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DATE: January 30, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL EDUCATION
ANALYSIS**

BILL #: HB 611

RELATING TO: Bus Drivers

SPONSOR(S): Representative(s) Slosberg

TIED BILL(S): None.

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) GENERAL EDUCATION YEAS 9 NAYS 0
- (2) BUSINESS REGULATION
- (3) COUNCIL FOR LIFELONG LEARNING
- (4)
- (5)

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I. SUMMARY:

The Committee on General Education amended HB 611 to remove all provisions relating to school districts and public school bus drivers. The amendment is traveling with the bill.

The amended bill requires employers to check the driving records of drivers of nonpublic sector buses at least once a year to ascertain whether a driver has a suspended or revoked license. The Department of Transportation may assess a civil penalty of up to \$5,000 with respect to each failure of an employer to comply with these provisions.

The Division of Highway Safety and Motor Vehicles states, although it is not required by law for employers of nonpublic sector bus drivers to annually obtain driving records of their bus drivers, the insurance companies who insure the vehicles require drivers license checks on all drivers. Usually the driving records are checked when the driver is initially employed and on each renewal of the policy.

Current state requirements and school district practices exceed the provisions contained in the original bill. There is no fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

The bill does not support the principle of less government because it requires employers of nonpublic sector bus drivers to check the driving records of their employees at least once a year.

B. PRESENT SITUATION:

Definition of Bus, School Bus, and Nonpublic Sector Bus

"Bus" is defined as any motor vehicle designed for carrying more than 10 passengers, used for transporting persons, and any motor vehicle, other than a taxicab, designed and used for transporting persons for compensation, pursuant to s. 316.003(3), F.S.

"School buses" are defined as motor vehicles, with a seating capacity of 24 or more pupils, used regularly for transporting students to or from school, or to or from school activities, pursuant to s. 316.615(1)(a), F.S. For the purposes of s. 316.615, F.S., the term "school" includes all public and private nursery, preelementary, elementary, and secondary level schools

"Nonpublic sector bus" is defined as any bus that is used for the transportation of persons for compensation and that is not owned, leased, operated, or controlled by a municipal, county, or state government or a governmentally owned or managed nonprofit corporation, pursuant to s. 316.003(78), F.S.

Requirements for School Bus Drivers

Pursuant to s. 234.101(1), F.S., each school bus driver must be of good moral character, of good vision and hearing, able-bodied, free from communicable disease, mentally alert, and sufficiently strong physically to handle the bus with ease. The bus driver must also possess other qualifications prescribed by the Commissioner of Education and hold a valid commercial driver's license with a passenger endorsement. Additionally, the driver of a school bus must pass an annual physical examination, pursuant to s. 316.615(3), F.S.

Pursuant to s. 234.101(2), F.S., the Commissioner of Education must adopt requirements that school bus drivers must meet before the drivers are employed by the district school boards. Rule 6A—3.0141, F.A.C., adopted by the Commissioner of Education, provides that: At the time of initial employment, the driver of a school bus must have five (5) years of licensed driving experience; have submitted to the superintendent a written application for employment in a form prescribed by the school board; and have filed a set of fingerprints for the purpose of the required background check for determining criminal record.

Prior to transporting students on a school bus, each driver must hold a valid commercial drivers license with passenger endorsement; have successfully completed forty (40) hours of preservice

training consisting of at least twenty (20) hours of classroom instruction and eight (8) hours of behind-the-wheel training based upon the Department's Basic School Bus Driver Curriculum; demonstrate the ability to prepare required written reports; be physically capable of operating the vehicle as determined by a physical examination, prescribed by the Commissioner and given by a physician designated by the school board and as determined by a dexterity test administered by the school district; and demonstrate physical and mental capabilities required to carry out all assigned responsibilities as a school bus driver.

Rule 6A—3.0141(6), F.A.C., requires each school district to obtain a driver's history record from the Department of Highway Safety and Motor Vehicles for each regular school bus driver, substitute driver, or any other individual certified to drive a school bus by the district. The records must be reviewed prior to initial employment; and prior to the first day of the fall semester. Thereafter, the district must continuously screen driver records using the automated weekly updates, ensuring proper retrieval documentation for every week, or in the event a continuous weekly update is not performed using the automated weekly update, school districts will perform required driving record checks prior to the first day of each semester of the regular school year, and prior to the first day of summer school for any driver who will be transporting students during summer school.

Any district employee with a suspended or revoked license who operates a school bus must be subject to dismissal by the school board.

Rule 6A—3.0141(7), F.A.C., specifies that records must be requested in a manner prescribed by the Department of Highway Safety and Motor Vehicles using the Automated School Bus Driver's License Record Check System through the DOE's data base. The rule further requires all school districts to obtain and review records for bus drivers using the automated data base system. For any driver licensed in another state, the district must obtain and review the driver's history record from the appropriate state.

Rule 6A—3.0141(8), F.A.C., requires each school district to establish a school board policy that specifies which infractions of the traffic code will deem an applicant unqualified for hire and infractions that causes any employee to be subject to a prescribed follow up action. At a minimum, the policy must state that any district employee who knowingly operates a school bus with a suspended or revoked license must be subject to dismissal by the school board.

Auditor General Operational Review of the District School Board Bus Driver Driving Records

According to the Auditor General's Report Number 12491, dated May 22, 1995, a system was developed in 1993 to provide access to the driver's history records through the Florida Information Resources Network (FIRN) to facilitate the bus driver's record checks by the districts. This system is known as the Automated School Bus Driver's License Record Check System (the System). The districts enter the driver's license number into the System, and the number is then matched against the Florida Department of Highway Safety and Motor Vehicle's (DHSMV) records. The match against the DHSMV records is made weekly with the results of the weekly update available to the districts on Wednesday through the System. The districts can obtain locally through the System either the entire master file (all entries) or the weekly update (only those entries showing activity since the prior week). Beginning July 1, 1995, all districts were required to use the System to obtain information on the driving records of their bus drivers. When the Auditor General's staff reviewed the System in January 1995, approximately 50 districts were using the System. The Auditor General's report states *if effectively maintained and used, the System will greatly facilitate the ability of the districts to monitor the driving records of their bus drivers (Operational Review of the District School Board Bus Driver Driving Records, May 22, 1995).*

According to the Department of Education, there is no ongoing monitoring to determine if school districts are complying with the requirement to check the drivers licenses of bus drivers weekly or the first day of each semester of the regular school year or prior to the first day of summer school.

However, the DOE does spot check school district records once every four years to see if they are complying with this requirement, and to date, the DOE has not found any district to be out of compliance.

Standards for Nonpublic Sector Buses

Subsection (1) of section 316.70, F.S., specifies that the Department of Transportation must establish and revise standards to assure the safe operation of nonpublic sector buses to assure:

- Nonpublic sector buses are safely maintained, equipped, and operated.
- Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.
- Florida license tags are purchased for nonpublic sector buses.

Current law, subsection (2) of section 316.70, F.S., authorizes the Department of Transportation to assess a civil penalty of up to \$5,000 per infraction against anyone who violates any of the above listed provisions or who violates any rule or order of the department.

Nonpublic Sector Bus Drivers

According to Division of Highway Safety and Motor Vehicles, although it is not required by current law for employers of nonpublic sector bus drivers to annually obtain driving records of their bus drivers, the insurance companies who insure the vehicles require drivers license checks on all drivers. Usually the driving records are checked when the driver is initially employed and on each renewal of the policy.

C. EFFECT OF PROPOSED CHANGES:

HB 611, as amended by the Committee on General Education, requires the employers of drivers of nonpublic sector buses to check the driving records of their employees at least once a year to ascertain whether the driver has a suspended or revoked driver's license. The \$5,000 per infraction civil penalty in current law may be assessed by the Department of Transportation against an employer who fails to check the driving records of their bus drivers.

According to the Department of Education, the proposed changes to section 316.70, F.S., would ensure that drivers of nonpublic sector buses, including buses chartered for school field trips and those serving private schools, comply with the license check requirement.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: The Committee on General Education amended HB 611 to remove all of Section 1 from the bill. Amends subsection (3) of section 316.615, F.S., adding a provision that requires each school district to check the driving records of all school bus drivers at least once a year to ascertain whether the driver has a suspended or revoked driver's license; and authorizes the Commissioner of Education to assess a civil penalty of up to \$5,000 with respect to each failure of a school district to comply.

Section 2: Amends subsection (1) of section 316.70, F.S., adding a provision that requires the employers of nonpublic sector bus drivers to check the driving records of each nonpublic sector bus driver at least once a year to ascertain whether the driver has a suspended or revoked driver's license.

Section 3: Provides an effective date July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Please see Fiscal Comments.

2. Expenditures:

Please see Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Please see Fiscal Comments.

2. Expenditures:

Please see Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Please see Fiscal Comments

D. FISCAL COMMENTS:

The Division of Highway Safety and Motor Vehicles stated, although it is not required by current law for employers of nonpublic sector bus drivers to annually obtain driving records of their bus drivers, the insurance companies who insure the vehicles require drivers license checks on all drivers. Usually the driving records are checked when the driver is initially employed and on each renewal of the policy.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not grant additional rule-making authority.

C. OTHER COMMENTS:

The Department of Education (DOE) suggests clarification of the specific types of "nonpublic sector" bus operators and employers who are to be affected by the bill.

Current DOE requirements and school district practices exceed the provisions in the original bill for school districts to check licenses of school bus drivers.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 29, 2002, the Committee on General Education adopted an amendment to HB 611 and passed the bill as amended. The amendment removes the requirement for each school district to check the driving records of all school bus drivers at least once each year to ascertain whether the driver has a suspended or revoked driver's license; and the provision that the Commissioner of Education may assess a civil penalty of up to \$5,000 for each failure of the school district to comply.

VII. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

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