

POLICYALERT



September, 2010

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POLICY UPDATE: 2010

Legislative Review - Part Two

Act 533, Bus Operator Notification Requirements

This special **POLICYALERT** addresses provisions of Act 533, regarding bus operators who are arrested for operating a vehicle while under the influence of alcohol or abused or controlled substances. The Legislature has addressed this issue by providing specific notification requirements of the operator.

● **RESPONSIBILITY FOR VEHICLE OPERATION**

The driving record of bus operators and others within a school district who transport students or drive Board-owned or leased vehicles has become a topic of increasing concern. Several years ago, after discovering that some bus operators had been cited for major motor vehicle violations, most of which were committed while off-duty, several School Boards became quite concerned about driver safety. So the School Boards adopted a policy requiring bus operators, and in some districts, *any employee* with driving responsibilities, to notify the Transportation Supervisor of any citation or arrest for certain driving offenses committed by the driver, whether on or off duty.

Now along comes Act 533, passed by the Legislature to create a new statute, La. Rev. Stat. Ann. §17:491.3. While the provisions of the Act do not take effect until January 1, 2011, it does require School Boards to adopt a policy, regulations, and/or procedures by October 1, 2010 to implement and administer the provisions of the Act .

Policies In This Issue:

• Responsibility For Vehicle Operation

• Dismissal of Employees

The new Act requires a bus operator to report his/her arrest for violation of any law or ordinance that prohibits operating a vehicle while under the influence of alcohol or any abused substance or controlled dangerous substance set forth in the schedules enumerated in La. Rev. Stat. Ann. §40:964. From a state perspective, we have identified 8 statutes that we think would apply, namely:

- 14:32.1 – Vehicular Homicide
- 14:32.8 – Third Degree Feticide
- 14:39.1 – Vehicular Negligent Injuring
- 14:39.2 – First Degree Vehicular Negligent Injuring
- 14:98 – Operating A Vehicle While Intoxicated
- 14:98.1 – Underage Driving Under the Influence
- 14:98.2 – Unlawful Refusal to Submit to Chemical Tests
- 14:100 – Hit-and-Run Driving

School Boards also need to be aware of any *local ordinances* that this Act may include in its application.

The report by the bus operator shall be made to the person(s) designated by the School Board within 24 hours of the arrest, or prior to the next time the operator is to report to work, whichever period of time is shorter. The report is required no matter who owns or leases the vehicle being driven or regardless of whether the operator was on duty at the time of the offense.

School bus operator, as defined within the new statute, means any employee of the School Board whose duty is to transport students in any school bus or activity bus to and from school or any school-related activity. Thus, coaches who are qualified to drive a school bus or activity bus are obviously included in this definition.

An interesting provision of the new statute is that failure to report the arrest properly shall result in termination of probationary operator, or subject the operator to removal in accordance with state law if he/she is tenured. To reinforce this, the Act also amended La. Rev. Stat. Ann. §17:493 to include failure to comply with the new reporting requirement as a valid reason for dismissal of probationary or tenured bus operators. Ironically, being arrested for committing a specified offense is not a reason for dismissal, but failure to report the arrest is.

For many School Boards, the policy *Responsibility For Vehicle Operation* is a new policy. Boards which have a policy will notice it has been retitled to better reflect the policy's content. It addresses the provisions of the new statute pertaining to bus operators, but also includes less stringent suggested provisions mentioned above requiring *any employee* who is cited for certain major motor vehicle violations to report such violations. Like the new statute, the reporting of violations also pertains to any vehicle being driven, whether Board-owned or leased, or a personal or other private vehicle the person is using. These provisions are being included for consideration based on the fact that some School Boards have already adopted them. If a Board does not want those particular provisions included in policy, we will remove them accordingly.

● *DISMISSAL OF EMPLOYEES*

The policy *Dismissal of Employees* has been revised to include the newest statutory reason for dismissal of bus operators as enacted by Act 533. As this policy has not needed updating in several years based on legislation, some systems with older versions of this policy will notice we made other changes as well to update its provisions.

NEXT ISSUE

While this issue covers the second installment of the 2010 *Legislative Policy Update*, our work is never done. As our review of Acts of the Legislature has now been completed, more Acts have been identified leading to additional revisions in Board policy that we will be sending to you soon.