

ASSEMBLY BILL NO. 2180
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 2180 (First Reprint) with my recommendations for reconsideration.

This bill proposes changes to our laws regarding school bus transportation for our students. Specifically, the bill creates a new Type S school bus certificate. Pursuant to the bill, a holder of a Type S school bus certificate shall be authorized to operate a new classification of a school bus vehicle referred to in the bill as a Type S school bus. A Type S school bus is further defined as a motor vehicle that: (1) is operated by, or under contract with, a public school, nonpublic school, charter school, renaissance school, or approved private school for students with disabilities for the transportation of students to and from school for secular or religious education and for school-related activities; and (2) has a gross vehicle weight rating of 3,000 pounds or more, which vehicle was originally designed by the manufacturer with a maximum seating capacity of nine passengers or less, excluding the driver.

I applaud the bill's sponsors for exploring ways to ensure school districts meet their transportation needs. I am concerned, however, that the manner in which the bill proposes to increase the pool of drivers has the potential to compromise the safety of our students in support of that goal.

Pursuant to federal mandates, New Jersey requires that all drivers operating a school bus must obtain a commercial driver's license ("CDL") with the appropriate endorsements. All New Jersey school bus drivers must also get both P (Passenger) and S (School bus) endorsements. New Jersey's laws further enumerate a number of requirements pertaining to school bus drivers, including age

requirements, driving experience, health requirements, exam requirements, and criminal background checks. See, e.g., N.J.S.A. 18A:39-19.1 and N.J.S.A. 18A:39-19.1a.

While the bill incorporates many of these same criteria for Type S certificate eligibility, it does not require the Type S holder to possess a CDL, or S and P endorsements. Accordingly, the holder of a Type S school bus certificate would not be required to pass a skills test and may be the holder of a basic, non-commercial driver's license, which falls contrary to both federal, and current state mandates.

Further, our current laws require the Motor Vehicle Commission ("MVC") to notify the New Jersey Department of Education ("DOE") of the suspension or revocation of school bus driver's CDL. See N.J.S.A. 39:3-10.1b; N.J.S.A. 18A:39-19.1. The DOE shall then in turn notify the school district employing the driver for immediate termination. Although the bill attempts to incorporate these notification requirements for holders of a Type S bus certificate, it does not provide a mechanism to do so, and the State is currently not equipped to ensure that these critical notifications are made. The bill, as drafted, omits this essential safety mechanism currently in place to protect our children during their daily commute to and from school.

New Jersey also participates in the state-to-state driver's license system. This allows New Jersey to access out of state driving records for its license holders. Thus, MVC's notification includes disqualifying convictions that are received out of state as well. However, the proposed Type S school bus certificate is not a class of driver's license or endorsement that is associated with any existing types of driver's license. Attaching a certificate to a driver's license is a novel concept that is not recognized in New Jersey or in any other state. MVC can only track driving records associated with a driver's license. Since the

proposed Type S certificate is not recognized nationally, it is not part of the state-to-state driver's license system that allows MVC to access out of state driving records for the holder. Thus, the State would have no mechanism to ensure that the Type S certificate holder is complying with the disqualification requirements outlined in this bill, outside of New Jersey.

Likewise, consistent with federal law, New Jersey mandates that school buses meet certain safety requirements to be eligible to remain in service to transport students, such as properly equipped seats and lap and shoulder seat belts or other child restraint systems that are in conformity with applicable federal standards. N.J.S.A. 39:3B-11. In addition, under current law, school buses are required to have specific, in-depth inspections and be properly maintained. Indeed, inspection failures will result in immediate removal of the school bus from service. N.J.S.A. 39:3B-21. The definition of the Type S school bus proposed by this bill mirrors the current regulatory definition of Type S school vehicle in N.J.A.C. 3A:52-9.2, but it does not subject a Type S school bus to any of the current safety or inspection requirements currently mandated for school buses. Rather, the Type S school bus would be excluded from the statutory safety and inspection mandates. Since the Type S school bus does not fall under the definition and parameters of a federally recognized school bus, it would not be subject to the safety and inspection requirements that are federally mandated for school buses either.

In sum, the provisions of this bill propose to allow students to be transported in a vehicle that would not be subject to any specific safety and inspection requirements, fail to ensure proper oversight of the driving privileges of a Type S certificate holder, and pivotally, fail to ensure that these drivers are properly

trained, qualified and eligible to transport our most vulnerable passengers - school children.

I understand that many school districts are facing a potential shortage of available bus drivers and are looking to maximize the pool of drivers available to provide the critical service of transporting our school children to and from school. However, this goal must not be carried out in a manner that potentially drastically increases the number of drivers of students on the road, while simultaneously reducing the safety standards for school vehicles and eligibility qualifications for their drivers. Therefore, my recommendations will expand existing law to allow school districts to increase their pool of drivers in a tailored way to reduce the potential impacts to student safety. Currently, school districts have the option to authorize qualified school personnel to transport students to school-related activities. Pursuant to my recommendation, school districts will also have the option to authorize these qualified school personnel to transport students to and from school as well, as long as they meet certain age, driving, physical, training, and background check requirements.

