

2018 Regular Session

SENATE BILL NO. 267

BY SENATOR APPEL AND REPRESENTATIVE THOMAS

SCHOOL BUS DRIVERS. Provides relative to the removal of school bus operators. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 17:493, relative to school bus operators; to provide relative to
3 the removal of school bus operators; to provide relative to charges, notices, time
4 lines, and hearings; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 17:493 is hereby amended and reenacted to read as follows:

7 §493. Removal of bus operators; procedures; right to appeal

8 A.(1) A permanent school bus operator shall not be removed from his
9 position except upon written and signed charges of willful neglect of duty, or
10 incompetence, or immorality, or drunkenness while on duty, or failure to comply
11 with the reporting requirements of R.S. 17:491.3 relative to being arrested for one
12 or more of the specified offenses, or physical disability to perform his duties, or
13 failure to keep his transfer equipment in a safe, comfortable, and practical operating
14 condition, or of being a member of or contributing to any group, organization,
15 movement, or corporation that is prohibited by law or injunction from operating in
16 the state, and then only if ~~found guilty after a hearing by the school board of the~~
17 ~~parish or city in which the school bus operator is employed~~ **furnished with a copy**

1 of such written charges and given the opportunity to respond as provided in this

2 Section.

3 (2) Additional grounds for the removal of any permanent school bus operator
4 shall be:

5 ~~(1)(a)~~ (a) The abolition, discontinuance, or consolidation of routes, ~~but then only~~
6 if it is found as a fact, after a hearing by the school board of the parish or city, based
7 upon a determination by the superintendent that it is in the best interests of the
8 school system to abolish, discontinue, or consolidate said route or routes.

9 ~~(2)(b)~~ (b) A conviction of or plea of nolo contendere to a violation of a parish or
10 municipal ordinance that prohibits operating a vehicle while intoxicated or any of the
11 following offenses relative to operating a vehicle while intoxicated regardless of
12 whether the violation occurred while the bus operator was performing an official
13 duty or responsibility as a school bus operator at the time of the offense:

14 ~~(a)(i)~~ (i) R.S. 14:98, operating a vehicle while intoxicated.

15 ~~(b)(ii)~~ (ii) R.S. 14:32.1, vehicular homicide.

16 ~~(c)(iii)~~ (iii) R.S. 14:32.8(A)(2), third degree feticide.

17 ~~(d)(iv)~~ (iv) R.S. 14:39.1, vehicular negligent injuring.

18 ~~(e)(v)~~ (v) R.S. 14:39.2, first degree vehicular negligent injuring.

19 B. ~~All hearings hereunder shall be private or public, at the option of the~~
20 ~~operator affected thereby. At least twenty days in advance of the date of the hearing~~
21 ~~the superintendent, with approval of the school board, shall furnish the affected~~
22 ~~operator a copy of the written grounds on which said abolition, discontinuance, or~~
23 ~~consolidation of routes is sought. The operator affected shall have the right to appear~~
24 ~~before the board with witnesses in his behalf and with counsel of his selection, all of~~
25 ~~whom shall be heard by the board at said hearing. For the purpose of conducting~~
26 ~~hearings hereunder, the board shall have the power to issue subpoenas to compel the~~
27 ~~attendance of all witnesses on behalf of the operator. Nothing herein contained shall~~
28 ~~impair the right of appeal to a court of competent jurisdiction. A permanent school~~
29 bus operator shall have ten calendar days from written notice of the charges

1 **provided in Subsection (A)(1) of this Section to respond, in person or in writing.**

2 C.(1) If a permanent school bus operator is found guilty by a school board,
3 after due and legal hearing as provided herein, on charges of willful neglect of duty,
4 or of incompetency, or immorality, or drunkenness while on duty, or failure to
5 comply with the reporting requirements of R.S. 17:491.3, relative to being arrested
6 for one or more of the specified offenses, or physical disability to perform his duties,
7 or failure to keep his transfer equipment in a safe, comfortable, and practical
8 operating condition, or of being a member of or contributing to any group,
9 organization, movement, or corporation that is prohibited by law or injunction from
10 operating in the state, or if the operator is convicted of or has pled nolo contendere
11 to a violation of any offense as specified in Paragraph (A)(2) of this Section, and
12 ordered removed from his position or disciplined by the board, the superintendent
13 with approval of the board shall furnish to the school bus operator a written
14 statement of recommendation of removal or discipline, which shall include but not
15 be limited to the exact reason, offense, or instance upon which the recommendation
16 is based. Such operator may, not more than one year from the date of the said
17 finding, petition a court of competent jurisdiction for a full hearing to review the
18 action of the school board, and the court shall have jurisdiction to affirm or reverse
19 the action of the school board in the matter. If the finding of the school board is
20 reversed by the court and the operator is ordered reinstated and restored to duty, the
21 operator shall be entitled to full pay for any loss of time or salary he may have
22 sustained by reason of the action of the said school board. **The superintendent shall**
23 **have ten calendar days to review the school bus operator's response and to**
24 **provide a written notice to the bus operator of the interim disciplinary action,**
25 **if any. A superintendent may take interim disciplinary action, which may**
26 **include placing the bus operator on administrative leave. A permanent bus**
27 **operator shall not be placed on interim leave without pay unless the bus**
28 **operator has been arrested for a violation of the following: R.S. 14:42 through**
29 **43.5, 80 through 81.5, any other sexual offense affecting minors, any of the**

