

## LEGISLATIVE BILL 863

Approved by the Governor April 13, 1974

Introduced by Anderson, 37

AN ACT relating to education; to change duties of school bus operators; to provide penalties; to provide when certain school bus equipment shall not be operable as prescribed; to change provisions for vehicles used for the transportation of school children; to provide for the removal of equipment from vehicles sold; to provide for instruction in safe riding practice and participation in emergency evacuation drills; to redefine a term; to change provisions and duties for special training and educational programs; to clarify a provision for costs; to provide an operative date; to provide for nonvoting membership on the Nebraska Coordinating Council for the Handicapped; to change authority of the State Board of Education; to provide exceptions; to amend sections 79-328, 79-488.05, 79-488.07, 79-1903, and 79-2003, Reissue Revised Statutes of Nebraska, 1943, section 79-329, Revised Statutes Supplement, 1972, and sections 39-657, 39-660, 43-604, 43-625, 43-642, 43-647, and 43-654, Revised Statutes Supplement, 1973; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 39-657, Revised Statutes Supplement, 1973, be amended to read as follows:

39-657. (1) The driver of any motor bus carrying passengers for hire, or of any school bus, ~~carrying any school child,~~ before crossing at grade any track of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as provided in sections 39-601 to 39-612, and shall not proceed until he can do so safely. After stopping as required by this section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such track and the driver shall not shift gears while crossing such track.

(2) No stop shall be made at any such crossing where a police officer or a crossing flagman directs traffic to proceed, or an abandoned or exempted grade crossing which is clearly marked as such by or with the consent of competent authority, when such markings can be read from the driver's position.

Sec. 2. That section 39-660, Revised Statutes Supplement, 1973, be amended to read as follows:

39-660. (1) The driver of any motor vehicle upon meeting or overtaking, from the front or rear, any school bus on which the stop warning signal lights are flashing shall reduce the speed of such vehicle to not more than twenty-five miles per hour and shall bring such vehicle to a complete stop when the school bus stop signal arm is extended and shall remain stopped until the stop arm is retracted and the school bus resumes motion or until signaled by the bus driver to proceed. This section shall not apply to approaching traffic in the opposite direction on a dual highway divided by a median strip. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of twenty-five dollars, or by imprisonment in the county jail for ten days, or by both such a fine and imprisonment.

(2) The driver of any school bus used for the transportation of school children, when stopping to receive or discharge pupils, shall turn on flashing stop warning signal lights at a distance of not less than three hundred feet ~~not more than~~ when inside the corporate limits of any town or city and not less than five hundred feet not more than one thousand feet in any area outside the corporate limits of any town or city from the point where such pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils the driver shall bring the bus to a stop and extend a stop arm. After receiving or discharging pupils, the bus driver shall turn off the flashing stop warning signal lights, retract the stop arm, and then proceed on the route. No school bus shall stop to load or unload pupils unless there is at least four hundred feet of clear vision in each direction.

(3) All pupils shall be received and discharged from the right front entrance of every school bus and, if such pupils must cross a highway, the driver shall instruct such pupils to cross in front of the bus and the driver shall keep such school bus halted with stop warning signal lights flashing and the stop arm extended until such pupils have reached the opposite side of such roadway.

(4) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a freeway and such school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(5) Every bus used for the transportation of school children shall bear upon the front and rear thereof plainly visible signs containing the words school bus in letters not less than eight inches high.

(6) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school, all markings thereon indicating school bus shall be covered or concealed. The stop arms and system of alternately flashing warning signal lights shall not be operable through the usual controls.

Sec. 3. That section 43-604, Revised Statutes Supplement, 1973, be amended to read as follows:

43-604. (1) Special education shall mean the provision of educational experiences and services through the use of special facilities and special adaptive classrooms, or either of the same, to provide special instruction to handicapped children.

(2) Handicapped children shall mean either physically handicapped, educable mentally handicapped, mentally retarded, emotionally disturbed children, children with specific learning disabilities, or such other children as shall be defined by the State Department of Education.

(3) Physically handicapped children shall mean children (a) who are residents of Nebraska, (b) who are below the age of nineteen years, (c) who are crippled, visually handicapped, acoustically handicapped, defective in speech, cardiopathic, tubercular, cerebral palsied, orthopedically handicapped, or otherwise physically handicapped, and (d) who, by reason of their physical defects, are unable to attend regular public school classes, are not physically adapted to hold full-time membership in regular school facilities, or who, in order to profit from regular school instruction, need facilities and procedure not available in the regular public school classes attended by physically normal children. Such definition shall include the physically handicapped child with mental retardation if, in the opinion of the examining physician, educational psychologist, psychologist, or psychiatrist, the child's

condition can be improved materially by education and treatment.

