



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0147

Introduced 1/18/2011, by Rep. Lisa M. Dugan

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-106.1
625 ILCS 5/6-106.1c new

Amends the Illinois Vehicle Code. Provides that, if an employer has reasonable suspicion to believe that a school bus driver permit holder is under the influence of alcohol, drugs, or intoxicating compounds, the employer may require the driver to undergo testing at a licensed testing facility before driving any vehicle for which a school bus driver permit is required. Requires that the employer's reasonable suspicion be based on specific, contemporaneous observations of the appearance, behavior, speech, or body odors of the driver. Provides that the employer shall report the driver to the Secretary of State if the driver refuses testing or submits to testing that reveals the presence of alcohol, drugs, or intoxicating compounds. Sets reporting requirements for the employer. Provides that the Secretary shall suspend for a period of 3 years the school bus driver permit of a driver who refuses testing or tests positive for the presence of alcohol drugs or intoxicating compounds.

LRB097 05336 HEP 45391 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 6-106.1 and by adding Section 6-106.1c as follows:

6 (625 ILCS 5/6-106.1)

7 Sec. 6-106.1. School bus driver permit.

8 (a) The Secretary of State shall issue a school bus driver
9 permit to those applicants who have met all the requirements of
10 the application and screening process under this Section to
11 insure the welfare and safety of children who are transported
12 on school buses throughout the State of Illinois. Applicants
13 shall obtain the proper application required by the Secretary
14 of State from their prospective or current employer and submit
15 the completed application to the prospective or current
16 employer along with the necessary fingerprint submission as
17 required by the Department of State Police to conduct
18 fingerprint based criminal background checks on current and
19 future information available in the state system and current
20 information available through the Federal Bureau of
21 Investigation's system. Applicants who have completed the
22 fingerprinting requirements shall not be subjected to the
23 fingerprinting process when applying for subsequent permits or

1 submitting proof of successful completion of the annual
2 refresher course. Individuals who on the effective date of this
3 Act possess a valid school bus driver permit that has been
4 previously issued by the appropriate Regional School
5 Superintendent are not subject to the fingerprinting
6 provisions of this Section as long as the permit remains valid
7 and does not lapse. The applicant shall be required to pay all
8 related application and fingerprinting fees as established by
9 rule including, but not limited to, the amounts established by
10 the Department of State Police and the Federal Bureau of
11 Investigation to process fingerprint based criminal background
12 investigations. All fees paid for fingerprint processing
13 services under this Section shall be deposited into the State
14 Police Services Fund for the cost incurred in processing the
15 fingerprint based criminal background investigations. All
16 other fees paid under this Section shall be deposited into the
17 Road Fund for the purpose of defraying the costs of the
18 Secretary of State in administering this Section. All
19 applicants must:

20 1. be 21 years of age or older;

21 2. possess a valid and properly classified driver's
22 license issued by the Secretary of State;

23 3. possess a valid driver's license, which has not been
24 revoked, suspended, or canceled for 3 years immediately
25 prior to the date of application, or have not had his or
26 her commercial motor vehicle driving privileges

1 disqualified within the 3 years immediately prior to the
2 date of application;

3 4. successfully pass a written test, administered by
4 the Secretary of State, on school bus operation, school bus
5 safety, and special traffic laws relating to school buses
6 and submit to a review of the applicant's driving habits by
7 the Secretary of State at the time the written test is
8 given;

9 5. demonstrate ability to exercise reasonable care in
10 the operation of school buses in accordance with rules
11 promulgated by the Secretary of State;

12 6. demonstrate physical fitness to operate school
13 buses by submitting the results of a medical examination,
14 including tests for drug use for each applicant not subject
15 to such testing pursuant to federal law, conducted by a
16 licensed physician, an advanced practice nurse who has a
17 written collaborative agreement with a collaborating
18 physician which authorizes him or her to perform medical
19 examinations, or a physician assistant who has been
20 delegated the performance of medical examinations by his or
21 her supervising physician within 90 days of the date of
22 application according to standards promulgated by the
23 Secretary of State;

24 7. affirm under penalties of perjury that he or she has
25 not made a false statement or knowingly concealed a
26 material fact in any application for permit;

