



**First Discussion
August 3, 2011**

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TO: Members, State Board of Education

FROM: Andrew Smarick, Acting Commissioner

SUBJECT: N.J.A.C. 6A:27, Student Transportation

REASON
FOR ACTION: Readoption with amendments

SUNSET
DATE: May 13, 2015

Summary

In May 2010 the rules for Student Transportation at N.J.A.C. 6A:27 were readopted with amendments. Newly enacted legislation now requires that the Department of Education (department) propose additions to these rules.

P.L.2010, c.121, the "Advertising on School Buses" law, permits the use of advertising on the outside of school buses owned or leased by local boards of education. Previously, such advertising was prohibited. The new law requires that rules be promulgated to define the placement and physical specifications of the advertisements, along with their permissible content.

The proposed rules are being presented in response to this new law.

The following summarizes the content of the subchapter proposed for amendment, noting all additional changes to existing rules.

SUBCHAPTER 7. VEHICLE USE AND STANDARDS

N.J.A.C. 6A:27-7.10 Specifications for Advertisements on School Buses

This new section contains proposed rules governing the physical specifications of the advertisement and methods by which it must be attached to a school bus, and has been

developed with student safety in mind. The proposed rule meets with school vehicle specifications as defined by the regulations of the Motor Vehicle Commission (MVC) and has been approved by the school vehicle inspectors of the MVC's School Bus Inspection Unit.

N.J.A.C. 6A:27-7.11 Contracting for Advertisements on School Buses

This proposed rule defines the methods by which a district board of education may contract for the services of an advertiser who wishes to use advertising space on the sides of the district's school buses. The new regulation has been developed with the intent to protect the interests of the board of education and local taxpayers.

N.J.A.C. 6A:27-7.12 Limitations on Content of Advertisements on School Buses

This new section contains the limitations on the content of advertisements on school buses defined in the "Advertising on School Buses" law, and further clarifies the language of that law. It also gives the local board of education the authority to establish any additional limitations on content which the board sees fit to establish.

N.J.A.C. 6A:27-7.13 Reporting Requirements for Advertisements on School Buses

This new rule describes the reporting requirements mandated by the "Advertising on School Buses" law. The proposed regulation reiterates the items of reporting specified in the law and sets a date in each year by which any local board of education choosing to sell advertisements on their school buses must comply.

Social Impact

The proposed new rules at N.J.A.C. 6A:27, in conjunction with N.J.S.A. 18A:39-1 et seq., the statutes governing student transportation, will further ensure safe and efficient transportation of students to and from school. The new rules are in response to legislation permitting the sale of advertising space on the outside of school buses owned or leased by local boards of education. All proposed new rules ensure safe travel for students riding school buses to and from school, as well as enable local boards of education to raise revenue to offset the cost of their transportation services.

Economic Impact

The proposed new rules promote economy and efficiency by enabling local boards of education to offset increased costs by selling space on the sides of their school buses to advertisers. The proposed new rules will not create any additional economic impact for the State.

Federal Standards Statement

There are no Federal requirements or standards that pertain to the proposed new rules. As no Federal standards or requirements are exceeded by the proposed new rules, no Federal standards analysis is required.

Jobs Impact

No jobs are expected to be generated or lost as a result of the proposed new rules.

Agriculture Impact Statement

The proposed new rules have no impact on the State agricultural industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is required because the proposed rules impose some changes to reporting, recordkeeping and other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The only types of small businesses that these rules affect are advertisers or advertising/marketing agencies most likely with fewer than one hundred employees. The proposed rules impose some reporting, recordkeeping and compliance requirements. However, their impact is minimal. The recordkeeping required by these rules fall within the scope of what is necessary to conduct advertising, and are not materially changed by these proposed rules.

Smart Growth Impact

The proposed new rules will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed new rules will have no impact on the average cost of housing. The new rules concern school transportation.

Smart Growth Development Impact

The Department believes that there is an extreme unlikelihood that the proposed new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the new rules concern school transportation.

Full text of the proposal follows (additions underlined thus; deletions indicated in brackets [thus]):

DRS/t/code development/advertising on school buses/first discussion level/memo to board – first discussion level

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SUBCHAPTER 7. VEHICLE USE AND STANDARDS

6A:27-7.1 General provisions

(a) Vehicles used to transport students to and from school or school related activities shall meet the vehicle standards, registration and inspection requirements of the New Jersey Motor Vehicle Commission. These vehicles shall be systematically inspected twice each year and display a current vehicle inspection sticker authorizing the vehicle for school use.

1. A vehicle is exempt from authorization for school use on the certificate of inspection when it is being used on a preset franchised route and schedule or is chartered for school related activities, and displays a current certificate indicating that the vehicle was inspected by the New Jersey Motor Vehicle Commission's Commercial Bus Unit.