(4) Educable mentally handicapped shall mean children of school age who, because of retarded intellectual development as determined by individual psychological examination and deficiencies in social adjustment, require additional supportive services in order to function profitably within regular educational programming.

(5) Emotionally disturbed shall mean children with behavioral disorders variously designated as neurotic, psychotic, or character disordered, and whose incapacities may manifest themselves in school accomplishment, social relationships or feelings of self adequacy and may result both from experience or biological limitations.

(6) Orthopedically handicapped children shall mean those whose locomotion, motility, or use of limbs are impaired by crippling because of (a) congenital anomaly, (b) birth injury, (c) trauma, (d) tumor, (e) infection, (f) disease, or (g) other conditions such as fragile bones or cardiac impairment.

(7) Specific learning disability--children--shall mean--those--children--who--manifest--an--educationally significant--discrepancy--between--their--estimated intellectual--potential--and--their--actual--level--of performance--in--one--or--more--of--the--processes--of--language, perception, reading, spelling, arithmetic--or--writing, which--may--or--may--not--be--accompanied--by--demonstrable central--nervous--system--dysfunctions--or--behavioral disturbances.--Such--term--shall--not--include--children--who have--learning--problems--which--are--primarily--the--result--of visual, hearing, or motor handicaps, or of mental retardation, of emotional disturbance, or of environmental disadvantage or other problems otherwise provided for in this section. Specific learning disability children shall mean those children of school age who have a verified disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in an inability to listen, think, speak, write, spell, or do mathematical calculations. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, or emotional disturbance, or of educational disadvantage.

(E) A mentally retarded child shall mean a child who would benefit from training or education in the areas

of self-care, social adjustment to his immediate surroundings, and vocationally-related activities which will contribute to his economic usefulness in the home or in a specialized situation providing for activities such as sheltered work experience and a supervised living environment.

(9) Multihandicapped children shall mean children who have two or more coincidental and educationally significant physical or psychological handicaps or both physical and psychological handicaps. This includes physically handicapped children with mental retardation if, in the opinion of the examining physician and psychologist, the child's condition can be improved materially by education and treatment.

Sec. 4. That section 43-625, Revised Statutes Supplement, 1973, be amended to read as follows:

43-625. The State Board of Education shall review special training and educational programs for ~~mentally-retarded-children~~ offered by or in conjunction with any public school district, combination of public school districts, educational service unit, or combination of educational service units subject to the following:

(1) The teacher or teachers in any such special program shall be qualified; ~~in-the-training-and-education of-mentally-retarded-children;~~

(2) All other personnel, to be known as teacher aides, working with any such program, shall have such qualifications as the governing body of the school shall prescribe and shall participate for not less than three days in each school year in ~~in-training in-service~~ activities ~~specially-designed-and-made-available~~ approved through by the State Department of Education; and

(3) Each qualified teacher shall be responsible for the direct supervision of not more than two teacher aides, whose duties shall be limited to those prescribed in section 79-1233.

As used in this section, qualified teacher shall mean an individual holding a valid State of Nebraska teaching certificate with an endorsement for the teaching of the ~~trainable~~ mentally retarded.

Sec. 5. That section 43-642, Revised Statutes Supplement, 1973, be amended to read as follows:

43-642. The special education programs may be provided by any school district, by contracting with another school district, or by some combination of school districts, an educational service unit, combination of educational service units, the local or regional office of mental retardation, any program operated or approved by the State of Nebraska, or any combination thereof. Any office of mental retardation program receiving funds under the provisions of this act shall not use such funds to match state funds under the provisions of other programs. The members of the board of education of any school districts not offering special education programs acceptable to the State Board of Education on or before October 1, 1976, and continuously thereafter, shall be in violation of the law. No state funds shall be paid to any school district, as long as such violation exists. On September 15, 1976, and on September 15 of each succeeding year, the Commissioner of Education shall present to the State Board of Education, the Attorney General, the Department of Administrative Services, the State Treasurer, and the Executive Board of the Legislative Council, a list of all school districts not providing or contracting for approved programs.

Sec. 6. That section 43-647, Revised Statutes Supplement, 1973, be amended to read as follows:

43-647. Each school district shall pay an amount equal to the average per pupil cost of the servicing agency of the preceding year to the agency providing the educational program for every child who is a resident of the district and attending an educational program outside the school district, including programs operated by the State Department of Education, the Department of Public Institutions, and any other servicing agency whose programs are approved by the State Department of Education. The provisions of this section shall become operative on July 1, 1974.