1 8. have completed an initial classroom course,
2 including first aid procedures, in school bus driver safety
3 as promulgated by the Secretary of State; and after
4 satisfactory completion of said initial course an annual
5 refresher course; such courses and the agency or
6 organization conducting such courses shall be approved by
7 the Secretary of State; failure to complete the annual
8 refresher course, shall result in cancellation of the
9 permit until such course is completed;

10 9. not have been convicted of 2 or more serious traffic
11 offenses, as defined by rule, within one year prior to the
12 date of application that may endanger the life or safety of
13 any of the driver's passengers within the duration of the
14 permit period;

15 10. not have been convicted of reckless driving,
16 aggravated reckless driving, driving while under the
17 influence of alcohol, other drug or drugs, intoxicating
18 compound or compounds or any combination thereof, or
19 reckless homicide resulting from the operation of a motor
20 vehicle within 3 years of the date of application;

21 11. not have been convicted of committing or attempting
22 to commit any one or more of the following offenses: (i)
23 those offenses defined in Sections 8-1.2, 9-1, 9-1.2, 9-2,
24 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5,
25 10-5.1, 10-6, 10-7, 10-9, 11-6, 11-6.5, 11-6.6, 11-9,
26 11-9.1, 11-9.3, 11-9.4, 11-14, 11-14.1, 11-15, 11-15.1,

1 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
2 11-19.2, 11-20, 11-20.1, 11-20.3, 11-21, 11-22, 11-23,
3 11-24, 11-25, 11-26, 12-2.6, 12-3.1, 12-4, 12-4.1, 12-4.2,
4 12-4.2-5, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-4.9,
5 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-7.5, 12-11,
6 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5,
7 12-21.6, 12-33, 16-16, 16-16.1, 18-1, 18-2, 18-3, 18-4,
8 18-5, 20-1, 20-1.1, 20-1.2, 20-1.3, 20-2, 24-1, 24-1.1,
9 24-1.2, 24-1.2-5, 24-1.6, 24-1.7, 24-2.1, 24-3.3, 24-3.5,
10 31A-1, 31A-1.1, 33A-2, and 33D-1, and in subsection (b) of
11 Section 8-1, and in subsection (a) and subsection (b),
12 clause (1), of Section 12-4, and in subsection (A), clauses
13 (a) and (b), of Section 24-3, and those offenses contained
14 in Article 29D of the Criminal Code of 1961; (ii) those
15 offenses defined in the Cannabis Control Act except those
16 offenses defined in subsections (a) and (b) of Section 4,
17 and subsection (a) of Section 5 of the Cannabis Control
18 Act; (iii) those offenses defined in the Illinois
19 Controlled Substances Act; (iv) those offenses defined in
20 the Methamphetamine Control and Community Protection Act;
21 (v) any offense committed or attempted in any other state
22 or against the laws of the United States, which if
23 committed or attempted in this State would be punishable as
24 one or more of the foregoing offenses; (vi) the offenses
25 defined in Section 4.1 and 5.1 of the Wrongs to Children
26 Act; (vii) those offenses defined in Section 6-16 of the

1 Liquor Control Act of 1934; and (viii) those offenses
2 defined in the Methamphetamine Precursor Control Act; ~~and~~

3 12. not have been repeatedly involved as a driver in
4 motor vehicle collisions or been repeatedly convicted of
5 offenses against laws and ordinances regulating the
6 movement of traffic, to a degree which indicates lack of
7 ability to exercise ordinary and reasonable care in the
8 safe operation of a motor vehicle or disrespect for the
9 traffic laws and the safety of other persons upon the
10 highway;

11 13. not have, through the unlawful operation of a motor
12 vehicle, caused an accident resulting in the death of any
13 person; and

14 14. not have, within the last 5 years, been adjudged to
15 be afflicted with or suffering from any mental disability
16 or disease.

17 (b) A school bus driver permit shall be valid for a period
18 specified by the Secretary of State as set forth by rule. It
19 shall be renewable upon compliance with subsection (a) of this
20 Section.

21 (c) A school bus driver permit shall contain the holder's
22 driver's license number, legal name, residence address, zip
23 code, social security number and date of birth, a brief
24 description of the holder and a space for signature. The
25 Secretary of State may require a suitable photograph of the
26 holder.

