



NYAPT

NEW YORK ASSOCIATION FOR PUPIL TRANSPORTATION

266 Hudson Avenue • Albany, NY 12210 • PH: 518-463-4937 FX: 518-463-9743 • WWW.NYAPT.ORG

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STATEMENT BY THE NEW YORK ASSOCIATION FOR PUPIL TRANSPORTATION TO THE NEW YORK STATE SENATE COMMITTEE ON TRANSPORTATION

HEARING TO EXAMINE REQUIRING IGNITION INTERLOCK DEVICES FOR SCHOOL BUSES

MAY 2, 2013 --- FARMINGDALE, NEW YORK

The New York Association for Pupil Transportation is a professional association whose nearly 600 members are dedicated to the safe and efficient transportation of more than 2.3 million students in New York State every day.

Before we continue further, it is important that we say for the record that there are 50,000 licensed school bus drivers in New York State and that these women and men are fine, hard-working and dedicated professionals who care for their student riders. They participate in training and educational activities that help them stay current and fully prepared to transport our children to and from school each day. Their hard work and dedication should be recognized and praised. It is these people who are directly responsible for the safety of our children.

We were shocked at the events that occurred in the Fall of 2012 when three school bus drivers were arrested and charged with driving their school buses while under the influence of alcohol...in two cases with children aboard the school buses.

NYAPT believes it is unacceptable behavior for licensed school bus drivers to board their school buses under the influence of alcohol or drugs. The fact that these individuals were driving school buses caused our members and our association to review the current process for ensuring the readiness of school bus drivers and for ensuring against such instances in the future.

This hearing will afford all of us an opportunity to learn more about what happened and to take reasonable steps to ensure it does not happen again. We commend Senator Fuschillo for initiating this public hearing and look forward to the comments and recommendations of our fellow presenters.

BEING A SCHOOL BUS DRIVER

As we begin our discussion of this issue, we thought it would be worthwhile to understand the basics of becoming and continuing as a school bus driver in New York State.

In our state, a person must be at least 21 years of age and be of sound character and hold a federally mandated Commercial Drivers' License (CDL). Moreover, these CDL holders must attain a *Passenger* endorsement and still further must attain a *Student* endorsement that allows them to drive students on school buses. This is all before they ever set foot on a school bus. It is important to remember that not just anyone can drive our students on school buses.

Once those basic requirements are satisfied, in New York State an individual must also attain and ensure compliance with the following:

- Completion of the Pre-Service Course for school bus drivers as approved by the State Education Department, prior to transporting students
- Completion of the 30-hour Basic Course for school bus drivers as approved by the State Education Department, within the first year of employment as a school bus driver
- Conduct of a Criminal Background check, including fingerprinting, to determine if the individual has been convicted of any crimes that would disqualify them from driving students in our state
- Undergo pre-employment and random Drug & Alcohol Tests required by Federal Law
- Completion of Annual physical examination
- Complete a biennial Physical Performance Test to determine their capacity to perform the tasks that school bus drivers perform on a regular basis
- Completion of Annual Driver History Review and Abstract
- Attend and complete two-Hour refresher sessions twice each year, including training related to the needs of students with disabilities
- Complete biennial behind-the-wheel driving test and oral/written examinations as approved by the State Department of Motor Vehicles
- Annual Defensive Driving Performance Review as approved by the State Department of Motor Vehicles

School bus drivers are important partners in ensuring the safety of our children and we hold them to very high standards. But, generally, school bus drivers are not allowed much room for making mistakes. When a school bus driver makes a mistake, it is often followed in the media and pursued by local boards of education and school officials to ensure it doesn't happen again and to ensure that other drivers learn from the event.