6A:27-7.2 Capacity

(a) The number of students assigned to a seat shall not exceed the gross seating length in inches divided by 15. The maximum number of students who may be transported in each vehicle shall be determined by this seat measurement. Application of this formula shall not result in the use of a school vehicle with a seating capacity in excess of 54.

(b) There shall be no standees.

(c) This section shall not apply to a bus which is being used as a common carrier on a preset franchised route and schedule or is chartered for school-related activities.

6A:27-7.3 Retirement of school buses

(a) School buses, Type I and Type II, as defined by N.J.S.A. 39:1-1, which are registered and inspected in this State, manufactured on or after April 1, 1977, other than those of the transit type whose gross vehicle weight (GVW) exceeds 25,000 pounds, shall not be utilized

for student transportation purposes beyond the end of the twelfth year from the year of manufacture, as noted on the vehicle registration, or at the end of the school year in which that year falls, whichever is later. Such buses, when used beyond the tenth year, shall have an annual in-depth inspection by the New Jersey Motor Vehicle Commission prior to the ensuing school year.

(b) School buses of transit type whose GVW exceeds 25,000 pounds shall not be used for student transportation purposes beyond the end of the twentieth year from the year of manufacture, as noted on the vehicle registration, or at the end of the school year in which that year falls, whichever is later.

6A:27-7.4 Small vehicles

(a) A small vehicle is defined as any vehicle originally designed by the manufacturer with a seating capacity of 10 or fewer persons including the driver, which is used to transport students to and from school or school related activities.

(b) Small vehicles with a gross vehicle weight rating (GVWR) of less than 3,000 pounds shall not be used for the transportation of students to and from school or school related activities. The GVWR is the value specified by the manufacturer as the maximum loaded weight of the vehicle.

(c) The provisions of this section apply to a small vehicle used for the transportation of public school students to and from school and school related activities and nonpublic school students when services are provided by a district board of education.

6A:27-7.5 School buses

(a) A school bus is defined as any vehicle originally designed by the manufacturer with a capacity of 11 or more persons including the driver.

(b) These vehicles shall comply with all New Jersey Motor Vehicle Commission regulations for the manufacture of school buses.

6A:27-7.6 Transportation to and from related school activities

Private vehicles with a capacity of eight or fewer passengers may be used for the transportation of students to and from related school activities, in accordance with policies and regulations adopted by the responsible transporting authority. The policy shall clearly stipulate procedures under which such transportation shall take place safely, including provision for appropriate and adequate insurance coverage and approval of activities and drivers.

6A:27-7.7 Parent transporting his or her own child or children

A parent under a negotiated contract with a district board of education to transport only his or her own child or children shall not be required to possess a commercial driver's license, to use a vehicle registered as a school bus, or to comply with the health examination prescribed for employees of the district board of education.

6A:27-7.8 Use of school buses other than to and from school and school related activities

(a) The following words and terms, when used in this subchapter, shall have the meanings listed unless the context clearly indicates otherwise.

"Contiguous school district" means a school district adjoining and adjacent to another school district and sharing in some part a common boundary within the State of New Jersey. For a regional school district, a contiguous school district shall be an adjoining and adjacent school district which shares in some part a common boundary with the total regional school district.

“Group” means 10 or more persons.

“Senior citizens” means those people of the State of New Jersey who are 60 years of age or older and their spouses. Spouses of senior citizens may be less than 60 years of age.

(b) The district board of education may permit the use of school buses, owned or leased by the school district, for the purpose of transporting senior citizens' groups to and from events within the school district or in any contiguous school district, for transporting handicapped citizens in any school district, and for transporting children and adults participating in a recreation or other program operated by the municipality or municipalities in which the school district is located or the municipality in which any constituent school district of a regional school district is located. Such events shall include, but not be limited to, civic, social, cultural, educational, recreational, nutritional and health programs and activities.

(c) The district board of education shall adopt a policy addressing the transportation of these groups. The policy shall require groups seeking the use of school buses to pay all or part of any costs incurred by the district board of education in permitting such use. The costs shall include, but not be limited to, the costs of fuel, driver salaries, insurance, and depreciation.

(d) The use of school buses by these groups requires the approval of the district board of education and shall not interfere with the transportation of school students.

(e) Buses shall be operated only by a person having a valid commercial driver's license with appropriate endorsement(s) required by the New Jersey Motor Vehicle Commission.

(f) School bus warning lamps shall not be used when transporting these groups.

(g) School buses, when used to transport these groups, shall load and unload off the public roadway so as not to interfere with traffic.

(h) District boards of education using buses for the transportation of these groups shall maintain proof of insurance coverage for such transportation. Insurance coverage shall

include liability for bodily injury and property damage in the minimum amount of \$1,000,000 combined single limit per occurrence for all vehicles used for this purpose.