1 (d) The employer shall be responsible for conducting a
2 pre-employment interview with prospective school bus driver
3 candidates, distributing school bus driver applications and
4 medical forms to be completed by the applicant, and submitting
5 the applicant's fingerprint cards to the Department of State
6 Police that are required for the criminal background
7 investigations. The employer shall certify in writing to the
8 Secretary of State that all pre-employment conditions have been
9 successfully completed including the successful completion of
10 an Illinois specific criminal background investigation through
11 the Department of State Police and the submission of necessary
12 fingerprints to the Federal Bureau of Investigation for
13 criminal history information available through the Federal
14 Bureau of Investigation system. The applicant shall present the
15 certification to the Secretary of State at the time of
16 submitting the school bus driver permit application.

17 (e) Permits shall initially be provisional upon receiving
18 certification from the employer that all pre-employment
19 conditions have been successfully completed, and upon
20 successful completion of all training and examination
21 requirements for the classification of the vehicle to be
22 operated, the Secretary of State shall provisionally issue a
23 School Bus Driver Permit. The permit shall remain in a
24 provisional status pending the completion of the Federal Bureau
25 of Investigation's criminal background investigation based
26 upon fingerprinting specimens submitted to the Federal Bureau

1 of Investigation by the Department of State Police. The Federal
2 Bureau of Investigation shall report the findings directly to
3 the Secretary of State. The Secretary of State shall remove the
4 bus driver permit from provisional status upon the applicant's
5 successful completion of the Federal Bureau of Investigation's
6 criminal background investigation.

7 (f) A school bus driver permit holder shall notify the
8 employer and the Secretary of State if he or she is convicted
9 in another state of an offense that would make him or her
10 ineligible for a permit under subsection (a) of this Section.
11 The written notification shall be made within 5 days of the
12 entry of the conviction. Failure of the permit holder to
13 provide the notification is punishable as a petty offense for a
14 first violation and a Class B misdemeanor for a second or
15 subsequent violation.

16 (g) Cancellation; suspension; notice and procedure.

17 (1) The Secretary of State shall cancel a school bus
18 driver permit of an applicant whose criminal background
19 investigation discloses that he or she is not in compliance
20 with the provisions of subsection (a) of this Section.

21 (2) The Secretary of State shall cancel a school bus
22 driver permit when he or she receives notice that the
23 permit holder fails to comply with any provision of this
24 Section or any rule promulgated for the administration of
25 this Section.

26 (3) The Secretary of State shall cancel a school bus

1 driver permit if the permit holder's restricted commercial
2 or commercial driving privileges are withdrawn or
3 otherwise invalidated.

4 (4) The Secretary of State may not issue a school bus
5 driver permit for a period of 3 years to an applicant who
6 fails to obtain a negative result on a drug test as
7 required in item 6 of subsection (a) of this Section or
8 under federal law.

9 (5) The Secretary of State shall forthwith suspend a
10 school bus driver permit for a period of 3 years upon
11 receiving notice that the holder has failed to obtain a
12 negative result on a drug test as required in item 6 of
13 subsection (a) of this Section or under federal law.

14 (6) The Secretary of State shall suspend a school bus
15 driver permit for a period of 3 years upon receiving notice
16 from the employer that the holder failed to perform the
17 inspection procedure set forth in subsection (a) or (b) of
18 Section 12-816 of this Code.

19 (7) The Secretary of State shall suspend, for a period
20 of 3 years, a school bus driver permit upon receipt of
21 notice that the holder thereof has refused to submit to an
22 alcohol or drug test as required by Section 6-106.1c or has
23 submitted to a test required by that Section which
24 disclosed an alcohol concentration of more than 0.00, any
25 amount of cannabis as covered by the Cannabis Control Act,
26 a controlled substance listed in the Illinois Controlled

1 Substances Act, methamphetamine as listed in the
2 Methamphetamine Control and Community Protection Act, or
3 any intoxicating compound listed in the Use of Intoxicating
4 Compounds Act.

