

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 3143

02/26/2018 Authored by Scott
The bill was read for the first time and referred to the Committee on Transportation and Regional Governance Policy

1.1 A bill for an act
1.2 relating to public safety; expanding background checks for school bus drivers;
1.3 amending Minnesota Statutes 2016, sections 171.02, subdivision 2a; 171.321,
1.4 subdivision 3; 171.3215, subdivision 1; 609A.03, subdivision 7; Minnesota Statutes
1.5 2017 Supplement, sections 171.3215, subdivision 2; 609A.03, subdivision 7a.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 171.02, subdivision 2a, is amended to read:

1.8 Subd. 2a. **Exception for certain school bus drivers.** Notwithstanding subdivision 2,
1.9 paragraph (b), the holder of a class D driver's license, without a school bus endorsement,
1.10 may operate a type A school bus or a multifunction school activity bus under the following
1.11 conditions:

1.12 (a) The operator is an employee of the entity that owns, leases, or contracts for the school
1.13 bus and is not solely hired to provide transportation services under this subdivision.

1.14 (b) The operator drives the school bus only from points of origin to points of destination,
1.15 not including home-to-school trips to pick up or drop off students.

1.16 (c) The operator is prohibited from using the eight-light system. Violation of this
1.17 paragraph is a misdemeanor.

1.18 (d) The operator's employer has adopted and implemented a policy that provides for
1.19 annual training and certification of the operator in:

1.20 (1) safe operation of the type of school bus the operator will be driving;

1.21 (2) understanding student behavior, including issues relating to students with disabilities;

2.1 (3) encouraging orderly conduct of students on the bus and handling incidents of
2.2 misconduct appropriately;

2.3 (4) knowing and understanding relevant laws, rules of the road, and local school bus
2.4 safety policies;

2.5 (5) handling emergency situations; and

2.6 (6) safe loading and unloading of students.

2.7 (e) A background check or background investigation of the operator has been conducted
2.8 that meets the requirements under section 122A.18, subdivision 8, or 123B.03 for teachers;
2.9 section 144.057 or chapter 245C for day care employees; or section 171.321, subdivision
2.10 3, for all other persons operating a school bus under this subdivision.

2.11 (f) Operators shall submit to a physical examination as required by section 171.321,
2.12 subdivision 2.

2.13 (g) The operator's driver's license is verified annually by the entity that owns, leases, or
2.14 contracts for the school bus.

2.15 (h) A person who sustains a conviction, as defined under section 609.02, of violating
2.16 section 169A.25, 169A.26, 169A.27, 169A.31, 169A.51, or 169A.52, or a similar statute
2.17 or ordinance of another state is precluded from operating a school bus for five years from
2.18 the date of conviction.

2.19 (i) A person who has ever ~~been convicted of~~ committed a disqualifying offense as defined
2.20 in section 171.3215, subdivision 1, paragraph (c), may not operate a school bus under this
2.21 subdivision.

2.22 (j) A person who sustains a conviction, as defined under section 609.02, of a fourth
2.23 moving offense in violation of chapter 169 is precluded from operating a school bus for one
2.24 year from the date of the last conviction.

2.25 (k) Students riding the school bus must have training required under section 123B.90,
2.26 subdivision 2.

2.27 (l) An operator must be trained in the proper use of child safety restraints as set forth in
2.28 the National Highway Traffic Safety Administration's "Guideline for the Safe Transportation
2.29 of Pre-school Age Children in School Buses," if child safety restraints are used by the
2.30 passengers.

2.31 (m) Annual certification of the requirements listed in this subdivision must be maintained
2.32 under separate file at the business location for each operator licensed under this subdivision

3.1 and subdivision 2, paragraph (b), clause (5). The business manager, school board, governing
3.2 body of a nonpublic school, or any other entity that owns, leases, or contracts for the school
3.3 bus operating under this subdivision is responsible for maintaining these files for inspection.

