

Bill as
Introduced

HB 282 - AS INTRODUCED

2013 SESSION

13-0465
03/05

HOUSE BILL **282**

AN ACT relative to mixed use school buses and relative to licensing and criminal records of driver education instructors.

SPONSORS: Rep. Packard, Rock 5; Sen. Rausch, Dist 19

COMMITTEE: Transportation

ANALYSIS

This bill modifies the definition of mixed use school bus, requires criminal records checks of driver education instructors, and updates references relating to suspending or revoking a school license or driver education certificate.

This bill was requested by the department of safety.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to mixed use school buses and relative to licensing and criminal records of driver education instructors.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Words and Phrases Defined; Mixed Use School Bus. Amend RSA 259:96-a to read as follows:

2 259:96-a Mixed Use School Bus. "Mixed use school bus" shall mean [~~a vehicle, including~~] a
3 station wagon, suburban, **sport utility vehicle**, passenger van, panel body vehicle, or vehicle
4 converted to a school bus, **owned or leased by a public school or private school and driven by**
5 **a school employee**, which bears a valid state inspection sticker and is employed principally in
6 transporting schoolchildren to and from [~~school or~~] school activities.

7 2 New Section; Driver Education Certificate Application. Amend RSA 263 by inserting after
8 section 44-a the following new section:

9 263:44-b Driver Education Certificate Application.

10 I. Every applicant for an initial driver education certificate shall submit to the division of
11 motor vehicles a notarized criminal history record release form, as provided by the New Hampshire
12 division of state police, department of safety, which authorizes the release of his or her criminal
13 history record, if any, to the division of motor vehicles.

14 II. The applicant shall submit with the release form a complete set of fingerprints taken by a
15 qualified law enforcement agency or an authorized employee of the department of safety. If the first
16 set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be
17 necessary in order to complete the criminal history records check. If, after 2 attempts, a set of
18 fingerprints is invalid due to insufficient pattern, the division of motor vehicles may, in lieu of the
19 criminal history records check, accept police clearances from every city, town, or county where the
20 person has lived during the past 5 years.

21 III. The division of motor vehicles shall submit the criminal history records release form and
22 fingerprint form to the division of state police which shall conduct a criminal history records check
23 through its records and through the Federal Bureau of Investigation. Upon completion of the records
24 check, the division of state police shall release copies of the criminal history records to the division of
25 motor vehicles. The division of motor vehicles shall maintain the confidentiality of all criminal
26 history records information received pursuant to this section.

27 3 Drivers' School; Revocation or Suspension. Amend RSA 263:51, II and III to read as follows:

28 II. The licensee or certificate holder has been convicted of a crime or of any offense under
29 RSA 265:79 [~~through RSA 265:82-a~~] **or RSA 265-A**, or his or her license or privilege to drive a motor
30 vehicle has been suspended or revoked;

1 III. The licensee or certificate holder has been charged with an offense under RSA 265:79
2 ~~[through RSA 265:82-a]~~ or **RSA 265-A**, RSA 630, RSA 631, or RSA 632-A and it appears to the
3 commissioner, after a hearing, that an immediate license suspension pending the outcome of the
4 criminal proceeding is required in the interest of public safety;

5 4 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Rep. Packard, Rock. 5
February 6, 2013
2013-0209h
03/04

Amendment to HB 282

1 Amend the title of the bill by replacing it with the following:

2
3
4
5
6

AN ACT relative to mixed use school buses, relative to licensing and criminal records of driver education instructors, and relative to background checks for department of safety employees.

7 Amend the bill by inserting after section 3 the following and renumbering the original section 4 to
8 read as 5:

9

10 4 New Section; Department of Safety; Employee Candidate Background Checks. Amend RSA
11 21-P by inserting after section 15-b the following new section:

12 21-P:15-c Employee Candidate Background Checks.

13 I. The commissioner may require a background investigation and a criminal history records
14 check on any candidate for employment or promotion prior to a final offer of employment. The
15 commissioner may request only a state records check or both a federal and state records check, to be
16 conducted through the division of state police. The department may extend a conditional offer of
17 employment to a candidate, with a final offer of employment subject to a successfully completed
18 criminal history records check.