Therefore, I herewith return Assembly Bill No. 2180 (First Reprint) and recommend that it be amended as follows:

<u>Page 2, Title, Line 1:</u>	Delete "supplementing Title 39" and insert "amending P.L.2015, c.268 (C.18A:39-20.1)."
<u>Page 2, Title, Lines 2-3:</u>	Delete in their entirety
<u>Page 2, Section 1, Lines 8-44:</u>	Delete in their entirety
<u>Page 3, Section 1, Lines 1-24:</u>	Delete in their entirety
<u>Page 3, Section 2, Lines 25-42:</u>	Delete in their entirety
<u>Page 3, Section 3, Lines 43-47:</u>	Delete in their entirety
<u>Page 4, Section 3, Lines 1-10:</u>	Delete in their entirety
<u>Page 4, Section 4, Lines 11-30:</u>	Delete in their entirety
<u>Page 4, Section 5, Lines 31-45:</u>	Delete in their entirety
<u>Page 4, Section 6, Lines 46-48:</u>	Delete in their entirety

- Page 5, Section 6, Lines 1-47: Delete in their entirety
- Page 6, Section 6, Lines 1-21: Delete in their entirety
- Page 6, Section 6, Line 22: Delete "(cf: P.L.2019, c.9, s.1)" and insert "1. Section 1. of P.L.2015, c.268 (C.18A:39-20.1) is amended to read as follows: 1. a. Notwithstanding any statute or regulation to the contrary, any board of education, governing body of a nonpublic school or State agency may authorize qualified school personnel, State employees or parents, to transport school children to and from related school activities in a private vehicle with a capacity of eight or less. The board of education, governing body of a nonpublic school or State agency may also designate school personnel to transport school children to and from school. The designated personnel will only be deemed qualified to transport school children to and from school if the designated school personnel meet the following criteria:
- (1) be at least 21 years of age;
 - (2) posses a New Jersey driver's license for a minimum of three years;
 - (3) have a completed physical on file with the school district or local education agency;
 - (4) have a completed a criminal history background check by the New Jersey Department of Education and a Child Abuse Record Information check;
 - (5) submit a driving record for the past five years demonstrating evidence of no alcohol or drug-related motor vehicle violations; and
 - (6) has completed the training program established in accordance with P.L.2015, c.123 (C.18A:39-19.2 et seq.) on appropriate procedures for interacting with students with special needs.
- The designated personnel that meet these criteria must utilize a vehicle that does not exceed a maximum seating capacity of 8 passengers, excluding the driver to transport school children to and from school.

Any person authorized by a board, body or agency to provide such transportation services shall not be required to be licensed or regulated as a school bus driver. Such transportation shall be exempt from all registration, equipment, inspection and maintenance requirements imposed on the transportation of pupils by school bus. Evidence of appropriate automobile insurance requirements for the vehicle must be submitted by the board of education, governing body of a nonpublic school or State agency to the Executive County Superintendent by a date set by the Commissioner of the New Jersey Department of Education.

Each year prior to transporting school children, the board of education, governing body of a nonpublic school or State agency designating school personnel as qualified to transport school children to and from school pursuant to this law, must submit the list of designated drivers to the Executive County Superintendent by a date set by the Commissioner of the New Jersey Department of Education. Only school personnel submitted by that date will be eligible to transport school children to and from school for a given school year.

The board of education, governing body of a nonpublic school or State agency designating school personnel as qualified to transport school children to and from school pursuant to this law, must also submit periodic copies of the designated personnel's driving record showing no alcohol or drug-related motor vehicle violations, or any other motor vehicle violations that would disqualify the driver's eligibility of transporting school children pursuant to Titles 18A and Title 39 to the Executive County Superintendent by a date set, and at a frequency set, by the Commissioner of the New Jersey Department of Education. Failure to provide the requisite driving record within the prescribed time

frame will result in the removal of that individual from the list of designated drivers.

b. Notwithstanding any statute or regulation to the contrary, any board of education, governing body of a nonpublic school or State agency may authorize a person certified as a mobility assistance vehicle technician to transport a student with medical needs to and from school or related school activities in a mobility assistance vehicle. Any certified mobility assistance vehicle technician authorized by a board, body or agency to provide such transportation services shall not be required to be licensed or regulated as a school bus driver. Such transportation shall be exempt from all registration, equipment, inspection and maintenance requirements imposed on the transportation of students by a school bus.

Each year prior to transporting students, a certified mobility assistance vehicle technician who transports a student with medical needs in accordance with this section shall furnish to the executive county superintendent a criminal history background check and evidence of a check for the technician's record of alcohol and drug-related motor vehicle violations.

For the purposes of this subsection, "student with medical needs," means a school-aged child who suffers from a life-threatening medical condition, and as a result of such condition, requires more individualized and continuous care.

Page 6, Section 7, Line 24:

Delete "7." and insert "2."

Page 6, Section 7, Line 26:

Delete "the Chief Administrator of the New Jersey Motor Vehicle"

Page 6, Section 7, Line 27:

Delete "Commission and"

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor