

Regular Session, 2013

HOUSE BILL NO. 224

BY REPRESENTATIVE HOLLIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SCHOOL BUS DRIVERS: Provides for the removal of a school bus driver for violations of certain offenses relative to operating a vehicle while intoxicated, under specified circumstances

1 AN ACT

2 To amend and reenact R.S. 17:492(A) and (D)(2) and 493(A) and (C), relative to school bus  
3 operators; to require the immediate removal of a nontenured school bus operator who  
4 is convicted of or has pled nolo contendere to certain offenses relative to operating  
5 a vehicle while intoxicated; to provide that such a conviction or plea shall be grounds  
6 for removal of a tenured school bus operator; to provide for applicability; to provide  
7 an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 17:492(A) and (D)(2) and 493(A) and (C) are hereby amended and  
10 reenacted to read as follows:

11 §492. Probation and tenure of bus operators

12 A. Each school bus operator shall serve a probationary term of three years  
13 reckoned from the date of his first employment in the city, parish, or other local  
14 public school system in which the operator is serving his probation. During the  
15 probationary term, the city, parish, or other local public school board may dismiss  
16 or discharge any operator upon the written recommendation of the local  
17 superintendent of schools accompanied by valid reasons therefor. A school board  
18 shall immediately dismiss or discharge an operator who is convicted of or has pled  
19 nolo contendere to a violation of a parish or municipal ordinance that prohibits  
20 operating a vehicle while intoxicated or any of the following offenses relative to  
21 operating a vehicle while intoxicated, regardless of whether the violation occurred

1 while the operator was performing an official duty or responsibility as a school bus  
2 operator at the time of the offense:

- 3 (1) R.S. 14:98, operating a vehicle while intoxicated.
- 4 (2) R.S. 14:32.1, vehicular homicide.
- 5 (3) R.S. 14:32.8(A)(2), third degree feticide.
- 6 (4) R.S. 14:39.1, vehicular negligent injuring.
- 7 (5) R.S. 14:39.2, first degree vehicular negligent injuring.

8 \* \* \*

9 D.

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11 (2) After the expiration of the probationary term provided in Subsection A  
12 of this Section, a school bus operator whose date of first employment with a school  
13 system is July 1, 2012, or thereafter, may be removed from his position as provided  
14 by the personnel policy of the employing school board. A school board shall  
15 immediately terminate a school bus operator who is convicted of or has pled nolo  
16 contendere to a violation of a parish or municipal ordinance that prohibits operating  
17 a vehicle while intoxicated or any of the following offenses relative to operating a  
18 vehicle while intoxicated, regardless of whether the violation occurred while the  
19 operator was performing an official duty or responsibility as a school bus operator  
20 at the time of the offense:

- 21 (a) R.S. 14:98, operating a vehicle while intoxicated.
- 22 (b) R.S. 14:32.1, vehicular homicide.
- 23 (c) R.S. 14:32.8(A)(2), third degree feticide.
- 24 (d) R.S. 14:39.1, vehicular negligent injuring.
- 25 (e) R.S. 14:39.2, first degree vehicular negligent injuring.

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

27 A. A permanent school bus operator shall not be removed from his position  
28 except upon written and signed charges of willful neglect of duty, or incompetence,  
29 or immorality, or drunkenness while on duty, or failure to comply with the reporting

1 requirements of R.S. 17:491.3 relative to being arrested for one or more of the  
 2 specified offenses, or physical disability to perform his duties, or failure to keep his  
 3 transfer equipment in a safe, comfortable, and practical operating condition, or of  
 4 being a member of or contributing to any group, organization, movement, or  
 5 corporation that is prohibited by law or injunction from operating in the state, and  
 6 then only if found guilty after a hearing by the school board of the parish or city in  
 7 which the school bus operator is employed. ~~An additional ground~~ Additional  
 8 grounds for the removal ~~from office~~ of any permanent school bus operator shall be:

9 (1) ~~the~~ The abolition, discontinuance, or consolidation of routes, but then  
 10 only if it is found as a fact, after a hearing by the school board of the parish or city,  
 11 that it is in the best interests of the school system to abolish, discontinue, or  
 12 consolidate said route or routes.

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

- 18 (a) R.S. 14:98, operating a vehicle while intoxicated.
- 19 (b) R.S. 14:32.1, vehicular homicide.
- 20 (c) R.S. 14:32.8(A)(2), third degree feticide.
- 21 (d) R.S. 14:39.1, vehicular negligent injuring.
- 22 (e) R.S. 14:39.2, first degree vehicular negligent injuring.