19 II. A candidate for employment in a position which the commissioner determines requires a
20 background investigation and a criminal history records check shall submit to the department a
21 notarized criminal history records release form, as provided by the division of state police, which
22 authorizes the release of the person's criminal records, if any. The candidate shall submit with the
23 release form a complete set of fingerprints taken by a law enforcement agency as directed by the
24 commissioner. In the event that the first set of fingerprints is invalid due to insufficient pattern and
25 a second set of fingerprints is necessary in order to complete the criminal history records check, the
26 conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is
27 invalid due to insufficient pattern, the department may, in lieu of the criminal history records check,
28 accept police clearances from every city, town, or county where a candidate has lived during the past
29 5 years.

30 III. To obtain a state records check only, the department shall submit a state criminal
31 history records release form to the division of state police. To obtain both the federal and the state
32 records check, the department shall submit the criminal history records release form and applicant
33 fingerprint card to the division of state police, which shall conduct a criminal history records check

Amendment to HB 282

- Page 2 -

1 through its records and through the Federal Bureau of Investigation. Upon completion of the
2 background investigation, the division of state police shall report any criminal conviction
3 information to the commissioner. The department may submit fingerprint information
4 electronically, in accordance with procedures established by the division of state police. The
5 department shall maintain the confidentiality and security of all criminal history records
6 information received pursuant to this paragraph.

7 IV. In this section, "candidate for employment" shall include candidates for contract
8 positions, volunteers, or interns.

2013-0209h

AMENDED ANALYSIS

This bill modifies the definition of mixed use school bus, requires criminal records checks of driver education instructors, updates references relating to suspending or revoking a school license or driver education certificate, and authorizes background checks on candidates for employment or promotion at the department of safety.

This bill was requested by the department of safety.



Amendment to HB 282

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Amendment to HB 282

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Speakers

Hearing Minutes

HOUSE COMMITTEE ON TRANSPORTATION

PUBLIC HEARING ON HB 282

BILL TITLE: relative to mixed use school buses and relative to licensing and criminal records of driver education instructors.

DATE: January 29, 2013

LOB ROOM: 203 **Time Public Hearing Called to Order:** 11:30 a.m.

Time Adjourned: 11:45 a.m.

(please circle if present)

Committee Members: Reps. Bouchard, M. O'Brien, Rhodes, Johnson, Patten, Soucy, C. Williams, LaPlante, Burtis, O'Flaherty, Sykes, Packard, Crawford, Hikel, Hinch, Straight, T. Walsh, Steven Smith, Chirichiello and Hodgdon.

Bill Sponsors: Rep. Packard, Rock 5; Sen. Rausch, Dist 19

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Packard, Prime sponsor which was requested by the DOS.

Rick Bailey, Director of NH DMV. Earlier version of the bill allowed schools to use smaller vehicles. It missed a requirement to require school employees. They also want to be able to have enabling legislation which would allow a records search that includes all states and information.

The DWI language has some housekeeping changes with respect to DWI titles and numbers.

They also want enabling legislation with an amendment which will include DOS employees as well.

Rep. O'Brien. Is the background check a labor contract issue? Even if it is, they still need this enabling legislation to do the multi state checks.

Rep. Bouchard. Are booster seats required for these vehicles? Yes.

Rep. Hinch. Are there parts of this in conflict with private bus companies and how they operate? It would not. Would parents be affected? No, this is for school sponsored events and school drivers.

Rep. Crawford. Driver education instructors are required to have their fingerprints on file. How is this different? Fingerprints will now be checked, not on file only.

Jeff Kellett. Also, fingerprints that are sent to FBI are destroyed after submission, so a new submittal every three years would be required.

NH Legislative Youth Advisory Committee called Rep. Bouchard in support of the bill.

Rep. Johnson. Is it possible to split a bill? Yes, a bill can be divided on the floor, and in committee by amendment.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "George Sykes", followed by a horizontal flourish.

Rep. George Sykes,
Clerk

HOUSE COMMITTEE ON TRANSPORTATION

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Bill Sponsors: Rep. Sherman Packard; Sen. Jim Rausch

TESTIMONY

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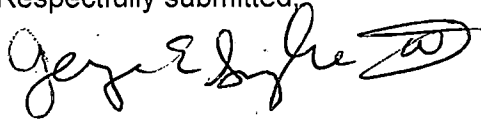
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Rep. George Sykes,
Clerk

HOUSE COMMITTEE ON TRANSPORTATION

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Bill Sponsors: Rep. Packard, Rock 5; Sen. Rausch, Dist 19

TESTIMONY

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Testimony

To: Transportation Committee

From: Legislative Youth Advisory Council
Representative Carolyn Gargasz, co-chair
Hillsborough District 27

Date: January 29, 2013

HB 282

The Legislative Youth Advisory Council voted unanimously to support this legislation.