Sec. 7. That section 43-654, Revised Statutes Supplement, 1973, be amended to read as follows:

43-654. There is hereby created the Nebraska Coordinating Council for the Handicapped, hereinafter referred to as the council, for the purpose of coordinating programs for the handicapped, including children from birth. The council shall maintain a directory of services available for the handicapped in the State of Nebraska; distribute information to parents, doctors, and other persons concerning such services; initiate coordinated planning by and between the agencies and departments of the state, private associations, organizations, and corporations for the handicapped;

maintain records and information concerning handicapping conditions and the handicapped in Nebraska; and make recommendations to the public and private agencies working with the handicapped concerning needs for additional services or areas in which coordination of services may benefit the handicapped. The council shall consist of the following official voting members:

(1) From the Department of Public Welfare, the Director of Social Services or his designated representative, the Director of Medical Services or his designated representative, and the Director of Services for Crippled Children or his designated representative;

(2) From the Department of Public Institutions, the Director of Medical Services or his designated representative, the Director of Mental Retardation or his designated representative, the Director of Rehabilitative Services for Visually Impaired or his designated representative, and the Director of the Beatrice State Home or his designated representative;

(3) From the State Department of Education, the Director of Special Education or his designated representative, the Director of Vocational Rehabilitation or his designated representative, the Superintendent of the Nebraska School for the Deaf or his designated representative, the Superintendent of the Nebraska School for Visually Handicapped or his designated representative, and the administrator of the Nebraska School for Trainable Children; and

(4) From the Department of Health, the Director of Maternal and Child Health or his designated representative.

The council may appoint ex officio, nonvoting members to represent private associations, organizations, or corporations for the handicapped. Any private association, organization, or corporation representing the handicapped may request that it be represented on the council and upon receiving such request the council shall appoint a member of such association, organization, or corporation to serve as ex officio, nonvoting member to the council.

Sec. 8. That section 79-328, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-328. The State Board of Education shall have the power and it shall be its duty:

(1) To appoint and fix the compensation of the Commissioner of Education;

(2) To remove the commissioner from office at any time for conviction of any crime involving moral turpitude or felonious act, for inefficiency, or for willful and continuous disregard of his duties as commissioner or of the directives of the board;

(3) Upon recommendation of the commissioner, to appoint and fix the compensation of a deputy commissioner and all professional employees of the board;

(4) To organize the State Department of Education into such divisions, branches, or sections as may be necessary or desirable to perform all its proper functions and to render maximum service to the board and to the state school system;

(5) To provide, through the commissioner and his professional staff, enlightened professional leadership, guidance, and supervision of the state school system and, in order that the commissioner and his staff may carry out their duties, the board shall, through the commissioner, (a) provide supervisory and consultative services to the schools of the state, (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs, (c) establish rules and regulations based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, health and safety factors in buildings and grounds, and procedures for classifying, approving, and accrediting schools, for approving the opening of new schools, for the continued legal operation of all schools, and for the approval of high schools for the collection of nonresident high school tuition money in accordance with the rules and regulations provided for in this subdivision; Provided, that the State Board of Education shall approve a school for the collection of nonresident high school tuition money where a hardship would result to the students and a substantial effort is being made to comply with the rules and regulations established, (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems, if it determines such testing would be advisable, (e) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress, (f) cause to be

published laws and regulations governing the schools and the school lands and funds, with explanatory notes for the guidance of those charged with the administration of the schools of the state, (g) approve teacher education programs conducted in Nebraska institutions of higher education designed for the purpose of certificating teachers, and (h) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned the State Department of Education by the Legislature;

(6) To submit an annual report to the Governor and the Legislature covering the actions of the board, the operations of the State Department of Education, and the progress and needs of the schools, and to recommend such legislation as may be necessary to satisfy these needs;

(7) To cause to be prepared and distributed reports designed to acquaint school district officers, teachers, and patrons of the schools with the conditions and needs of the schools;

(8) To provide for consultation with professional educators and lay leaders for the purpose of securing advice deemed necessary in the formulation of policies and in the effectual discharge of its duties;

(9) To cause such studies, investigations, and reports to be made and such information assembled as are necessary for the formulation of policies, for making plans, for evaluating the state school program, and for the making of essential and adequate reports;

(10) To submit to the Governor and the Legislature a budget necessary to finance the state school program, under its jurisdiction, including the internal operation and maintenance of the State Department of Education;

(11) To interpret its own policies, standards, rules, and regulations and, upon reasonable request, hear complaints and disputes arising therefrom;

(12) With the advice of the Department of Motor Vehicles, to adopt reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of twelve or more passengers used for the transportation of school children; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of seven--te

