a person who has been issued a conditional or restricted use license pursuant to the provisions of article twenty-one or twenty-one-A of the Vehicle and Traffic Law.

(c) Every motor carrier shall submit an affidavit to the commissioner attesting to its compliance with this Part. Such affidavit shall be notarized and submitted annually, no later than the first day of July each year to BDCU, New York State Department of Motor Vehicles, Empire State Plaza, Albany, New York 12228-0220.

(d) Notwithstanding any provision of any other article of the Vehicle and Traffic Law, where an affidavit is not submitted pursuant to this section, the commissioner may, at his or her discretion, suspend the registrations of all the vehicles owned and/or operated by the motor carrier, deny registration or renewal to all the vehicles owned or operated by the motor carrier and/or suspend the motor carrier's privilege of operation in this state. Such suspension or denial shall only remain in effect as long as the motor carrier fails to submit a properly executed affidavit and such is accepted as valid.

(e) The commissioner or any person deputized by the commissioner, may require any motor carrier to pay to the people of this state a civil penalty, if, after the motor carrier has had an opportunity to be heard, the commissioner finds that the motor carrier has violated any provision of this Part, or has made any false statement or misrepresentation on any affidavit of compliance filed with the commissioner or with respect to violations of Sections 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.19, 6.20, 6.21, 6.23, 6.24, 6.27 and 6.28. The commissioner may in lieu of or in addition to a civil penalty suspend all of a motor carrier's registrations. Any civil penalty assessed shall not be less than five hundred dollars nor more than two thousand five hundred dollars for each failure to comply with these regulations or for each false statement or misrepresentation found to have been made. If the registrant fails to pay such penalty within twenty days after the mailing of such order, postage prepaid, certified and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the vehicle registrations or out-of-state registration privilege of operation in the state of such motor carrier or may suspend the same for such periods as the commissioner may determine.

(f) As an alternative to civil action under subdivision (e) of this section and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the same force and effect as a judgment duly docketed in the office of a county clerk and may be enforced in the same manner and with the same effect as that provided by law.

(g) Every motor carrier shall submit written notification within ten days, to BDCU when any change occurs in:

- (1) the carrier's name (business, corporation ownership, non-corporate business ownership e.g. dba, data, etc.), address, or federal identification number;
- (2) the names, addresses, and identification of all public and non-public school districts, political subdivisions, public and private elementary and secondary schools or a place of vocational, academic or religious instruction or service, including a nursery school, day care center, or camp for persons under the age of

twenty-one, or persons of any age who are mentally or physically disabled and any other parties with whom the carrier has newly acquired or terminated contract services including identification numbers issued by federal and state agencies.

(3) corporate ownership which results from the acquisition, sale, merger, or liquidation of any business enterprise which is defined as a motor carrier in accordance with Section 6.2(e) of this Part;

(h) Nothing contained in this Part shall prevent the Department of Motor Vehicles from conducting, on its own initiative, any observation, examination, or review of any requirements of this Part in order to determine compliance therewith.

6.23 Ill or fatigued operator. No driver shall operate a bus and a motor carrier shall not permit a driver to operate a bus while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness or any other cause, as to make it unsafe for him to begin or continue to operate the bus. At the request of the driver or the motor carrier such illness, fatigue, or other cause shall be certified by a qualified physician. However, in a case of grave emergency where the hazard to occupants of the bus or other users of the highway would be increased by compliance with this section, the driver may continue to operate the bus to the nearest place at which that hazard is removed.

6.24 Drugs, controlled substance and intoxicating liquor.

(a) No person shall:

(1) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor or drug, within six hours before going on duty or operating, or having physical control of a bus, or

(2) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, or operating, or in physical control of a bus, or

(3) possess a drug, controlled substance or an intoxicating liquor, regardless of its alcohol content while on duty, operating or in physical control of a bus. However, this paragraph does not apply to possession of a drug, controlled substance or an intoxicating liquor which is transported as part of a shipment or personal effects of a passenger or to alcoholic beverages which are in sealed containers.

(b) No motor carrier shall require or permit a driver to:

(1) violate any provision of subdivision (a) of this section; or

(2) be on duty or operate a bus if, by such person's general appearance or by such person's conduct or by other substantiating evidence, such person appears to have consumed a drug, controlled substance or an intoxicating liquor within the preceding six hours.

6.25 Penalties. Upon conviction for a violation of any provision of Article 19-A of the Vehicle and Traffic Law, the court shall impose a sentence consisting of a fine of not less than \$100 nor more than \$250. Penalties imposed under this section are not the same as any civil penalties imposed in accordance with and under Section 6.22 (e) of this Part.

6.26 Duties of the department. The Department of Motor Vehicles shall:

- (a) At least once every three years, review the bus driver files of each motor carrier, provided, however, that the commissioner may review such bus driver files at his or her discretion at any other time during regular business hours.
- (b) Upon receipt of information that a driver's license, permit or privilege to operate a motor vehicle has been revoked, suspended or withdrawn in this state or elsewhere, notify all motor carriers who have notified the commissioner of the employment of such driver, and provide such notice to the political subdivision, public and non-public school districts, and any other parties with whom the carrier has notified BDCU as having contractual agreements for services as a motor carrier as defined in Section 6.2(e) of this Part.
- (c) Provide each motor carrier, under the accident/conviction notification program as set forth in Section 6.17 of this Part, with information regarding any accident or conviction for any traffic violation resulting from operation of a motor vehicle against a bus driver reported to the BDCU as employed by such motor carrier; and may, if requested by a political subdivision which contracts with a motor carrier for the transportation of school children, provide such notice to the political subdivision.
- (d) Upon receipt of the criminal history record report of a school bus driver, notify the motor carrier of disqualification of an applicant or school bus driver or the potential disqualification of such applicant or driver based on a pending criminal charge which would or could disqualify such driver under the provisions of Section 6.28 of this Part. Notification to the carrier shall be without specification of the grounds for disqualification, those grounds to be made available only to the school bus driver or his or her representative.
- (e) Prepare and distribute a form for the provision of objective data concerning the driving history of a bus driver who is subject to regulation under this Part. Such form shall be completed by current or former employers of such bus drivers upon the request of a prospective or subsequent employer.

Disqualifications

6.27 Disqualification of bus drivers (other than school bus drivers).

- (a) A person is disqualified to operate any bus if he or she:
 - (1) has failed to pass the physical examination as set forth in Section 6.10 of this Part; or
 - (2) has failed the biennial behind-the-wheel driving test as set forth in Section 6.11 of this Part; or
 - (3) has failed the biennial oral or written examination as set forth in Section 6.12 of this Part; or
 - (4) was employed as a bus driver prior to September 15, 1985 and has been convicted of a crime or has received a conviction or convictions for a violation or violations under Section 509-c of the Vehicle and Traffic Law on his or her New York State driving record; or
 - (5) was employed as a bus driver on or after September 15, 1985 and has been convicted of a crime or has accrued nine or more points on his or her New York State driving record as set forth under Section 509-c of the Vehicle and Traffic Law.

- (6) was the operator of a motor vehicle involved in two or more accidents as defined in Section 6.2 of this Part, where such accidents occurred within an 18 month period following a reexamination conducted pursuant to Section 6.15 of this Part, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required.
 - (7) fails to pass a road test administered pursuant to Section 6.15 of this Part; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the Commissioner and to then undergo a second road test, and such disqualification shall cease if such person passes such second road test.
- (b) For a person to be qualified to drive a bus, if previously disqualified under Section 6.27(a)(4) or (5); he or she must contact BDCU and request a written requalification letter. Such requalification letter is required to be kept in the driver's file in accordance with Section 6.19 of this Part. The driver may be approved or denied requalification to drive a bus. No motor carrier may permit a driver to operate a bus until the BDCU has notified the motor carrier that such driver has been requalified and is eligible to drive a bus. No other release, waiver or issuance of conditional or restricted license otherwise obtained by the driver shall cancel a disqualification imposed under this Part.

6.28 Disqualification of School Bus Drivers.

- (a) A person is disqualified to operate a school bus if he or she:
- (1) has failed to pass the physical examination as set forth in Section 6.10 of this Part; or
 - (2) has failed the biennial behind-the-wheel driving test as set forth in Section 6.11 of this Part; or
 - (3) has failed the biennial oral or written examination as set forth in Section 6.12 of this Part; or
 - (4) was employed as a school bus driver at any time between January 1, 1985, to June 30, 1985, and has been convicted of a crime or has received a conviction or convictions for a violation or violations under Section 509-cc of the Vehicle and Traffic Law on his or her New York State driving record.
 - (5) was employed as a school bus driver on or after July 1, 1985, and was not employed as a school bus driver between January 1, 1985 and June 30, 1985, and has been convicted of a crime or has received a conviction or convictions for a violation or violations under Section 509-cc of the Vehicle and Traffic Law on his or her New York State driving record, or has accumulated nine or more points on his or her driving record during an 18 month period.
 - (6) was the operator of a motor vehicle involved in two or more accidents as defined in Section 6.2 of this Part, where such accidents occurred within an 18 month period following a reexamination conducted pursuant to Section 6.15 of this Part, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required.
 - (7) fails to pass a road test administered pursuant to Section 6.15 of this Part; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the Commissioner and to

then undergo a second road test, and such disqualification shall cease if such person passes such second road test.

(b) For a person to be qualified to drive a bus, if previously disqualified under Section 6.28(a)(4) or (5); he or she must contact BDCU and request a written requalification letter. Such requalification letter is required to be kept in the driver's file in accordance with Section 6.19 of this Part. The driver may be approved or denied requalification to driver a bus. No motor carrier may permit a driver to operate a bus until the BDCU has notified the motor carrier that such driver has been requalified and is eligible to drive a bus. No other release, waiver or issuance of conditional or restricted license otherwise obtained by the driver shall cancel a disqualification imposed under this Part.

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