3.4 (n) The school bus must bear a current certificate of inspection issued under section
3.5 169.451.

3.6 (o) If the word "School" appears on the front and rear of the bus, the word "School"
3.7 must be covered by a sign that reads "Activities" when the bus is being operated under
3.8 authority of this subdivision.

3.9 (p) The type A-I school bus or multifunction school activity bus is designed to transport
3.10 15 or fewer passengers, including the driver.

3.11 (q) The school bus or multifunction school activity bus has a gross vehicle weight rating
3.12 of 14,500 pounds or less.

3.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.14 Sec. 2. Minnesota Statutes 2016, section 171.321, subdivision 3, is amended to read:

3.15 Subd. 3. **Records check of applicant.** (a) Before issuing or renewing a school bus
3.16 endorsement, the commissioner shall conduct a criminal history and driver's license records
3.17 check of the applicant. The commissioner may also conduct the check at any time while a
3.18 person is so licensed. The check must consist of a criminal history check of the state criminal
3.19 records repository and a check of the driver's license records system. If the applicant has
3.20 resided in Minnesota for less than five years, the check must also include a national criminal
3.21 history check. The commissioner shall accept the national criminal history check request
3.22 and the fingerprints of the applicant and is authorized to exchange fingerprints with the
3.23 Federal Bureau of Investigation and request the Federal Bureau of Investigation to conduct
3.24 a criminal history check. The applicant's failure to cooperate with the commissioner in
3.25 conducting the records check is reasonable cause to deny an application or cancel a school
3.26 bus endorsement. The commissioner may not release the results of the records check to any
3.27 person except the applicant or the applicant's designee in writing.

3.28 (b) The commissioner may issue to an otherwise qualified applicant a temporary school
3.29 bus endorsement, effective for no more than 180 days, upon presentation of (1) an affidavit
3.30 by the applicant that the applicant has not ~~been convicted of~~ committed a disqualifying
3.31 offense and (2) a criminal history check from each state of residence for the previous five
3.32 years. The criminal history check may be conducted and prepared by any public or private
3.33 source acceptable to the commissioner. The commissioner may reissue the temporary

4.1 endorsement if the national criminal records repository check is timely submitted but not
4.2 completed within the 180-day period.

4.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.4 Sec. 3. Minnesota Statutes 2016, section 171.3215, subdivision 1, is amended to read:

4.5 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
4.6 meanings given them.

4.7 (b) "School bus driver" means a person possessing a school bus driver's endorsement
4.8 on a valid Minnesota driver's license or a person possessing a valid Minnesota driver's
4.9 license who drives a vehicle with a seating capacity of ten or less persons used as a school
4.10 bus.

4.11 (c) "Disqualifying offense" includes:

4.12 (1) regardless of whether accepted and recorded by the court, a plea, verdict, or finding
4.13 of guilty for violating section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision
4.14 3, or 609.3453; or

4.15 (2) a conviction of: (i) any felony offense;~~(2);~~ (ii) any misdemeanor, gross misdemeanor,
4.16 or felony violation of chapter 152;~~(3);~~ (iii) any violation under section 609.3451, 609.746,
4.17 subdivision 1, 617.23, 617.246, 617.247, or 617.293₂; or ~~(4)~~ (iv) while driving, operating,
4.18 or being in physical control of a school bus or a Head Start bus, a violation of section
4.19 169A.20 or a similar statute or ordinance from another state.

4.20 (d) "Head Start bus driver" means a person possessing a valid Minnesota driver's license:

4.21 (1) with a passenger endorsement, who drives a Head Start bus;

4.22 (2) with a school bus driver's endorsement, who drives a Head Start bus; or

4.23 (3) who drives a vehicle with a seating capacity of ten or fewer persons used as a Head
4.24 Start bus.