5 The Secretary of State shall notify the State
6 Superintendent of Education and the permit holder's
7 prospective or current employer that the applicant has (1) has
8 failed a criminal background investigation or (2) is no longer
9 eligible for a school bus driver permit; and of the related
10 cancellation of the applicant's provisional school bus driver
11 permit. The cancellation shall remain in effect pending the
12 outcome of a hearing pursuant to Section 2-118 of this Code.
13 The scope of the hearing shall be limited to the issuance
14 criteria contained in subsection (a) of this Section. A
15 petition requesting a hearing shall be submitted to the
16 Secretary of State and shall contain the reason the individual
17 feels he or she is entitled to a school bus driver permit. The
18 permit holder's employer shall notify in writing to the
19 Secretary of State that the employer has certified the removal
20 of the offending school bus driver from service prior to the
21 start of that school bus driver's next workshift. An employing
22 school board that fails to remove the offending school bus
23 driver from service is subject to the penalties defined in
24 Section 3-14.23 of the School Code. A school bus contractor who
25 violates a provision of this Section is subject to the
26 penalties defined in Section 6-106.11.

1 All valid school bus driver permits issued under this
2 Section prior to January 1, 1995, shall remain effective until
3 their expiration date unless otherwise invalidated.

4 (h) When a school bus driver permit holder who is a service
5 member is called to active duty, the employer of the permit
6 holder shall notify the Secretary of State, within 30 days of
7 notification from the permit holder, that the permit holder has
8 been called to active duty. Upon notification pursuant to this
9 subsection, (i) the Secretary of State shall characterize the
10 permit as inactive until a permit holder renews the permit as
11 provided in subsection (i) of this Section, and (ii) if a
12 permit holder fails to comply with the requirements of this
13 Section while called to active duty, the Secretary of State
14 shall not characterize the permit as invalid.

15 (i) A school bus driver permit holder who is a service
16 member returning from active duty must, within 90 days, renew a
17 permit characterized as inactive pursuant to subsection (h) of
18 this Section by complying with the renewal requirements of
19 subsection (b) of this Section.

20 (j) For purposes of subsections (h) and (i) of this
21 Section:

22 "Active duty" means active duty pursuant to an executive
23 order of the President of the United States, an act of the
24 Congress of the United States, or an order of the Governor.

25 "Service member" means a member of the Armed Services or
26 reserve forces of the United States or a member of the Illinois

1 National Guard.

2 (Source: P.A. 96-89, eff. 7-27-09; 96-818, eff. 11-17-09;
3 96-962, eff. 7-2-10; 96-1000, eff. 7-2-10; 96-1182, eff.
4 7-22-10; revised 9-2-10.)

5 (625 ILCS 5/6-106.1c new)

6 Sec. 6-106.1c. Reasonable suspicion drug and alcohol
7 testing of school bus driver permit holders.

8 (a) If an employer has reasonable suspicion to believe that
9 a school bus driver permit holder is under the influence of
10 alcohol, cannabis as covered by the Cannabis Control Act, any
11 controlled substances listed in the Illinois Controlled
12 Substances Act, methamphetamine as listed in the
13 Methamphetamine Control and Community Protection Act, or any
14 intoxicating compound listed in the Use of Intoxicating
15 Compounds Act, the employer may require that the school bus
16 driver permit holder submit to an alcohol or drug test or both
17 at a licensed testing facility before the driver is allowed to
18 drive any vehicle for which a school bus driver permit is
19 required. The employer's determination that reasonable
20 suspicion exists to require the driver to submit to an alcohol
21 or drug test must be based on specific, contemporaneous,
22 articulable observations concerning the appearance, behavior,
23 speech, or body odors of the driver.

24 (b) Alcohol or drug testing is authorized by this Section
25 only if the observations required in subsection (a) of this

1 Section are made during, just preceding, or just after the time
2 the school bus driver permit holder was on duty.

3 (c) If the school bus driver permit holder refuses to
4 submit to testing or submits to a test that discloses an
5 alcohol concentration of more than 0.00, any amount of cannabis
6 as covered by the Cannabis Control Act, any controlled
7 substance listed in the Illinois Controlled Substances Act,
8 methamphetamine as listed in the Methamphetamine Control and
9 Community Protection Act, or any intoxicating compound listed
10 in the Use of Intoxicating Compounds Act, the employer shall
11 immediately notify the Secretary of State in a form and manner
12 designated by the Secretary of State.

13 (d) Within 24 hours of the observed behavior, a written
14 record in a form and manner designated by the Secretary of
15 State shall be made of the observations leading to an alcohol
16 or other drugs reasonable suspicion test and signed by the
17 supervisor or company official who made the observation. This
18 written record shall be submitted to the Secretary of State
19 within 48 hours of the observed behavior.