

SENATE BILL NO. 267

BY SENATOR APPEL AND REPRESENTATIVE THOMAS

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

A.(1) A permanent school bus operator shall not be removed from his position except upon written and signed charges of willful neglect of duty, or incompetence, or immorality, or drunkenness while on duty, or 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, or physical disability to perform his duties, or 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, and then only if ~~found guilty after a hearing by the school board of the parish or city in which the school bus operator is employed~~ **furnished with a copy of such written charges and given the opportunity to respond as provided in this Section.**

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

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

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

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

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

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

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

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

15 B. ~~All hearings hereunder shall be private or public, at the option of the~~
 16 ~~operator affected thereby. At least twenty days in advance of the date of the hearing~~
 17 ~~the superintendent, with approval of the school board, shall furnish the affected~~
 18 ~~operator a copy of the written grounds on which said abolition, discontinuance, or~~
 19 ~~consolidation of routes is sought. The operator affected shall have the right to appear~~
 20 ~~before the board with witnesses in his behalf and with counsel of his selection, all of~~
 21 ~~whom shall be heard by the board at said hearing. For the purpose of conducting~~
 22 ~~hearings hereunder, the board shall have the power to issue subpoenas to compel the~~
 23 ~~attendance of all witnesses on behalf of the operator. Nothing herein contained shall~~
 24 ~~impair the right of appeal to a court of competent jurisdiction. **A permanent school**~~
 25 **bus operator shall have ten calendar days from written notice of the charges**
 26 **provided in Paragraph (A)(1) of this Section to respond, in person or in writing.**

27 C. **(1)** If a permanent school bus operator is found guilty by a school board,
 28 after due and legal hearing as provided herein, on charges of willful neglect of duty,
 29 or of incompetency, or immorality, or drunkenness while on duty, or failure to
 30 comply with the reporting requirements of R.S. 17:491.3, relative to being arrested

1 for one or more of the specified offenses, or physical disability to perform his duties,
2 or failure to keep his transfer equipment in a safe, comfortable, and practical
3 operating condition, or of being a member of or contributing to any group,
4 organization, movement, or corporation that is prohibited by law or injunction from
5 operating in the state, or if the operator is convicted of or has pled nolo contendere
6 to a violation of any offense as specified in Paragraph (A)(2) of this Section, and
7 ordered removed from his position or disciplined by the board, the superintendent
8 with approval of the board shall furnish to the school bus operator a written
9 statement of recommendation of removal or discipline, which shall include but not
10 be limited to the exact reason, offense, or instance upon which the recommendation
11 is based. Such operator may, not more than one year from the date of the said
12 finding, petition a court of competent jurisdiction for a full hearing to review the
13 action of the school board, and the court shall have jurisdiction to affirm or reverse
14 the action of the school board in the matter. If the finding of the school board is
15 reversed by the court and the operator is ordered reinstated and restored to duty, the
16 operator shall be entitled to full pay for any loss of time or salary he may have
17 sustained by reason of the action of the said school board. **The superintendent shall**
18 **have ten calendar days to review the school bus operator's response and to**
19 **provide written notice to the bus operator of the interim disciplinary action, if**
20 **any. A superintendent may take interim disciplinary action, which may include**
21 **placing the bus operator on administrative leave. A permanent bus operator**
22 **shall not be placed on administrative leave without pay unless the bus operator**
23 **has been arrested for a violation of the following: R.S. 14:42 through 43.5, 80**
24 **through 81.5, any other sexual offense affecting minors, any of the crimes**
25 **provided in R.S. 15:587.1, or any justified complaint of child abuse or neglect**
26 **on file in the central registry pursuant to Children's Code Article 615.**

27 **(2) Upon notification that a bus operator has a conviction or plea of nolo**
28 **contendere to any violation as specified in Paragraph (1) of this Subsection, the**
29 **superintendent shall immediately remove the bus operator from his position**
30 **and notify the bus operator of such and that the termination is not subject to**

1 review.

2 D. Within twenty calendar days after written notice of the charges, the
3 bus operator may request a hearing before a disciplinary hearing officer. If the
4 bus operator fails to timely request a hearing, the disciplinary action becomes
5 final.

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

19 F. Such hearing may be private or public, at the option of the bus
20 operator, and shall commence no sooner than ten calendar days nor later than
21 thirty calendar days after receipt of the bus operator's request for such hearing.
22 For purposes of this Section, the disciplinary hearing officer shall have the
23 power to issue subpoenas. The school board shall adopt and maintain
24 procedures to govern the conduct of the hearing, which shall include, at a
25 minimum, a method for the examination of witnesses and the introduction of
26 evidence and for the presence of a court reporter and maintenance of the court
27 reporter's record. The bus operator shall have the right to appear before the
28 disciplinary hearing officer with witnesses on his behalf and with counsel of his
29 selection.

30 G. The disciplinary hearing officer shall hold a hearing and review

1 whether the interim decision of the superintendent was arbitrary or capricious
2 and shall either affirm or reverse the action of the superintendent. The
3 disciplinary hearing officer shall notify the superintendent and the bus operator
4 of his final determination, with written reasons, within ten days from the date
5 of the hearing. If the superintendent's disciplinary action is affirmed, it shall
6 become effective upon the bus operator's receipt of the decision of the
7 disciplinary hearing officer. If the superintendent's disciplinary action is
8 reversed, the bus operator shall be restored to duty.

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

20 I. The time periods contained in this Section may be extended by mutual
21 agreement of the parties. However, paid administrative leave as provided in
22 Paragraph (C)(1) of this Section shall not exceed fifty days from notice of the
23 superintendent's interim decision.

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

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

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____