



DAVID J. SWARTS
Commissioner

STATE OF NEW YORK DEPARTMENT OF MOTOR VEHICLES

6 EMPIRE STATE PLAZA, ALBANY, NY 12228

Albany, New York

February 4, 2008

TO: All Article 19-A Bus Carriers and Certified Examiners

SUBJECT: Change in Seat Belt Laws for School Buses with a Capacity of Less than 10 Occupants and New Crimes of Aggravated Vehicular Assault and Aggravated Vehicular Homicide

Change in Seat Belt Laws for Certain School Buses

Effective November 1, 2007, the use of approved safety belts for all occupants in school buses with a seating capacity of less than 10 is now required. New York State Vehicle and Traffic Law (VTL) Section 1229-c(13) now requires that no person shall operate a school bus for which there are no applicable federal school bus safety standards unless all occupants are restrained by a safety belt approved by the commissioner. In addition, §1229-c(5) was amended to **impose upon the operator a civil fine of not less than twenty-five or more than one hundred dollars for a violation of §1229-c(13).**

School buses that transport 10 or more passengers must meet federal safety standards; that is, they are required to have high-backed, padded seats, compartmentalized passenger areas, and higher structural standards for crash-worthiness. Vehicles with a seating capacity of less than 10 occupants are exempt from the federal safety standards. However, such vehicles, when used to transport students, are defined as school buses according to §142 of the VTL. This is a class of school buses for which neither the federal standards nor the New York seat belt laws have previously applied. With the addition of §1229-c (13), NYS law now requires the use of approved safety belts by all occupants in school buses with a seating capacity of less than 10.

New Crimes of Aggravated Vehicular Assault and Aggravated Vehicular Homicide

Effective November 1, 2007, the crimes of **aggravated vehicular assault** and **aggravated vehicular homicide** were created by the addition of two sections to the NYS Penal Law (§120.04-A and §125.14). **Bus drivers who are convicted of either of these crimes will**

now be disqualified for a period of five years, as per amendments to VTL §509-c and §509-cc., which also became effective on November 1, 2007.

Descriptions of the new crimes of aggravated vehicular assault and aggravated vehicular homicide are included in an attachment to this memo.

Please share this information with appropriate staff. Thank you.

David J. Swarts
Commissioner

NOTE: Laws specific to this memo include Chapter 241 of the Laws of 2007 and Chapter 345 of the Laws of 2007. If you want more information about these laws, or you want to see other bills or laws, visit the NYS Assembly web site at <<http://assembly.state.ny.us/leg>>.

Aggravated vehicular assault (Class C felony)

A person is guilty of aggravated vehicular assault when he or she:

- 1) engages in reckless driving, as defined by section 1212 of the Vehicle and Traffic Law; and
- 2) commits the crime of vehicular assault in the second degree, as defined by section 120.03 of the Penal Law; and
- 3) either:
 - a. commits these crimes while operating a motor vehicle having a blood alcohol content of .18 of one per centum or more;
 - b. commits these crimes while knowing or having reason to know that his or her license or driving privilege in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction for an offense which would, if committed in this state, constitute a violation of any provision of section 1192 of the Vehicle and Traffic Law, OR his or her license or driving privilege in this state or his or her privilege of obtaining a license issued by the Commissioner of Motor Vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section 1194 of the Vehicle and Traffic Law, or following a conviction for a violation of any of the provisions of section 1192 of the Vehicle and Traffic Law;
 - c. has previously been convicted of violating any provision of section 1192 of the Vehicle and Traffic Law within the preceding ten years;
 - d. causes serious physical injury to more than one person; OR
 - e. has previously been convicted of violating any provision of Article 120 or Article 125 of the Penal Law involving operation of a motor vehicle, or was convicted in any other state or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of Article 120 or Article 125.

Aggravated vehicular homicide (Class B felony)

A person is guilty of aggravated vehicular homicide when he or she:

- 1) engages in reckless driving, as defined by section 1212 of the Vehicle and Traffic Law; and
- 2) commits the crime of vehicular manslaughter in the second degree, as defined by section 125.12 of the Penal Law; and
- 3) either:
 - a. commits these crimes while operating a motor vehicle having a blood alcohol content of .18 of one per centum or more;

- b. commits these crimes while knowing or having reason to know that his or her license or driving privilege in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction for an offense which would, if committed in this state, constitute a violation of any provision of section 1192 of the Vehicle and Traffic Law, OR his or her license or driving privilege in this state or his or her privilege of obtaining a license issued by the Commissioner of Motor Vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section 1194 of the Vehicle and Traffic Law, or following a conviction for a violation of any of the provisions of section 1192 of the Vehicle and Traffic Law;
- c. has previously been convicted of violating any provision of section 1192 of the Vehicle and Traffic Law within the preceding ten years;
- d. causes the death of more than one other person;
- e. causes the death of one person and the serious physical injury to more than one person; OR
- f. has previously been convicted of violating any provision of Article 120 or Article 125 of the Penal Law involving operation of a motor vehicle, or was convicted in any other state or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of Article 120 or Article 125.