

SECOND REGULAR SESSION

HOUSE BILL NO. 2423

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREGORY.

4686H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 168.133 and 302.010, RSMo, and to enact in lieu thereof two 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Section A. Sections 168.133 and 302.010, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 168.133 and 302.010, 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 the governing board of a charter school** shall ensure
4 that a criminal background check is conducted for all screened volunteers, who shall complete
5 the criminal background check prior to being left alone with a student. Screened volunteers
6 include, but are not limited to, persons who regularly assist in the office or library, mentor or
7 tutor students, coach or supervise a school-sponsored activity before or after school, or
8 chaperone students on an overnight trip. Screened volunteers may only access student
9 education records when necessary to assist the district 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 the governing board of a charter school** shall ensure
13 that a criminal background check is conducted on any person employed after January 1, 2005,
14 authorized to have contact with pupils and prior to the individual having contact with any
15 pupil. Such persons include, but are not limited to, administrators, teachers, aides,
16 paraprofessionals, assistants, 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 the governing board of a charter school** shall also ensure
18 that a criminal background check is conducted for school bus drivers **and drivers of other**
19 **vehicles owned by the school district or governing board of a charter school or operated**
20 **under contract with a school district or governing board of a charter school and used for**
21 **the purpose of transporting school children.** The school district **or the governing board**
22 **of a charter school** may allow such drivers to operate buses pending the result of the criminal
23 background check. ~~[For bus drivers,]~~ The school district **or the governing board of a**
24 **charter school** shall be responsible for conducting the criminal background check on drivers
25 employed by the school district **or the governing board of a charter school under section**
26 **43.540.**

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

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

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

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

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

50 5. The department of elementary and secondary education shall facilitate an annual
51 check of employed persons holding current active certificates under section 168.021 against
52 criminal history records in the central repository under section 43.530, the sexual offender
53 registry under sections 589.400 to 589.426, and child abuse central registry under sections

54 210.109 to 210.183. The department of elementary and secondary education shall facilitate
55 procedures for school districts to submit personnel information annually for persons
56 employed by the school districts who do not hold a current valid certificate who are required
57 by subsection 1 of this section to undergo a criminal background check, sexual offender
58 registry check, and child abuse central registry check. The Missouri state highway patrol
59 shall provide ongoing electronic updates to criminal history background checks of those
60 persons previously submitted, both those who have an active certificate and those who do not
61 have an active certificate, by the department of elementary and secondary education. This
62 shall fulfill the annual check against the criminal history records in the central repository
63 under section 43.530.

64 6. The school district may adopt a policy to provide for reimbursement of expenses
65 incurred by an employee for state and federal criminal history information pursuant to section
66 43.530.

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

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

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

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

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

90 12. The state board of education may promulgate rules for criminal history
91 background checks made pursuant to this section. Any rule or portion of a rule, as that term is
92 defined in section 536.010, that is created under the authority delegated in this section shall
93 become effective only if it complies with and is subject to all of the provisions of chapter 536
94 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
95 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
96 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
97 the grant of rulemaking authority and any rule proposed or adopted after January 1, 2005,
98 shall be invalid and void.

 302.010. Except where otherwise provided, when used in this chapter, the following
2 words and phrases mean:

3 (1) "Circuit court", each circuit court in the state;

4 (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for
5 carrying freight and merchandise, or more than fifteen passengers;

6 (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited
7 to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be
8 equivalent to a conviction, except that when any conviction as a result of which points are
9 assessed pursuant to section 302.302 is appealed, the term conviction means the original
10 judgment of conviction for the purpose of determining the assessment of points, and the date
11 of final judgment affirming the conviction shall be the date determining the beginning of any
12 license suspension or revocation pursuant to section 302.304;

13 (4) "Criminal history check", a search of criminal records, including criminal history
14 record information as defined in section 43.500, maintained by the Missouri state highway
15 patrol in the Missouri criminal records repository or by the Federal Bureau of Investigation as
16 part of its criminal history records, including, but not limited to, any record of conviction,
17 plea of guilty or nolo contendere, or finding of guilty in any state for any offense related to
18 alcohol, controlled substances, or drugs;

19 (5) "Director", the director of revenue acting directly or through the director's
20 authorized officers and agents;

21 (6) "Farm tractor", every motor vehicle designed and used primarily as a farm
22 implement for drawing plows, mowing machines and other implements of husbandry;

23 (7) "Highway", any public thoroughfare for vehicles, including state roads, county
24 roads and public streets, avenues, boulevards, parkways, or alleys in any municipality;

25 (8) "Incompetent to drive a motor vehicle", a person who has become physically
26 incapable of meeting the prescribed requirements of an examination for an operator's license,
27 or who has been adjudged by a probate division of the circuit court in a capacity hearing of
28 being incapacitated;

29 (9) "License", a license issued by a state to a person which authorizes a person to
30 operate a motor vehicle;

31 (10) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks
32 except motorized bicycles, as defined in section 307.180 and electric bicycles, as defined in
33 section 301.010;

34 (11) "Motorcycle", a motor vehicle operated on two wheels; however, this definition
35 shall not include motorized bicycles or electric bicycles as such terms are defined in section
36 301.010;

37 (12) "Motortricycle", a motor vehicle operated on three wheels, including a
38 motorcycle operated with any conveyance, temporary or otherwise, requiring the use of a
39 third wheel, but excluding an electric bicycle as defined in section 301.010;

40 (13) "Moving violation", that character of traffic violation where at the time of
41 violation the motor vehicle involved is in motion, except that the term does not include the
42 driving of a motor vehicle without a valid motor vehicle registration license, or violations of
43 sections 304.170 to 304.240, inclusive, relating to sizes and weights of vehicles;

44 (14) "Municipal court", every division of the circuit court having original jurisdiction
45 to try persons for violations of city ordinances;

46 (15) "Nonresident", every person who is not a resident of this state;

47 (16) "Operator", every person who is in actual physical control of a motor vehicle
48 upon a highway;

49 (17) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle
50 is the subject of an agreement for the conditional sale or lease thereof with the right of
51 purchase upon performance of the conditions stated in the agreement and with an immediate
52 right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a
53 vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be
54 deemed the owner for the purpose of sections 302.010 to 302.540;

55 (18) "Record" includes, but is not limited to, papers, documents, facsimile
56 information, microphotographic process, electronically generated or electronically recorded
57 information, digitized images, deposited or filed with the department of revenue;

58 (19) "Residence address", "residence", or "resident address" shall be the location at
59 which a person has been physically present, and that the person regards as home. A residence
60 address is a person's true, fixed, principal, and permanent home, to which a person intends to
61 return and remain, even though currently residing elsewhere;

62 (20) "Restricted driving privilege", a sixty-day driving privilege issued by the director
63 of revenue following a suspension of driving privileges for the limited purpose of driving in
64 connection with the driver's business, occupation, employment, formal program of secondary,
65 postsecondary or higher education, or for an alcohol education or treatment program or

66 certified ignition interlock provider, or a ninety-day interlock restricted privilege issued by
67 the director of revenue for the limited purpose of driving in connection with the driver's
68 business, occupation, employment, seeking medical treatment for such driver or a dependent
69 family member, attending school or other institution of higher education, attending alcohol-
70 or drug-treatment programs, seeking the required services of a certified ignition interlock
71 provider, fulfilling court obligations, including required appearances and probation and parole
72 obligations, religious services, the care of a child or children, including scheduled visitation
73 or custodial obligations pursuant to a court order, fueling requirements for any vehicle
74 utilized, and seeking basic nutritional requirements;

75 (21) "School bus", when used in sections 302.010 to 302.540, means any motor
76 vehicle, either publicly or privately owned, that is designed for carrying more than ~~ten~~
77 **fifteen** passengers and that is used to transport students to and from school, or to transport
78 pupils properly chaperoned to and from any place within the state for educational purposes.
79 The term school bus shall not include a bus operated by a public utility, municipal corporation
80 or common carrier authorized to conduct local or interstate transportation of passengers when
81 such bus is not traveling a specific school bus route but is:

82 (a) On a regularly scheduled route for the transportation of fare-paying passengers; or
83 (b) Furnishing charter service for the transportation of persons enrolled as students on
84 field trips or other special trips or in connection with other special events;

85 (22) "School bus operator", an operator who operates a school bus as defined in
86 subdivision (21) of this section in the transportation of any schoolchildren and who receives
87 compensation for such service. The term school bus operator shall not include any person
88 who transports schoolchildren as an incident to employment with a school or school district,
89 such as a teacher, coach, administrator, secretary, school nurse, or janitor unless such person
90 is under contract with or employed by a school or school district as a school bus operator;

91 (23) "Signature", any method determined by the director of revenue for the signing,
92 subscribing or verifying of a record, report, application, driver's license, or other related
93 document that shall have the same validity and consequences as the actual signing by the
94 person providing the record, report, application, driver's license or related document;

95 (24) "Substance abuse traffic offender program", a program certified by the division
96 of alcohol and drug abuse of the department of mental health to provide education or
97 rehabilitation services pursuant to a professional assessment screening to identify the
98 individual needs of the person who has been referred to the program as the result of an
99 alcohol- or drug-related traffic offense. Successful completion of such a program includes
100 participation in any education or rehabilitation program required to meet the needs identified
101 in the assessment screening. The assignment recommendations based upon such assessment

102 shall be subject to judicial review as provided in subsection 14 of section 302.304 and
103 subsections 1 and 5 of section 302.540;

104 (25) "Vehicle", any mechanical device on wheels, designed primarily for use, or used
105 on highways, except motorized bicycles, electric bicycles, vehicles propelled or drawn by
106 horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers
107 or motorized wheelchairs operated by handicapped persons.

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