CURRENT TESTING REQUIREMENTS

We also thought it would be important in this conversation to know and understand the statutory and regulatory measures currently in place to protect against such DWI situations as we had occur in the Fall of 2012:

- School bus drivers are subjected to random drug and alcohol testing as prescribed by the Federal Motor Carrier Services Act (FMCSA). These are very similar to the testing requirements in place for transit and coach bus operators, railroad engineers and airline pilots. They are put in place to provide a baseline assurance to the public that we do not accept drinking or drug use by those who transport our citizens and our children...these positions are referred to in law as 'safety sensitive';
- School transportation managers are required to provide for the daily observation of school bus drivers to determine whether they manifest any behaviors that give cause for reasonable suspicion that they are under the influence of alcohol or drugs (including medicines);
- School transportation managers are required to be trained in driver observation and drug and alcohol testing procedures to ensure compliance and effective administration;

- School bus drivers are subject to a 24/7 monitoring system (through the Department of Motor Vehicles) that alerts school transportation officials of any charges or arrests including those related to driving under the influence of any drugs or alcohol.

OUR SURVEY FINDINGS

To get a better understanding of procedures in place at the operator level, we conducted a survey of our members to determine the extent to which certain practices were being deployed and whether compliance with certain requirements presented logistical or operational challenges.

In our survey, we found that there are some instances where driver observations may not be conducted as rigorously in some areas due to staffing shortages and budget cuts. While the budget realities certainly can affect the capacity to conduct these observations, NYAPT believes that we must consider approaches to standardize the way in which such observations are executed.

Moreover, we found that under the federal testing requirements, the percentage of drivers who must be included in the test sample for the presence of alcohol has been reduced over the years based on the lower incidence of positive tests. NYAPT believes that despite the reduction in the sample size, operators should expand their sample sizes to ensure greater numbers of drivers being randomly tested for alcohol.

Despite these and other factors, all operators who indicated that they have in place reasonable processes for conducting observations. There are a small number of instances where school bus drivers are allowed to take their assigned school bus home with them to avoid travel in inclement and unsafe weather as well as to avoid extended distances to travel to school facilities. While these instances are not prevalent, they do pose a sensitive enforcement issue. NYAPT is working with our membership to determine the best approaches to ensuring compliant operations in these and other work settings.

CURRENT LEGISLATIVE PROPOSAL UNDER CONSIDERATION

We have reviewed extensively and we cannot support the proposals offered in the State Senate and Assembly (*S1347/Maziarz and A837/Ryan; A1862/Montesano*) that require school buses to be equipped with Ignition Interlock Devices and that further require that those devices be used each time a school bus driver begins a route.

NYAPT is opposed to this legislation for the following reasons:

- ✓ The cost of installation and maintenance can be prohibitive and is especially onerous in difficult budget environments, such as we are experiencing at this time. It is estimated that the ignition interlock units can cost \$75-150 to install with monthly fees ranging from \$60-100 depending on the vendor and the equipment. At the low end of operation, the first year's cost for each school bus in New York would be about \$800. This amounts to \$4 million in first year costs just to outfit the entire fleet of school buses in New York. We believe that these resources could be more effectively deployed to school buses, driver training and student safety training;
- ✓ The equipment cannot be guaranteed to work successfully or seamlessly and it is vital to our school children that the school bus be mobile at the time and place necessary and not disabled because of a malfunction in the ignition interlock device. In the business of transporting our children, the thought of even as few as 1% of bus routes being disrupted means that as many as 1,000 routes could be disrupted on any given day (50,000 buses at least twice per day);
- ✓ The specter of school children observing their school bus driver execute a breath-test while in the driver's seat of the school bus would be disturbing to the children and demeaning to the driver, and

needs to be avoided if at all possible. It can be argued by some that such a test would be reassuring to children and their parents who would know that their bus driver is truly safe. We respectfully disagree. The current system of observations and testing has worked successfully for many years and is still an effective system across the state;

- ✓ On a practical level, a school bus driver will shut down his or her school bus each time they pull into a school yard (idling restrictions), thereby requiring them to re-start the school bus. This means that there could be 8-10 starts each day with the accompanying action to use the ignition interlock devices prior to starting the bus. The time and expense of that action along with the increased risk of malfunction, increased wear-and-tear and maintenance of the device raise serious concerns for our association as well.
- ✓ School bus drivers are subject to other controls (e.g., testing and daily observation) intended to limit the risk of driving while under the influence. Those mechanisms must be strengthened and further enforced as an appropriate and reasonable alternative to the installation and use of ignition interlock devices. Moreover, such controls and observations have ensured that school bus drivers are among the safest and most responsible drivers in our nation. To subject the mass of school bus drivers to such a test because of the behavior of a miniscule portion of the driver population is unfair and inappropriate.