6A:27-7.9 Vehicle records

School bus owners shall retain all records of inspection and maintenance reports for the life of the vehicle. Such records shall be available for review by the New Jersey Motor Vehicle Commission.

6A:27-7.10 Specifications for Advertisements on School Buses

A board of education may sell advertising space on the exterior of a school bus owned or leased by the board of education in accordance with this subchapter.

(a) Advertisements shall be of durable material and be of smooth surface, such as paint, decals, or magnetic material, when mounted.

(b) The advertisements shall be a fixed sign and message that remains the same until removed. There shall be no fluorescent colors, reflectors, glossy, reflective or retro-reflective material, glittering material, holograms, lighting, or changeable image.

(c) No brackets or hardware shall be applied to the exterior of a bus to hold advertisements.

(d) The advertisements shall not extend past the body of the bus intentionally or due to damage so as to allow a handhold or present a danger to pedestrians.

(e) If the advertisement is removed or substantially damaged to the point that it is no longer in a serviceable condition, the bus shall be returned to its original color or the advertisement shall be replaced.

1. Advertisements shall be adequately maintained to ensure a high level of appeal and structural integrity.

(f) The location of the advertisements shall be on the exterior sides of the bus between the front and rear wheel wells; below, but not touching, the floor level rub rail and above, but not touching, the skirt level rub rail (or the bottom of the skirt if there is no skirt level rub rail).

(g) The advertisements shall be a minimum of three inches from any required lettering, lamp, wheel well, reflector, or emergency exit location.

(h) The advertisements shall not be placed on or interfere with the operation of any door, emergency exit, window, lamp, reflector, vent, accessory, or other device.

6A:27-7.11 Contracting for Advertisements on School Buses

(a) All advertisements shall require the prior approval of the local board of education.

(b) The “Public School Contracts Law”, N.J.S.A. 18A:18A-1 et seq., shall apply to any contract or agreement entered into by a board of education for the purpose of placing advertising on school buses owned or leased by the board.

(c) The advertiser will be considered an independent contractor and shall not be deemed to be an agent, servant, employee, or representative of the board of education.

(d) In the event the advertiser fails to provide service in accordance with the bid specifications and contract for advertisements, the advertiser shall be considered in breach of contract. Cancellation of the advertisement and/or enforcement of advertiser’s performance bond may result.

(e) The Board of Education reserves the right, at its absolute discretion and at any time, to reject any advertising copy, whether or not it has previously acknowledged and/or advertised the exact or similar copy.

(f) No advertising space may be used, or re-sold, by the advertiser for the promotion, either directly or indirectly, of any business, organization, or enterprise other than the one defined in the original contract for advertisement.

(g) The advertiser will protect, defend, and save harmless the Board of Education from any suits or actions of every nature and description brought against it by reason of the advertisement.

(h) Funds generated from the placement of advertisements on the outside of school buses owned or leased by a board of education are limited to the following uses.

1. Fifty percent of the revenue shall be used to offset fuel costs associated with the provision of student transportation services.

2. Fifty percent of the revenue shall be used to support any programs or services deemed appropriate by the board of education.

6A:27-7.12 Limitations on Content of Advertisements on School Buses

(a) The board of education shall not accept advertisements to be displayed or maintained on school buses owned or leased by the board of education if the advertisement or information contained in the advertisements:

1. Are false, misleading, deceptive, disrespectful, fraudulent, or libelous;

2. Contains material or language that is obscene, profane, vulgar, offensive, or reasonably determined not to be in good taste;

3. Promotes unlawful or illegal goods, services, or activities;

4. Promotes gambling, the sale or use of tobacco or tobacco related products, or the sale or use of alcoholic beverages;

5. Promotes the sale or use of products designed for use in connection with sexual activity;

6. Depict or glamorize violent or antisocial behavior, or sexual conduct;

7. Resembles a traffic control device;
8. Declares or implies an endorsement by the board of education; or
9. Are political, religious, issues-related, controversial in nature, or not age

appropriate.

(b) The board of education shall not allow any of its school buses to become a public forum for dissemination, debate, or discussion of public issues.

(c) The board of education has the authority to reject any and all advertising that it deems to be inappropriate or not in the best interest of the board of education, the school district or students.

6A:27-7.13 Reporting Requirements for Advertisements on School Buses

Local boards of education which permit advertisements on school buses owned by the board shall submit a report to the Commissioner of Education no later than June 30th each year. That report shall include the following information:

(a) The number of district owned school buses upon which advertising has been placed;

(b) The length of time the advertisements have been on the school buses; and

(c) The total revenue earned by the school district as a result of these advertisements.