~~and-including~~ eleven or less passengers used for the transportation of school children, when such vehicles are either owned or operated, or owned and operated, by any school district, or privately owned or operated under contract with any school district in this state. Similar standards are to be adopted for operators of such vehicles as to physical and mental qualities, driving skills and practices, and knowledge of traffic laws and regulations which relate to school bus transportation. Such rules and regulations shall by reference be made a part of any such contract with a school district. Any officer or employee of any school district who violates any of the regulations or fails to include obligations to comply with the regulations in any contract executed by him on behalf of a school district shall be guilty of a misdemeanor and shall, upon conviction thereof, be subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of such regulations shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school district;

(13) To accept, on behalf of the Nebraska School for the Visually Handicapped, on behalf of the Nebraska School for the Deaf, or on behalf of any school for mentally retarded children which is exclusively owned by the State of Nebraska and under the control and supervision of the State Department of Education, devises of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of any such school or the students attending thereat, or both; and

(14) Upon acceptance of any devise, donation, or bequest as provided in this section, to administer and carry out such devise or bequest in accordance with the terms and conditions thereof. If not prohibited by the terms and conditions of any such devise, donation, or bequest, it may sell, convey, exchange, or lease property so devised, donated, or bequeathed upon such terms and conditions as it deems best and deposit all money derived from any such sale or lease in the State Department of Education Trust Fund.

None of the duties prescribed in this section shall prevent the board from exercising such other duties as in its judgment may be necessary for the proper and legal exercise of its obligations.

Sec. 9. That section 79-329, Revised Statutes Supplement, 1972, be amended to read as follows:

79-329. The State Board of Education shall have authority (1) to provide for the education of and approve special educational facilities and programs provided in the public schools for ~~physically handicapped children, other than the deaf and visually handicapped~~; (2) to act as the state's authority for the approval of all types of veterans educational programs, financially supported in whole or in part by the federal government, (3) to supervise and administer any educational or training program ~~for persons under twenty-one years of age~~ which may hereafter be established within the state by the federal government, except higher education in approved colleges, (4) to coordinate educational activities in the state that pertain to elementary and secondary education, and such other educational programs as are placed by statute under the jurisdiction of the board, (5) to receive and distribute according to law any money, commodities, goods, or services made available to the board from the state or federal government or from any other source, (6) to publish, from time to time, directories of schools and educators, pamphlets, courses of study, handbooks on school constitution and other matters of interest to educators and similar publications, which publications may be distributed without charge to schools and school officials within this state or may be sold at a price not less than the actual cost of printing with the proceeds of such sale being transmitted to the State Treasurer and by him deposited in the state treasury to the credit of the General Fund, and to furnish eight copies thereof to the Nebraska Publications Clearinghouse, and (7) when necessary for the proper administration of the functions of the department and with the approval of the Governor, to rent or lease space outside the State Capitol.

Sec. 10. That section 79-488.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-488.05. When any vehicle with a manufacturer's rated seating capacity of twelve or more passengers used for transportation of children is sold by ~~the district~~ and used for any other purpose than for transportation of school children, such vehicle shall be painted a distinct color other than that prescribed by the State Board of Education, ~~when used to transport school children; the stop arms and system of alternately flashing warning signal lights on such vehicle shall be removed.~~ Any person violating the provisions of this section shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than one hundred dollars.

Sec. 11. That section 79-488.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-488.07. 1) It shall be the duty of the school board or board of education, after consultation with a member of the Nebraska State Patrol, to determine the number of passengers that may be safely transported in each bus.

2) It shall be the responsibility of any company or agency that provides transportation of pupils by school bus and contracts directly with the pupils or their parents, of the school board or board of education of the public schools, and of the governing authority of any private, denominational, or parochial school in this state to provide, at least twice during each school year to each pupil who is transported in a school bus, instruction in safe riding practice and participation in emergency evacuation drills.

3) The operators of school buses equipped with lap belts shall be required to wear them whenever the vehicle is in motion.

Sec. 12. That section 79-1903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1903. All the residents of this state who are acoustically handicapped to such an extent that they cannot acquire an education in the public schools of this state, and who are of suitable age and capacity, and of good moral character, shall be entitled to an education in the Nebraska School for the Deaf without charge except as provided by section 43-647.

Sec. 13. That section 79-2003, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2003. The State Department of Education shall be responsible for the education and welfare of all persons visually handicapped to such an extent that they cannot acquire an education in the public schools of the state and who are not otherwise provided for, and who are of suitable age and capacity, and of good moral character without charge except as provided by section 43-647.

Sec. 14. That original sections 79-328, 79-488.05, 79-488.07, 79-1903, and 79-2003, Reissue Revised Statutes of Nebraska, 1943, section 79-329, Revised Statutes Supplement, 1972, and sections 39-657,

39-660, 43-604, 43-625, 43-642, 43-647, and 43-654, Revised Statutes Supplement, 1973, are repealed.

Sec. 15. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.