The council was created by the legislature in 2006 to advise the legislature on issues of concern to youth. It consists of 19 youth between the ages of 15 and 22. They are appointed by the Governor, the Senate President, the Speaker of the House or the Secretary of State.

Discussion at the council meeting included being surprised that background checks on driver's education teachers were not required. They understood that the only check was on a teacher's driving record. They felt it was important to have these background checks when this teacher spends so much time with students.

Thank you for considering their opinions in favor of this bill.

A handwritten signature in cursive script that reads "Carolyn Gargasz". The signature is written in black ink and is centered on the page.



State of New Hampshire

DEPARTMENT OF SAFETY
JAMES H. HAYES BLDG. 33 HAZEN DR.
CONCORD, N.H. 03305
603/271-2559

JOHN J. BARTHELMES
COMMISSIONER OF SAFETY

EARL M. SWEENEY
ASSISTANT COMMISSIONER

NH DEPARTMENT OF SAFETY

LEGISLATIVE POSITION PAPER

HB 282 SB AS INTRODUCED () AMENDMENT NO.

This bill was introduced at the behest of the Department of Safety. It is largely a housekeeping measure, and it amends the definition of "mixed use" school buses and requires criminal record checks of driver education instructors and updates a statutory reference relative to suspending or revoking the license of a driving school or driver education instructor.

Two years ago we supported a bill to change the definition of a mixed school bus in order that school districts could travel small groups such as the golf team or the debate club to another town or place to take part in an event, without having to go to the expense to rent a 66-passenger bus. The concept was the school district would own a small passenger van and the van could be driven by a school district employee such as a teacher, coach, or janitor. These school district employees all have had criminal record checks anyway, and it would be up to the Superintendent to make sure they had clean driving records. They would not need a school bus driver license endorsement for taking these trips.

Unfortunately since that time, a few schools and some individuals have subverted the original intent of that bill, and parents and others who are not employees of the school districts are driving these vans with children in them, to and from these activities. We feel, and the testimony that the Legislature relied on in passing this exemption originally, was that the vans would belong to the school district and the drivers would be district employees, who had undergone criminal and driving record checks and who were overseen and subject to the authority of the principal and the superintendent of schools. Part 1 of the bill simply cleans that up by specifying that to qualify as a mixed use school bus the vehicle must be owned by or leased to the school district, and the driver must be a district employee.

Part 2 of the bill imposes a requirement for a criminal record check for a driver education instructor. Virtually everyone today who has regular contact with school-age children, including teachers, coaches, school bus drivers, substitutes, teacher aides and volunteers, has to have a criminal record check. All, that is, except driver education teachers, who spend more time in cars with other people's kids than almost anyone else. This would simply mirror the law that applies to everyone else that deals with youths in an educational type setting.

Part 3 of the bill is simply a reference change. The DMV has always been able to suspend or revoke the driver education certificate of a driver education instructor or driver education school whose proprietor is convicted of DWI. That law has always been on the books but recently the Legislature re-codified the DWI statutes and they are now in Chapter 265-A instead of Chapter 265. This provision simply updates that requirement by making reference to the new statute number.

Not in the bill but something we would like to see is the ability for the DMV to perform criminal record checks as a condition of hiring our own employees. Those that handle driver licenses, ID cards and vehicle titles particularly have lots of opportunities to commit fraud and other crimes and unfortunately, we have had to arrest some of them in the past 3-4 years. We would need a law similar to the one here on driver education instructors in order for the FBI to release criminal record information to us. If the Committee has time and would entertain an amendment to this bill, we can provide you with one later in the week, before you hold your Executive Session on the bill. We do not believe this would be controversial, since we would be doing it to ourselves and not to the public at large or some other industry.

APPROVED:

Earl M. Sweeney

Assistant Commissioner

Voting Sheets

HOUSE COMMITTEE ON TRANSPORTATION

EXECUTIVE SESSION on HB 282

BILL TITLE: relative to mixed use school buses and relative to licensing and criminal records of driver education instructors.

