

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 538
103RD GENERAL ASSEMBLY

1144H.02P

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 168.133, 302.177, 302.272, and 302.735, RSMo, and to enact in lieu thereof four new sections relating to school transportation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 168.133, 302.177, 302.272, and 302.735, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 168.133, 302.177,
3 302.272, and 302.735, to read as follows:

168.133. 1. As used in this section, "screened volunteer" shall mean any person who
2 assists a school by providing uncompensated service and who may periodically be left alone
3 with students. The school district **or charter school** shall ensure that a criminal background
4 check is conducted for all screened volunteers, who shall complete the criminal background
5 check prior to being left alone with a student. ~~[Screened volunteers include, but are not~~
6 ~~limited to, persons who regularly assist in the office or library, mentor or tutor students, coach~~
7 ~~or supervise a school-sponsored activity before or after school, or chaperone students on an~~
8 ~~overnight trip.]~~ Screened volunteers may only access student education records when
9 necessary to assist the district **or charter school** and while supervised by staff members.
10 Volunteers that are not screened shall not be left alone with a student or have access to student
11 records.

12 2. **(1)** The school district **or charter school** shall ensure that a criminal background
13 check is conducted on any person employed after January 1, 2005, authorized to have contact
14 with pupils and prior to the individual having contact with any pupil. ~~[Such persons include,~~
15 ~~but are not limited to, administrators, teachers, aides, paraprofessionals, assistants,~~
16 ~~secretaries, custodians, cooks, screened volunteers, and nurses.]~~

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(2)** The school district **or charter school** shall also ensure that a criminal background
18 check is conducted for school bus drivers **and drivers of other vehicles owned by the school**
19 **district or charter school or operated under contract with a school district or charter**
20 **school and used for the purpose of transporting school children.** The school district **or**
21 **charter school** may allow such drivers to operate buses **and other vehicles** pending the result
22 of the criminal background check. ~~[For bus drivers,]~~ The school district **or charter school**
23 shall be responsible for conducting the criminal background check on drivers employed by
24 the school district **or charter school under section 43.540.**

25 **(3)** For drivers employed **or contracted** by a pupil transportation company under
26 contract with the school district **or a charter school**, the criminal background check shall be
27 conducted **by the pupil transportation company** pursuant to section ~~[43.540]~~ **43.539** and
28 conform to the requirements established in the National Child Protection Act of 1993, as
29 amended by the Volunteers for Children Act.

30 **(4)** Personnel who have successfully undergone a criminal background check and a
31 check of the family care safety registry as part of the professional license application process
32 under section 168.021 and who have received clearance on the checks within one prior year
33 of employment shall be considered to have completed the background check requirement.

34 **(5)** A criminal background check under this section shall include a search of any
35 information publicly available in an electronic format through a public index or single case
36 display.

37 3. In order to facilitate the criminal history background check, the applicant shall
38 submit a set of fingerprints collected pursuant to standards determined by the Missouri
39 highway patrol. The fingerprints shall be used by the highway patrol to search the criminal
40 history repository and shall be forwarded to the Federal Bureau of Investigation for searching
41 the federal criminal history files.

42 4. The applicant shall pay the fee for the state criminal history record information
43 pursuant to section 43.530 and sections 210.900 to 210.936 and pay the appropriate fee
44 determined by the Federal Bureau of Investigation for the federal criminal history record
45 when he or she applies for a position authorized to have contact with pupils pursuant to this
46 section. The department shall distribute the fees collected for the state and federal criminal
47 histories to the Missouri highway patrol.

48 5. The department of elementary and secondary education shall facilitate an annual
49 check of employed persons holding current active certificates under section 168.021 against
50 criminal history records in the central repository under section 43.530, the sexual offender
51 registry under sections 589.400 to 589.426, and child abuse central registry under sections
52 210.109 to 210.183. The department of elementary and secondary education shall facilitate
53 procedures for school districts **and charter schools** to submit personnel information annually

54 for persons employed by the school districts **or charter schools** who do not hold a current
55 valid certificate who are required by subsection 1 of this section to undergo a criminal
56 background check, sexual offender registry check, and child abuse central registry check.
57 The Missouri state highway patrol shall provide ongoing electronic updates to criminal
58 history background checks of those persons previously submitted, both those who have an
59 active certificate and those who do not have an active certificate, by the department of
60 elementary and secondary education. This shall fulfill the annual check against the criminal
61 history records in the central repository under section 43.530.

62 6. The school district **or charter school** may adopt a policy to provide for
63 reimbursement of expenses incurred by an employee for state and federal criminal history
64 information pursuant to section 43.530.