1 crimes provided in R.S. 15:587.1, or any justified complaint of child abuse or
2 neglect on file in the central registry pursuant to Children's Code Article 615.

3 (2) Upon notification that a bus operator has a conviction or plea of nolo
4 contendere to any violation as specified in Paragraph (1) of this Subsection, the
5 superintendent shall immediately remove the bus operator from his position
6 and notify the bus operator of such and that the termination is not subject to
7 review.

8 D. Within twenty calendar days after written notice of the charges, the
9 bus operator may request a hearing before a disciplinary hearing officer. If the
10 bus operator fails to timely request a hearing, the disciplinary action becomes
11 final.

12 E. Upon request for a review hearing, the superintendent shall randomly
13 appoint a hearing officer from a list of persons previously approved by the
14 school board to serve as "disciplinary hearing officers" for the school board.
15 The school board shall maintain a list of at least five hearing officers for
16 districts of fewer than twenty thousand students and a list of at least ten hearing
17 officers for districts with more than twenty thousand students according to the
18 February first student membership count. If a school board fails to maintain
19 such a list, a superintendent may randomly appoint a hearing officer from a list
20 of persons previously approved by the State Board of Elementary and
21 Secondary Education. Only the following persons may serve as a disciplinary
22 hearing officer: a mediator qualified under R.S. 9:4106, an arbitrator approved
23 by the American Arbitration Association or the Federal Mediation and
24 Conciliation Service, an attorney, or a retired member of the judiciary.

25 F. Such hearing may be private or public, at the option of the bus
26 operator, and shall commence no sooner than ten calendar days nor later than
27 thirty calendar days after receipt of the bus operator's request for such hearing.
28 For purposes of this Section, the disciplinary hearing officer shall have the
29 power to issue subpoenas. The school board shall adopt and maintain

1 procedures to govern the conduct of the hearing, which shall include, at a
2 minimum, a method for the examination of witnesses and the introduction of
3 evidence and for the presence of a court reporter and maintenance of the court
4 reporter's record. The bus operator shall have the right to appear before the
5 disciplinary hearing officer with witnesses on his behalf and with counsel of his
6 selection.

7 G. The disciplinary hearing officer shall hold a hearing and review
8 whether the interim decision of the superintendent was arbitrary or capricious
9 and shall either affirm or reverse the action of the superintendent. The
10 disciplinary hearing officer shall notify the superintendent and the bus operator
11 of his final determination, with written reasons, within ten days from the date
12 of the hearing. If the superintendent's disciplinary action is affirmed, it shall
13 become effective upon the bus operator's receipt of the decision of the
14 disciplinary hearing officer. If the superintendent's disciplinary action is
15 reversed, the bus operator shall be restored to duty.

16 H. Within sixty days from the postmarked date of written notification of
17 the decision of the disciplinary hearing officer, the school board or the bus
18 operator may petition a court of competent jurisdiction to review the matter as
19 a summary proceeding pursuant to Code of Civil Procedure Article 2592. The
20 court shall determine, based on the record of the disciplinary review hearing,
21 whether the disciplinary hearing officer abused his discretion in deciding
22 whether the action of the superintendent was arbitrary or capricious. If the
23 action of the superintendent is reversed by the court and the bus operator is
24 ordered reinstated and restored to duty, the bus operator shall be entitled to full
25 pay for any loss of time or salary he may have sustained by reason of the action
26 of the superintendent.

27 I. The time periods contained in this Section may be extended by mutual
28 agreement of the parties. However, paid administrative leave as provided in
29 Paragraph (C)(1) of this Section shall not exceed fifty days from notice of the

1 **superintendent's interim decision.**

2 ~~D.J.~~ In the event that one or more school bus operators must be removed due
 3 to the abolition, discontinuance, or consolidation of routes, the principle of seniority
 4 shall apply, so that the last school bus operator hired to serve within the school
 5 system to be affected shall be the first to be removed.