23 \* \* \*

24 C. If a permanent school bus operator is found guilty by a school board, after  
 25 due and legal hearing as provided herein, on charges of willful neglect of duty, or of  
 26 incompetency, or immorality, or drunkenness while on duty, or failure to comply  
 27 with the reporting requirements of R.S. 17:491.3, relative to being arrested for one  
 28 or more of the specified offenses, or physical disability to perform his duties, or  
 29 failure to keep his transfer equipment in a safe, comfortable, and practical operating

1 condition, or of being a member of or contributing to any group, organization,  
 2 movement, or corporation that is prohibited by law or injunction from operating in  
 3 the state, or if the operator is convicted of or has pled nolo contendere to a violation  
 4 of any offense as specified in Paragraph (A)(2) of this Section, and ordered removed  
 5 from ~~office,~~ his position or disciplined by the board, the superintendent with  
 6 approval of the board shall furnish to the school bus operator a written statement of  
 7 recommendation of removal or discipline, which shall include but not be limited to  
 8 the exact reason, offense, or instance upon which the recommendation is based.  
 9 Such operator may, not more than one year from the date of the said finding, petition  
 10 a court of competent jurisdiction for a full hearing to review the action of the school  
 11 board, and the court shall have jurisdiction to affirm or reverse the action of the  
 12 school board in the matter. If the finding of the school board is reversed by the court  
 13 and the operator is ordered reinstated and restored to duty, the operator shall be  
 14 entitled to full pay for any loss of time or salary he may have sustained by reason of  
 15 the action of the said school board.

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17 Section 2. The provisions of this Act shall not apply to a conviction or nolo  
 18 contendere plea relative to operating a vehicle while intoxicated, as specified in the Act, that  
 19 occurred prior to July 1, 2013.

20 Section 3. This Act shall become effective on July 1, 2013; if vetoed by the governor  
 21 and subsequently approved by the legislature, this Act shall become effective on July 1,  
 22 2013, or on the day following such approval by the legislature, whichever is later.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Hollis

HB No. 224

**Abstract:** Requires the immediate removal of a nontenured school bus operator who is convicted of or pleads nolo contendere to certain offenses relative to operating a vehicle while intoxicated whether such violation occurred on duty or off duty and adds such a conviction or plea as grounds for removal of a tenured school bus operator.

Present law (R.S. 17:492(A)) provides that school bus operators shall serve a probationary term of three years. Authorizes local school boards to dismiss any operator during his probationary term upon the written recommendation of the local superintendent accompanied by valid reasons. Provides that at the end of the probationary term, a school bus operator employed prior to July 1, 2012, shall get tenure unless found unsatisfactory by the school board. Provides that a school bus operator hired on or after July 1, 2012, shall not be eligible for tenure and may be removed from his position as provided by the personnel policy of the employing school board. Proposed law retains present law and additionally requires:

- (1) The immediate dismissal of a probationary school bus operator who is convicted of or has pled nolo contendere to a violation of a local ordinance that prohibits operating a vehicle while intoxicated or any of the following present law offenses regardless of whether the violation occurred while the operator was performing an official duty or responsibility as a school bus operator at the time of the offense:
  - (a) R.S. 14:98, operating a vehicle while intoxicated.
  - (b) R.S. 14:32.1, vehicular homicide.
  - (c) R.S. 14:32.8(A)(2), third degree feticide.
  - (d) R.S. 14:39.1, vehicular negligent injuring.
  - (e) R.S. 14:39.2, first degree vehicular negligent injuring.
  
- (2) The immediate termination of school bus operator hired on or after July 1, 2012, who is convicted of or has pled nolo contendere to a violation of a local ordinance that prohibits operating a vehicle while intoxicated or any of the following present law offenses regardless of whether the violation occurred while the operator was performing an official duty or responsibility as a school bus operator at the time of the offense:
  - (a) R.S. 14:98, operating a vehicle while intoxicated.
  - (b) R.S. 14:32.1, vehicular homicide.
  - (c) R.S. 14:32.8(A)(2), third degree feticide.
  - (d) R.S. 14:39.1, vehicular negligent injuring.
  - (e) R.S. 14:39.2, first degree vehicular negligent injuring.

Present law (R.S. 17:493(A)) provides that a tenured 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 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 employing school board. Provides that additional grounds for removal shall be the abolition, discontinuance, or consolidation of routes under specified circumstances.

Present law (R.S. 17:493(C)) further provides that if a tenured school bus operator is found guilty by a school board on any charge specified above and ordered removed or disciplined by the board, the superintendent (with approval of the board) shall furnish to the school bus operator a written statement of recommendation of removal or discipline, including the exact reason, offense, or instance upon which the recommendation is based. Provides that the operator may petition a court of competent jurisdiction for a hearing to review the school board's action and that the court shall have jurisdiction to affirm or reverse such action. Specifies that if the school board's finding is reversed and the operator is ordered reinstated, the operator shall be entitled to full pay for any loss of time or salary.

Proposed law retains present law and adds as a grounds for removal, a conviction of or plea of nolo contendere to a violation of a local ordinance that prohibits operating a vehicle while intoxicated or present law (R.S. 14:98, 32.1, 32.8(A)(2), 39.1, and 39.2), relative to operating a vehicle while intoxicated, regardless of whether the violation occurred while the operator

was performing an official duty or responsibility as a school bus operator at the time of the offense.

Proposed law does not apply to convictions and pleas occurring prior to July 1, 2013.

Effective July 1, 2013.

(Amends R.S. 17:492(A) and (D)(2) and 493(A) and (C))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Adds that proposed law also shall apply to school bus operators who plead nolo contendere to the violations specified in proposed law.