

5338

2011-2012 Regular Sessions

I N S E N A T E

May 9, 2011

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and
when printed to be committed to the Committee on Alcoholism and Drug
Abuse

AN ACT to amend the vehicle and traffic law, in relation to enacting
"Vince's law" to increase fines, terms of imprisonment and license
conditions for violations of provisions of law relating to driving
while intoxicated or impaired by drugs; and to repeal certain
provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as "Vince's law".
2 S 2. Paragraphs (b) and (c) of subdivision 1 of section 1193 of the
3 vehicle and traffic law, as amended by chapter 496 of the laws of 2009,
4 are amended to read as follows:
5 (b) Driving while intoxicated or while ability impaired by drugs or
6 while ability impaired by the combined influence of drugs or of alcohol
7 and any drug or drugs; aggravated driving while intoxicated; misdemeanor
8 offenses. (i) A violation of subdivision two, three, four or four-a of
9 section eleven hundred ninety-two of this article shall be a misdemeanor
10 and shall be punishable by a fine of not less than [five hundred] ONE
11 THOUSAND dollars nor more than one thousand FIVE HUNDRED dollars, or by
12 imprisonment in a penitentiary or county jail for not more than one
13 year, or by both such fine and imprisonment. A violation of paragraph
14 (a) of subdivision two-a of section eleven hundred ninety-two of this
15 article shall be a misdemeanor and shall be punishable by a fine of not
16 less than one thousand FIVE HUNDRED dollars nor more than [two] THREE
17 thousand [five hundred] dollars or by imprisonment in a penitentiary or
18 county jail for not more than one year, or by both such fine and impri-
19 sonment.
20 (ii) In addition to the imposition of any fine or period of imprison-
21 ment set forth in this paragraph, the court shall also sentence such

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 person convicted of a violation of subdivision two, two-a or three of
2 section eleven hundred ninety-two of this article to a period of
3 probation or conditional discharge, as a condition of which it shall
4 order such person to install and maintain, in accordance with the
5 provisions of section eleven hundred ninety-eight of this article, an
6 ignition interlock device in any motor vehicle owned or operated by such
7 person during the term of such probation or conditional discharge
8 imposed for such violation of section eleven hundred ninety-two of this
9 article and in no event for less than six months. Provided, however, the
10 court may not authorize the operation of a motor vehicle by any person
11 whose license or privilege to operate a motor vehicle has been revoked
12 pursuant to the provisions of this section.

13 (III) IN ADDITION TO THE IMPOSITION OF ANY FINE OR PERIOD OF IMPRISON-
14 MENT SET FORTH IN THIS PARAGRAPH, THE COURT SHALL ALSO SENTENCE SUCH
15 PERSON CONVICTED OF A VIOLATION OF SUBDIVISION TWO, TWO-A OR THREE OF
16 SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE TO A PERIOD OF
17 PROBATION OR CONDITIONAL DISCHARGE, AS A CONDITION OF WHICH IT SHALL
18 ORDER THAT THE LICENSE TO OPERATE A MOTOR VEHICLE HELD BY SUCH PERSON BE
19 LIMITED IN ITS SCOPE TO AUTHORIZE SUCH PERSON TO OPERATE A MOTOR VEHICLE
20 ONLY FOR THE PURPOSES OF TRAVELING TO OR FROM WORK OR TO OR FROM A
21 HOSPITAL, DOCTOR'S OFFICE, DENTIST OFFICE, EMERGENCY ROOM OR OTHER
22 LOCATION WHERE MEDICAL SERVICES ARE PROVIDED FOR A PERIOD OF NOT LESS
23 THAN EIGHTEEN MONTHS. ANY VIOLATION OF THE CONDITIONS SET FORTH IN THIS
24 SUBPARAGRAPH SHALL RESULT IN THE IMMEDIATE REVOCATION OF SUCH PERSON'S
25 LICENSE TO OPERATE A MOTOR VEHICLE FOR A PERIOD OF NOT LESS THAN EIGH-
26 TEEN MONTHS FROM THE DATE OF SUCH VIOLATION. PROVIDED, HOWEVER, THE
27 COURT MAY NOT AUTHORIZE THE OPERATION OF A MOTOR VEHICLE BY ANY PERSON
28 WHOSE LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE HAS BEEN REVOKED
29 PURSUANT TO THE PROVISIONS OF THIS SECTION.