4.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.26 Sec. 4. Minnesota Statutes 2017 Supplement, section 171.3215, subdivision 2, is amended
4.27 to read:

4.28 Subd. 2. **Cancellation for disqualifying and other offenses.** Within ten days of receiving
4.29 notice under section 631.40, subdivision 1a, or otherwise receiving notice for a nonresident
4.30 driver, that a school bus driver ~~has been convicted of~~ committed a disqualifying offense,

5.1 the commissioner shall permanently cancel the school bus driver's endorsement on the
5.2 offender's driver's license and in the case of a nonresident, the driver's privilege to operate
5.3 a school bus in Minnesota. A school bus driver whose endorsement or privilege to operate
5.4 a school bus in Minnesota has been permanently canceled may not apply for reinstatement.
5.5 Within ten days of receiving notice under section 631.40, subdivision 1a, or otherwise
5.6 receiving notice for a nonresident driver, that a school bus driver has been convicted of a
5.7 violation of section 169A.20, or a similar statute or ordinance from another state, and within
5.8 ten days of revoking a school bus driver's license under section 169A.52 or 171.177, the
5.9 commissioner shall cancel the school bus driver's endorsement on the offender's driver's
5.10 license or the nonresident's privilege to operate a school bus in Minnesota for five years.
5.11 After five years, a school bus driver may apply to the commissioner for reinstatement. Even
5.12 after five years, cancellation of a school bus driver's endorsement or a nonresident's privilege
5.13 to operate a school bus in Minnesota for a violation under section 169A.20, sections 169A.50
5.14 to 169A.53, section 171.177, or a similar statute or ordinance from another state, shall
5.15 remain in effect until the driver provides proof of successful completion of an alcohol or
5.16 controlled substance treatment program. For a first offense, proof of completion is required
5.17 only if treatment was ordered as part of a chemical use assessment. Within ten days of
5.18 receiving notice under section 631.40, subdivision 1a, or otherwise receiving notice for a
5.19 nonresident driver, that a school bus driver has been convicted of a fourth moving violation
5.20 in the last three years, the commissioner shall cancel the school bus driver's endorsement
5.21 on the offender's driver's license or the nonresident's privilege to operate a school bus in
5.22 Minnesota until one year has elapsed since the last conviction. A school bus driver who has
5.23 no new convictions after one year may apply for reinstatement. Upon canceling the offender's
5.24 school bus driver's endorsement, the commissioner shall immediately notify the licensed
5.25 offender of the cancellation in writing, by depositing in the United States post office a notice
5.26 addressed to the licensed offender at the licensed offender's last known address, with postage
5.27 prepaid thereon.

5.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.29 Sec. 5. Minnesota Statutes 2016, section 609A.03, subdivision 7, is amended to read:

5.30 Subd. 7. **Limitations of order effective before January 1, 2015.** (a) Upon issuance of
5.31 an expungement order related to a charge supported by probable cause, the DNA samples
5.32 and DNA records held by the Bureau of Criminal Apprehension and collected under authority
5.33 other than section 299C.105, shall not be sealed, returned to the subject of the record, or
5.34 destroyed.

6.1 (b) Notwithstanding the issuance of an expungement order:

6.2 (1) an expunged record may be opened for purposes of a criminal investigation,
6.3 prosecution, or sentencing, upon an ex parte court order;

6.4 (2) an expunged record of a conviction may be opened for purposes of evaluating a
6.5 prospective employee in a criminal justice agency without a court order; ~~and~~

6.6 (3) an expunged record of a conviction may be opened for purposes of a background
6.7 study under section 245C.08 unless the court order for expungement is directed specifically
6.8 to the commissioner of human services; and

6.9 (4) an expunged record may be opened for purposes of a background check under section
6.10 171.3215.

6.11 Upon request by law enforcement, prosecution, or corrections authorities, an agency or
6.12 jurisdiction subject to an expungement order shall inform the requester of the existence of
6.13 a sealed record and of the right to obtain access to it as provided by this paragraph. For
6.14 purposes of this section, a "criminal justice agency" means courts or a government agency
6.15 that performs the administration of criminal justice under statutory authority.