65 7. If, as a result of the criminal history background check mandated by this section, it
66 is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty
67 or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a
68 similar crime or offense committed in another state, the United States, or any other country,
69 regardless of imposition of sentence, such information shall be reported to the department of
70 elementary and secondary education.

71 8. Any school official making a report to the department of elementary and secondary
72 education in conformity with this section shall not be subject to civil liability for such action.

73 9. For any teacher who is employed by a school district **or charter school** on a
74 substitute or part-time basis within one year of such teacher's retirement from a Missouri
75 school, the state of Missouri shall not require such teacher to be subject to any additional
76 background checks prior to having contact with pupils. Nothing in this subsection shall be
77 construed as prohibiting or otherwise restricting a school district **or charter school** from
78 requiring additional background checks for such teachers employed by the school district **or**
79 **charter school**.

80 10. A criminal background check and fingerprint collection conducted under
81 subsections 1 to 3 of this section shall be valid for at least a period of one year and
82 transferrable from one school district **or charter school** to another district **or charter school**.
83 A school district **or charter school** may, in its discretion, conduct a new criminal background
84 check and fingerprint collection under subsections 1 to 3 **of this section** for a newly hired
85 employee at the district's **or charter school's** expense. A teacher's change in type of
86 certification shall have no effect on the transferability or validity of such records.

87 11. Nothing in this section shall be construed to alter the standards for suspension,
88 denial, or revocation of a certificate issued pursuant to this chapter.

89 12. The state board of education may promulgate rules for criminal history
90 background checks made pursuant to this section. Any rule or portion of a rule, as that term is

91 defined in section 536.010, that is created under the authority delegated in this section shall
92 become effective only if it complies with and is subject to all of the provisions of chapter 536
93 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
94 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
95 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
96 the grant of rulemaking authority and any rule proposed or adopted after January 1, 2005,
97 shall be invalid and void.

302.177. 1. To all applicants for a license or renewal to transport persons or property
2 classified in section 302.015 who are at least twenty-one years of age and under the age of
3 seventy, and who submit a satisfactory application and meet the requirements of sections
4 302.010 to 302.605, the director shall issue or renew such license; except that no license shall
5 be issued if an applicant's license is currently suspended, cancelled, revoked, disqualified, or
6 deposited in lieu of bail. Such license shall expire on the applicant's birthday in the sixth year
7 of issuance, unless the license must be issued for a shorter period due to other requirements of
8 law or for transition or staggering of work as determined by the director. The license must be
9 renewed on or before the date of expiration, which date shall be shown on the license.

10 2. To all applicants for a license or renewal to transport persons or property classified
11 in section 302.015 who are less than twenty-one years of age or greater than sixty-nine years
12 of age, and who submit a satisfactory application and meet the requirements of sections
13 302.010 to 302.605, the director shall issue or renew such license; except that no license shall
14 be issued if an applicant's license is currently suspended, cancelled, revoked, disqualified, or
15 deposited in lieu of bail. Such license shall expire on the applicant's birthday in the third year
16 of issuance, unless the license must be issued for a shorter period due to other requirements of
17 law or for transition or staggering of work as determined by the director. The license must be
18 renewed on or before the date of expiration, which date shall be shown on the license. A
19 license issued under this section to an applicant who is ~~[over the age of sixty-nine]~~ **seventy-**
20 **five years of age or older** and contains a school bus endorsement shall not be issued for a
21 period that exceeds ~~[one year]~~ **two years**.

22 3. To all other applicants for a license or renewal of a license who are at least twenty-
23 one years of age and under the age of seventy, and who submit a satisfactory application and
24 meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such
25 license; except that no license shall be issued if an applicant's license is currently suspended,
26 cancelled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the
27 applicant's birthday in the sixth year of issuance, unless the license must be issued for a
28 shorter period due to other requirements of law or for transition or staggering of work as
29 determined by the director. The license must be renewed on or before the date of expiration,
30 which date shall be shown on the license.

31 4. To all other applicants for a license or renewal of a license who are less than
32 twenty-one years of age or greater than sixty-nine years of age, and who submit a satisfactory
33 application and meet the requirements of sections 302.010 to 302.605, the director shall issue
34 or renew such license; except that no license shall be issued if an applicant's license is
35 currently suspended, cancelled, revoked, disqualified, or deposited in lieu of bail. Such
36 license shall expire on the applicant's birthday in the third year of issuance, unless the license
37 must be issued for a shorter period due to other requirements of law or for transition or
38 staggering of work as determined by the director. The license must be renewed on or before
39 the date of expiration, which date shall be shown on the license.