DATE: February 19, 2013

LOB ROOM: 203

Amendments:

Sponsor: Rep. Packard OLS Document #: 2013 0209h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.) Amendment

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Packard

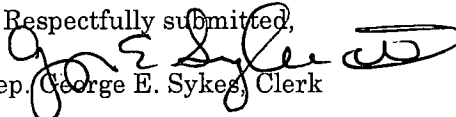
Seconded by Rep. Hinch

Vote: 14-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: yes

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. George E. Sykes, Clerk

HOUSE COMMITTEE ON TRANSPORTATION

EXECUTIVE SESSION on HB 282

BILL TITLE: relative to mixed use school buses and relative to licensing and criminal records of driver education instructors.

DATE: 2/19/13

LOB ROOM: 203

Amendments:

Sponsor: Rep. Packard OLS Document #: 0207H
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.) Amendment

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Packard

Seconded by Rep. Hamler

Vote: 14-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: yes

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,
Rep. George E. Sykes, Clerk



2013 SESSION

TRANSPORTATION

Bill #: HB 282

Title: relative to mixed use school buses & to licensing & criminal records of driver education instructors.

PH Date: 1/29/13

Exec Session Date: 2/18/13

Motion: OTP/A

Amendment #: 0209-h

MEMBER

YEAS

NAYS

MEMBER	YEAS	NAYS
Bouchard, Candace C W, Chairman	✓	
O'Brien, Michael B, V Chairman	✓	
Rhodes, Brian D		
LaPlante, Roland H		
Soucy, Timothy A	✓	
Williams, Carol A		
Johnsen, Gladys		
Patten, Dick W	✓	
Burtis, Elizabeth B		
O'Flaherty, Tim	✓	
Sykes, George E, Clerk	✓	
Packard, Sherman A,	✓	
Hikel, John A,		
Hinch, Richard W,	✓	
Chirichiello, Brian K	✓	
Smith, Steven D	✓	
Crawford, Karel A	✓	
Hodgdon, Bruce E	✓	
Straight, Philip N	✓	
Walsh, Thomas C	✓	
TOTAL VOTE:		

14 0

Committee Report

CONSENT CALENDAR

February 20, 2013

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on TRANSPORTATION to which was referred HB282,

AN ACT relative to mixed use school buses and relative to licensing and criminal records of driver education instructors. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Sherman A Packard

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	TRANSPORTATION
Bill Number:	HB282
Title:	relative to mixed use school buses and relative to licensing and criminal records of driver education instructors.
Date:	February 20, 2013
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

This bill, as amended, adds sport utility vehicles to the definition of mixed school bus use. It also allows the department of safety to require a criminal record check for every applicant of an initial driver education instructor certificate. The amendment states that a condition for employment at the department of safety may be required to submit to a background investigation and a criminal history records check.

Vote 14-0.

Rep. Sherman A Packard
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

TRANSPORTATION

HB282, relative to mixed use school buses and relative to licensing and criminal records of driver education instructors. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Sherman A Packard for TRANSPORTATION. This bill, as amended, adds sport utility vehicles to the definition of mixed school bus use. It also allows the department of safety to require a criminal record check for every applicant of an initial driver education instructor certificate. The amendment states that a condition for employment at the department of safety may be required to submit to a background investigation and a criminal history records check. **Vote 14-0.**

TRANSPORTATION COMMITTEE

Has amendment

Blurb

HB 282 relative to mixed use school buses and relative to licensing and criminal records of driver education instructors.

OTPW/A #0209h 14-0 CC

As amended

This bill adds sport utility vehicles to the definition of mixed school bus use. It also allows the department of safety to require a criminal record check for every applicant of an initial driver education instructor certificate. The amendment states that a condition for employment at the department of safety may be required to submit to a background investigation and a criminal history records check.

Rep. Sherman Packard,
For the committee

*CWZ
2/20/2013*

COMMITTEE REPORT

COMMITTEE: HOUSE TRANSPORTATION

BILL NUMBER: HB 282

TITLE: relative to mixed use school buses and relative to licensing and criminal records of driver education instructors

DATE: _____ CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.
<u>2013 0209-17</u>

STATEMENT OF INTENT:

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COMMITTEE VOTE: 14-0 *WS* 2/19/2013

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Sherman Puckett
For the Committee