30 (c) Felony offenses. (i) A person who operates a vehicle (A) in
31 violation of subdivision two, two-a, three, four or four-a of section
32 eleven hundred ninety-two of this article after having been convicted of
33 a violation of subdivision two, two-a, three, four or four-a of such
34 section or of vehicular assault in the second or first degree, as
35 defined, respectively, in sections 120.03 and 120.04 and aggravated
36 vehicular assault as defined in section 120.04-a of the penal law or of
37 vehicular manslaughter in the second or first degree, as defined,
38 respectively, in sections 125.12 and 125.13 and aggravated vehicular
39 homicide as defined in section 125.14 of such law, within the preceding
40 ten years, or (B) in violation of paragraph (b) of subdivision two-a of
41 section eleven hundred ninety-two of this article shall be guilty of a
42 class E felony, and shall be punished by a fine of not less than [one]
43 TWO thousand FIVE HUNDRED dollars nor more than five thousand dollars
44 [or] AND by a period of imprisonment as provided in the penal law[, or
45 by both such fine and imprisonment].

46 (ii) A person who operates a vehicle in violation of subdivision two,
47 two-a, three, four or four-a of section eleven hundred ninety-two of
48 this article after having been convicted of a violation of subdivision
49 two, two-a, three, four or four-a of such section or of vehicular
50 assault in the second or first degree, as defined, respectively, in
51 sections 120.03 and 120.04 and aggravated vehicular assault as defined
52 in section 120.04-a of the penal law or of vehicular manslaughter in the
53 second or first degree, as defined, respectively, in sections 125.12 and
54 125.13 and aggravated vehicular homicide as defined in section 125.14 of
55 such law, twice within the preceding ten years, shall be guilty of a
56 class D felony, and shall be punished by a fine of not less than [two]

1 FIVE thousand dollars nor more than ten thousand dollars [or] AND by a
2 period of imprisonment as provided in the penal law, [or by both such
3 fine and imprisonment] PROVIDED THAT SUCH PERIOD OF IMPRISONMENT SHALL
4 NOT BE LESS THAN FIVE YEARS NOR MORE THAN SEVEN YEARS.

5 (iii) [In addition to the imposition of any fine or period of impri-
6 sonment set forth in this paragraph, the court shall also sentence such
7 person convicted of a violation of subdivision two, two-a or three of
8 section eleven hundred ninety-two of this article to a period of
9 probation or conditional discharge, as a condition of which it shall
10 order such person to install and maintain, in accordance with the
11 provisions of section eleven hundred ninety-eight of this article, an
12 ignition interlock device in any motor vehicle owned or operated by such
13 person during the term of such probation or conditional discharge
14 imposed for such violation of section eleven hundred ninety-two of this
15 article and in no event for a period of less than six months. Provided,
16 however, the court may not authorize the operation of a motor vehicle by
17 any person whose license or privilege to operate a motor vehicle has
18 been revoked pursuant to the provisions of this section.] A. IN ADDITION
19 TO THE IMPOSITION OF ANY FINE AND PERIOD OF IMPRISONMENT SET FORTH IN
20 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COURT SHALL ALSO ORDER THAT THE
21 LICENSE TO OPERATE A MOTOR VEHICLE HELD BY SUCH PERSON SHALL BE REVOKED
22 FOR A PERIOD OF EIGHTEEN MONTHS.

23 B. IN ADDITION TO THE IMPOSITION OF ANY FINE AND PERIOD OF IMPRISON-
24 MENT SET FORTH IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COURT SHALL
25 ALSO ORDER THAT THE LICENSE TO OPERATE A MOTOR VEHICLE HELD BY SUCH
26 PERSON SHALL BE REVOKED FOR A PERIOD OF SEVEN YEARS.

27 S 3. Subdivision 10 of section 1192 of the vehicle and traffic law is
28 REPEALED and a new subdivision 10 is added to read as follows:

29 10. PLEA BARGAIN LIMITATIONS. IN ANY CASE WHEREIN THE CHARGE LAID
30 BEFORE THE COURT ALLEGES A VIOLATION OF SUBDIVISION TWO, THREE, FOUR OR
31 FOUR-A OF THIS SECTION, NO PLEA OF GUILTY TO A LESSER CHARGE MAY BE
32 ENTERED IN SATISFACTION OF SUCH CHARGE.

33 S 4. This act shall take effect on the first of November next succeed-
34 ing the date on which it shall have become a law.