6 ~~E.K.~~ For the purposes of this Section, immorality shall mean any conviction
 7 of a felony offense affecting the public morals enumerated in Part V of Chapter 1 of
 8 Title 14 of the Louisiana Revised Statutes of 1950.

9 Section 2. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Cheryl Serrett.

DIGEST

SB 267 Reengrossed

2018 Regular Session

Appel

Present law provides for the removal of a permanent school bus operator by the local school board if the bus operator is found guilty on written and signed charges of willful neglect of duty, incompetence, immorality, or drunkenness while on duty; failure to comply with the reporting requirements of R.S. 17:491.3 relative to being arrested for one or more of the specified offenses; physical disability to perform his duties; failure to keep his transfer equipment in a safe, comfortable, and practical operating condition; or of being a member of or contributing to any group, organization, movement, or corporation that is prohibited by law or injunction from operating in the state.

Present law provides procedures and time lines for the removal, including that the bus operator may request a hearing on the matter before the school board. Also provides the bus operator, within one year from the date of the finding of guilt by the school board, may petition a court of competent jurisdiction to affirm or reverse of the action of the school board.

Proposed law revises the procedures and time lines in present law and provides that the permanent school bus operator has ten calendar days from receipt of the written notice of charges to respond, either in person or in writing. Authorizes the superintendent to take interim disciplinary action, including placing the bus operator on interim leave without pay.

Proposed law provides that the permanent bus operator shall not be placed on interim leave without pay unless the bus operator has been arrested for certain violations, including any sexual offense affecting minors or any justified complaint of child abuse or neglect on file in the central registry.

Proposed law provides that if the bus operator fails to timely request a hearing, the interim disciplinary action becomes final.

Present law provides additional grounds for the removal of a permanent school bus operator including:

- (1) The abolition, discontinuance, or consolidation of routes if the local board finds, after a hearing, that it is in the best interest of the school system to abolish, discontinue, or consolidate the bus route or routes.
- (2) A conviction of or plea of nolo contendere to a violation of a parish or municipal ordinance for specific crimes related to operating a vehicle while intoxicated regardless of whether the violation occurred while the bus operator was performing an official duty or responsibility as a school bus operator at the time of the offense.

Proposed law retains present law, but designates the superintendent to determine the need to consolidate routes.

Proposed law additionally provides that upon notification that the bus operator has a conviction or plea of nolo contendere to any violation in proposed law, the superintendent shall immediately remove the bus operator from his position and notify the bus operator of such and that the termination is not subject to review.

Proposed law provides that upon the bus operator's request for a review hearing, the superintendent shall randomly appoint a hearing officer from a list of persons previously approved by the school board as "disciplinary hearing officers". Proposed law further provides how the list of hearing officers is to be maintained.

Proposed law provides such hearing may be private or public, at the option of the bus operator, and shall commence no sooner than ten calendar days nor later than thirty calendar days after receipt of the bus operator's request for such hearing.

Proposed law provides that the disciplinary hearing officer shall have the power to issue subpoenas. Further provides that the school board shall adopt and maintain procedures to govern the conduct of the hearing, including providing that the bus operator shall have the right to appear before the disciplinary hearing officer with witnesses on his behalf and with counsel of his selection.

Proposed law provides the disciplinary hearing officer shall review whether the interim decision of the superintendent was arbitrary or capricious and shall either affirm or reverse the action of the superintendent. Further provides that the disciplinary hearing officer shall notify the superintendent and the bus operator of his final determination, with written reasons, within ten days from the date of the hearing and if the superintendent's disciplinary action is affirmed, it shall become effective upon the bus operator's receipt of the decision of the disciplinary hearing officer. If the superintendent's disciplinary action is reversed, the bus operator shall be restored to duty.

Proposed law provides that the school board or the bus operator may petition a court of competent jurisdiction to review the matter as a summary proceeding pursuant to present law. Provides that the court shall determine whether the disciplinary hearing officer abused his discretion in deciding whether the action of the superintendent was arbitrary or capricious. If the action of the superintendent is reversed by the court and the bus operator is ordered reinstated and restored to duty, the bus operator shall be entitled to full pay for any loss of time or salary he may have sustained by reason of the action of the superintendent.

Proposed law provides that the time periods prescribed in proposed law may be extended by mutual agreement of the parties. Additionally provides that paid administrative leave shall not exceed fifty days from notice of the superintendent's interim decision.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:493)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical changes.