40 5. The fee for a license issued for a period which exceeds three years under
41 subsection 1 of this section shall be thirty dollars.

42 6. The fee for a license issued for a period of three years or less under subsection 2 of
43 this section shall be fifteen dollars, except that the fee for a license issued for one year or less
44 which contains a school bus endorsement shall be five dollars, except renewal fees shall be
45 waived for applicants ~~[seventy]~~ **seventy-five** years of age or older seeking school bus
46 endorsements.

47 7. The fee for a license issued for a period which exceeds three years under
48 subsection 3 of this section shall be fifteen dollars.

49 8. The fee for a license issued for a period of three years or less under subsection 4 of
50 this section shall be seven dollars and fifty cents.

51 9. Beginning July 1, 2005, the director shall not issue a driver's license for a period
52 that exceeds an applicant's lawful presence in the United States. The director may establish
53 procedures to verify the lawful presence of the applicant and establish the duration of any
54 driver's license issued under this section.

55 10. The director of revenue may adopt any rules and regulations necessary to carry
56 out the provisions of this section. No rule or portion of a rule promulgated pursuant to the
57 authority of this section shall become effective unless it has been promulgated pursuant to the
58 provisions of chapter 536.

302.272. 1. No person shall operate any school bus owned by or under contract with
2 a public school or the state board of education unless such driver has qualified for a school
3 bus endorsement under this section and complied with the pertinent rules and regulations of
4 the department of revenue and any final rule issued by the secretary of the United States
5 Department of Transportation or has a valid school bus endorsement on a valid commercial
6 driver's license issued by another state. A school bus endorsement shall be issued to any
7 applicant who meets the following qualifications:

8 (1) The applicant has a valid state license issued under this chapter;

9 (2) The applicant is at least twenty-one years of age; and

10 (3) The applicant has successfully passed an examination for the operation of a school
11 bus as prescribed by the director of revenue. The examination shall include any examinations
12 prescribed by the secretary of the United States Department of Transportation, and a driving
13 test in the type of vehicle to be operated. The test shall be completed in the appropriate class
14 of vehicle to be driven. For purposes of this section classes of school buses shall comply with
15 the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570). For
16 drivers who are at least ~~[seventy]~~ **seventy-five** years of age, such examination, excluding the
17 pre-trip inspection portion of the commercial driver's license skills test, shall be completed
18 ~~[annually]~~ **biennially** to retain the school bus endorsement.

19 2. The director of revenue, to the best of the director's knowledge, shall not issue or
20 renew a school bus endorsement to any applicant whose driving record shows that such
21 applicant's privilege to operate a motor vehicle has been suspended, revoked or disqualified
22 or whose driving record shows a history of moving vehicle violations.

23 3. The director may adopt any rules and regulations necessary to carry out the
24 provisions of this section. Any rule or portion of a rule, as that term is defined in section
25 536.010, that is created under the authority delegated in this section shall become effective
26 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
27 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
28 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
29 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
30 of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be
31 invalid and void.

32 4. Notwithstanding the requirements of this section, an applicant who resides in
33 another state and possesses a valid driver's license from his or her state of residence with a
34 valid school bus endorsement for the type of vehicle being operated shall not be required to
35 obtain a Missouri driver's license with a school bus endorsement.

302.735. 1. An application shall not be taken from a nonresident after September 30,
2 2005. The application for a commercial driver's license shall include, but not be limited to,
3 the applicant's legal name, mailing and residence address, if different, a physical description
4 of the person, including sex, height, weight and eye color, the person's Social Security
5 number, date of birth and any other information deemed appropriate by the director. The
6 application shall also require, beginning September 30, 2005, the applicant to provide the
7 names of all states where the applicant has been previously licensed to drive any type of
8 motor vehicle during the preceding ten years.

9 2. A commercial driver's license shall expire on the applicant's birthday in the sixth
10 year after issuance, unless the license must be issued for a shorter period due to other
11 requirements of law or for transition or staggering of work as determined by the director, and

12 must be renewed on or before the date of expiration. When a person changes such person's
13 name an application for a duplicate license shall be made to the director of revenue. When a
14 person changes such person's mailing address or residence the applicant shall notify the
15 director of revenue of said change, however, no application for a duplicate license is required.
16 A commercial license issued pursuant to this section to an applicant less than twenty-one
17 years of age and seventy years of age and older shall expire on the applicant's birthday in the
18 third year after issuance, unless the license must be issued for a shorter period as determined
19 by the director.

20 3. A commercial driver's license containing a hazardous materials endorsement issued
21 to an applicant who is between the age of twenty-one and sixty-nine shall not be issued for a
22 period exceeding five years from the approval date of the security threat assessment as
23 determined by the Transportation Security Administration.

24 4. The director shall issue ~~[an annual]~~ **a biennial** commercial driver's license
25 containing a school bus endorsement to an applicant who is ~~[seventy]~~ **seventy-five** years of
26 age or older. The fee for such license shall be seven dollars and fifty cents.

27 5. A commercial driver's license containing a hazardous materials endorsement issued
28 to an applicant who is seventy years of age or older shall not be issued for a period exceeding
29 three years. The director shall not require such drivers to obtain a security threat assessment
30 more frequently than such assessment is required by the Transportation Security
31 Administration under the Uniting and Strengthening America by Providing Appropriate
32 Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001.

33 (1) The state shall immediately revoke a hazardous materials endorsement upon
34 receipt of an initial determination of threat assessment and immediate revocation from the
35 Transportation Security Administration as defined by 49 CFR 1572.13(a).

36 (2) The state shall revoke or deny a hazardous materials endorsement within fifteen
37 days of receipt of a final determination of threat assessment from the Transportation Security
38 Administration as required by CFR 1572.13(a).

39 6. The fee for a commercial driver's license or renewal commercial driver's license
40 issued for a period greater than three years shall be forty dollars.

41 7. The fee for a commercial driver's license or renewal commercial driver's license
42 issued for a period of three years or less shall be twenty dollars.

43 8. The fee for a duplicate commercial driver's license shall be twenty dollars.

44 9. In order for the director to properly transition driver's license requirements under
45 the Motor Carrier Safety Improvement Act of 1999 and the Uniting and Strengthening
46 America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act
47 (USA PATRIOT ACT) of 2001, the director is authorized to stagger expiration dates and
48 make adjustments for any fees, including driver examination fees that are incurred by the

49 driver as a result of the initial issuance of a transitional license required to comply with such
50 acts.

51 10. Within thirty days after moving to this state, the holder of a commercial driver's
52 license shall apply for a commercial driver's license in this state. The applicant shall meet all
53 other requirements of sections 302.700 to 302.780, except that the director may waive the
54 driving test for a commercial driver's license as required in section 302.720 if the applicant
55 for a commercial driver's license has a valid commercial driver's license from a state which
56 has requirements for issuance of such license comparable to those in this state.

57 11. Any person who falsifies any information in an application or test for a
58 commercial driver's license shall not be licensed to operate a commercial motor vehicle, or
59 the person's commercial driver's license shall be cancelled, for a period of one year after the
60 director discovers such falsification.

61 12. Beginning July 1, 2005, the director shall not issue a commercial driver's license
62 under this section unless the director verifies that the applicant is lawfully present in the
63 United States before accepting the application. If lawful presence is granted for a temporary
64 period, no commercial driver's license shall be issued. The director may, by rule or
65 regulation, establish procedures to verify the lawful presence of the applicant and establish
66 the duration of any commercial driver's license issued under this section. No rule or portion
67 of a rule promulgated pursuant to the authority of this section shall become effective unless it
68 has been promulgated pursuant to chapter 536.

69 13. (1) Effective December 19, 2005, notwithstanding any provisions of subsections
70 1 and 5 of this section to the contrary, the director may issue a nondomiciled commercial
71 driver's license or commercial driver's instruction permit to a resident of a foreign jurisdiction
72 if the United States Secretary of Transportation has determined that the commercial motor
73 vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing
74 standards established in 49 CFR 383.

75 (2) Any applicant for a nondomiciled commercial driver's license or commercial
76 driver's instruction permit must present evidence satisfactory to the director that the applicant
77 currently has employment with an employer in this state. The nondomiciled applicant must
78 meet the same testing, driver record requirements, conditions, and is subject to the same
79 disqualification and conviction reporting requirements applicable to resident commercial
80 drivers.

81 (3) The nondomiciled commercial driver's license will expire on the same date that
82 the documents establishing lawful presence for employment expire. The word
83 "nondomiciled" shall appear on the face of the nondomiciled commercial driver's license.
84 Any applicant for a Missouri nondomiciled commercial driver's license or commercial

85 driver's instruction permit must first surrender any nondomiciled commercial driver's license
86 issued by another state.

87 (4) The nondomiciled commercial driver's license applicant must pay the same fees as
88 required for the issuance of a resident commercial driver's license or commercial driver's
89 instruction permit.

90 14. Foreign jurisdiction for purposes of issuing a nondomiciled commercial driver's
91 license or commercial driver's instruction permit under this section shall not include any of
92 the fifty states of the United States or Canada or Mexico.

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