NYAPT ALTERNATIVE APPROACH: RECOMMENDATIONS

The Board of Directors of NYAPT adopted a policy position paper that outlines numerous measures and recommendations for action. Those recommendations include best practice applications, training and preparation and changes in laws or regulations that would address the concerns created by the three episodes we experienced in the Fall of 2012. (A copy of the complete position paper is attached and we ask that it be included in the record of our testimony.)

In that Position Paper, NYAPT recommends a series of inter-related measures that complement current laws and practices as well as add to the precautionary steps taken by carriers. These measures would mean additional expenses to local school districts and school bus operators and we would encourage the state to provide for enhanced reimbursement to support the costs of these measures.

The recommendations contained in that paper are as follows:

Recommended Actions Related to Observation and Detection

- 1) Require that all school bus drivers, including those who drive buses with a GVWR of less than 10,000 pounds be subject to random drug and alcohol testing
- 2) Provide further definition of the practice of daily observation to ensure that each driver is observed at least once per day, preferably prior to the commencement of each run
- 3) Increase the random alcohol testing Annual Percentage Rate for school bus drivers to 100% of the drivers on the roster of each operator;
- 4) Provide regular opportunities for school transportation managers to participate in 'reasonable suspicion' and 'supervisory awareness' training

Recommendations Related to Discipline and Penalties

- 1) Provide that a school bus carrier (school district or private contractors) may, without further cause, remove from employment as a school bus driver any individual who tests positive on a valid drug or alcohol test
- 2) Require that positive drug or alcohol test results be reported to DMV and recorded on the driver's abstract
- 3) Provide that individuals charged with driving a school bus while intoxicated be further charged with one appropriate felony count for each person riding on the school bus pursuant to the provisions of Leandra's Law

Recommendations for Areas Needing School Board Action

- 1) Allow school districts to implement practices related to the frequency and nature of driver observations and drug/alcohol testing that exceeds federal or state minimum requirements, provided that such practices are carried out in accordance with a duly adopted policy of the local school board
- 2) In districts where "park-outs" are necessary for operational reasons, require adoption of school board policies to address procedures for observing school bus drivers who are not present at the transportation facility/office at the time of their departure with a school bus.

COMPREHENSIVE APPROACH TO CONSIDER

Through our participation in the Safe Schools Task Force that has been re-established by the State Education Department, NYAPT will review current laws and regulations regarding overall in our schools. A key focus for our involvement will be on more directly applying safety practices and principles to the school bus and school transportation services. We will seek to identify ways in which school boards and school leaders should more effectively plan and establish systemic policies and procedures for school bus safety. These would necessarily encompass prevention of DWI and related incidents such as those that occurred in the Fall of 2012. This would be accomplished through development and preparation of a comprehensive and systematic program for safety assessment.

It is important that such measures be authorized and overseen by local school boards who have policy-setting and overall responsibility for safety and security as well as classroom instruction. They are accountable to the parents and the taxpayers and are the most appropriate to devise and establish such policies and practices. This would be a more systemic approach to the problem and is similar to the kinds of System Safety Plans that are prevalent in the mass transit sector. We believe such an approach merits consideration for future implementation.

IN CLOSING

Thank you for offering us this opportunity to share our concerns and recommendations in regard to this critical issue of safety for our children.

We stand ready to work with the Legislature, parents, school leaders, and our school bus drivers in advancing reasonable and effective measures to ensure that safety.

Respectfully submitted.

Peter F. Mannella
Executive Director
New York Association for Pupil Transportation