6.16 (c) This subdivision applies to expungement orders subject to its limitations and effective
6.17 before January 1, 2015.

6.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.19 Sec. 6. Minnesota Statutes 2017 Supplement, section 609A.03, subdivision 7a, is amended
6.20 to read:

6.21 Subd. 7a. **Limitations of order effective January 1, 2015, and later.** (a) Upon issuance
6.22 of an expungement order related to a charge supported by probable cause, the DNA samples
6.23 and DNA records held by the Bureau of Criminal Apprehension and collected under authority
6.24 other than section 299C.105 shall not be sealed, returned to the subject of the record, or
6.25 destroyed.

6.26 (b) Notwithstanding the issuance of an expungement order:

6.27 (1) except as provided in clause (2), an expunged record may be opened, used, or
6.28 exchanged between criminal justice agencies without a court order for the purposes of
6.29 initiating, furthering, or completing a criminal investigation or prosecution or for sentencing
6.30 purposes or providing probation or other correctional services;

6.31 (2) when a criminal justice agency seeks access to a record that was sealed under section
6.32 609A.02, subdivision 3, paragraph (a), clause (1), after an acquittal or a court order dismissing

7.1 for lack of probable cause, for purposes of a criminal investigation, prosecution, or
7.2 sentencing, the requesting agency must obtain an ex parte court order after stating a
7.3 good-faith basis to believe that opening the record may lead to relevant information;

7.4 (3) an expunged record of a conviction may be opened for purposes of evaluating a
7.5 prospective employee in a criminal justice agency without a court order;

7.6 (4) an expunged record of a conviction may be opened for purposes of a background
7.7 study under section 245C.08 unless the commissioner had been properly served with notice
7.8 of the petition for expungement and the court order for expungement is directed specifically
7.9 to the commissioner of human services;

7.10 (5) an expunged record of a conviction may be opened for purposes of a background
7.11 check required under section 122A.18, subdivision 8, unless the court order for expungement
7.12 is directed specifically to the Professional Educator Licensing and Standards Board or the
7.13 licensing division of the Department of Education;

7.14 (6) an expunged record may be opened for purposes of a background check under section
7.15 171.3215; and

7.16 ~~(6)~~ (7) the court may order an expunged record opened upon request by the victim of
7.17 the underlying offense if the court determines that the record is substantially related to a
7.18 matter for which the victim is before the court.

7.19 (c) An agency or jurisdiction subject to an expungement order shall maintain the record
7.20 in a manner that provides access to the record by a criminal justice agency under paragraph
7.21 (b), clause (1) or (2), but notifies the recipient that the record has been sealed. The Bureau
7.22 of Criminal Apprehension shall notify the commissioner of human services, the Professional
7.23 Educator Licensing and Standards Board, or the licensing division of the Department of
7.24 Education of the existence of a sealed record and of the right to obtain access under paragraph
7.25 (b), clause (4) or (5). Upon request, the agency or jurisdiction subject to the expungement
7.26 order shall provide access to the record to the commissioner of human services, the
7.27 Professional Educator Licensing and Standards Board, or the licensing division of the
7.28 Department of Education under paragraph (b), clause (4) or (5).

7.29 (d) An expunged record that is opened or exchanged under this subdivision remains
7.30 subject to the expungement order in the hands of the person receiving the record.

7.31 (e) A criminal justice agency that receives an expunged record under paragraph (b),
7.32 clause (1) or (2), must maintain and store the record in a manner that restricts the use of the
7.33 record to the investigation, prosecution, or sentencing for which it was obtained.

8.1 (f) For purposes of this section, a "criminal justice agency" means a court or government
8.2 agency that performs the administration of criminal justice under statutory authority.

8.3 (g) This subdivision applies to expungement orders subject to its limitations and effective
8.4 on or after January 1, 2015.

8.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.