

2860--A

2011-2012 Regular Sessions

I N   S E N A T E

February 2, 2011

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Introduced by Sens. DeFRANCISCO, GRIFFO, LARKIN, LAVALLE, MAZIARZ, SALAND -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the navigation law, the parks, recreation and historic preservation law and the vehicle and traffic law, in relation to the effect of prior conviction for operation of certain vehicles while intoxicated upon imposition of penalties for boating while intoxicated

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     "Tiffany Heitkamp's law".  
3     S 2. Section 49-a of the navigation law is amended by adding a new  
4     subdivision 14 to read as follows:  
5     14. EFFECT OF PRIOR CONVICTION FOR OPERATION OF A MOTOR VEHICLE, SNOW-  
6     MOBILE, OR ALL TERRAIN VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR  
7     DRUGS. A PRIOR CONVICTION FOR OPERATION OF A MOTOR VEHICLE WHILE UNDER  
8     THE INFLUENCE OF ALCOHOL OR DRUGS PURSUANT TO SUBDIVISION ONE, TWO,  
9     TWO-A, THREE, FOUR, FOUR-A, FIVE OR SIX OF SECTION ELEVEN HUNDRED NINE-  
10    TY-TWO OF THE VEHICLE AND TRAFFIC LAW, A PRIOR CONVICTION FOR OPERATION  
11    OF A SNOWMOBILE ON A STREET OR HIGHWAY WHILE UNDER THE INFLUENCE OF  
12    ALCOHOL OR DRUGS PURSUANT TO SUBDIVISION ONE OF SECTION 25.24 OF THE  
13    PARKS, RECREATION AND HISTORIC PRESERVATION LAW, OR A PRIOR CONVICTION  
14    FOR OPERATION OF AN ALL TERRAIN VEHICLE WHILE IN AN INTOXICATED CONDI-  
15    TION OR UNDER THE INFLUENCE OF NARCOTICS OR DRUGS PURSUANT TO PARAGRAPH  
16    (H) OF SUBDIVISION ONE OF SECTION TWENTY-FOUR HUNDRED FOUR OF THE VEHI-  
17    CLE AND TRAFFIC LAW SHALL BE DEEMED TO BE A PRIOR CONVICTION OF A  
18    VIOLATION OF ANY SUBDIVISION OF THIS SECTION FOR PURPOSES OF DETERMINING  
19    PENALTIES IMPOSED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS  
20    SECTION, AND SHALL BE DEEMED TO BE A PRIOR CONVICTION OF A VIOLATION OF

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

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1 PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION TWO OF THIS SECTION FOR  
2 PURPOSES OF DETERMINING PENALTIES IMPOSED PURSUANT TO PARAGRAPH (F) OF  
3 SUCH SUBDIVISION, AND SHALL BE DEEMED TO BE A PRIOR CONVICTION OF A  
4 VIOLATION OF PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION TWO OF THIS  
5 SECTION FOR PURPOSES OF DETERMINING PENALTIES IMPOSED PURSUANT TO  
6 SUBPARAGRAPH THREE OF PARAGRAPH (A) OF SUBDIVISION THREE OF THIS  
7 SECTION.

8 S 3. Section 25.24 of the parks, recreation and historic preservation  
9 law is amended by adding a new subdivision 4-a to read as follows:

10 4-A. A PRIOR CONVICTION FOR OPERATION OF A VESSEL WHILE UNDER THE  
11 INFLUENCE OF ALCOHOL OR DRUGS PURSUANT TO SUBDIVISION TWO OF SECTION  
12 FORTY-NINE-A OF THE NAVIGATION LAW, A PRIOR CONVICTION FOR OPERATION OF  
13 A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS PURSUANT  
14 TO SUBDIVISION ONE, TWO, TWO-A, THREE, FOUR, FOUR-A, FIVE OR SIX OF  
15 SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW, OR A  
16 PRIOR CONVICTION FOR OPERATION OF AN ALL TERRAIN VEHICLE WHILE IN AN  
17 INTOXICATED CONDITION OR UNDER THE INFLUENCE OF NARCOTICS OR DRUGS  
18 PURSUANT TO PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION TWENTY-FOUR  
19 HUNDRED FOUR OF THE VEHICLE AND TRAFFIC LAW SHALL BE DEEMED TO BE A  
20 PRIOR CONVICTION OF PARAGRAPH (B), (C), OR (D) OF SUBDIVISION ONE OF  
21 THIS SECTION OR OF OPERATING A SNOWMOBILE WHILE INTOXICATED OR UNDER THE  
22 INFLUENCE OF DRUGS FOR PURPOSES OF DETERMINING PENALTIES IMPOSED PURSU-  
23 ANT TO PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION AND SUBPARAGRAPH  
24 THREE OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, AND SHALL BE  
25 DEEMED TO BE A PRIOR CONVICTION OF ANY PARAGRAPH OF SUBDIVISION ONE OF  
26 THIS SECTION FOR PURPOSES OF DETERMINING PENALTIES IMPOSED PURSUANT TO  
27 SUBPARAGRAPH ONE AND SUBPARAGRAPH TWO OF PARAGRAPH (D) OF SUBDIVISION  
28 SIX OF THIS SECTION.

29 S 4. Section 1192 of the vehicle and traffic law is amended by adding  
30 a new subdivision 8-b to read as follows:

31 8-B. EFFECT OF PRIOR CONVICTION FOR OPERATION OF A VESSEL, SNOWMOBILE,  
32 OR ALL TERRAIN VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS. A  
33 PRIOR CONVICTION FOR OPERATION OF A VESSEL WHILE UNDER THE INFLUENCE OF  
34 ALCOHOL OR DRUGS PURSUANT TO SUBDIVISION TWO OF SECTION FORTY-NINE-A OF  
35 THE NAVIGATION LAW, A PRIOR CONVICTION FOR OPERATION OF A SNOWMOBILE ON  
36 A STREET OR HIGHWAY WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS PURSU-  
37 ANT TO SUBDIVISION ONE OF SECTION 25.24 OF THE PARKS, RECREATION AND  
38 HISTORIC PRESERVATION LAW, OR A PRIOR CONVICTION FOR OPERATION OF AN ALL  
39 TERRAIN VEHICLE WHILE IN AN INTOXICATED CONDITION OR UNDER THE INFLUENCE  
40 OF NARCOTICS OR DRUGS PURSUANT TO PARAGRAPH (H) OF SUBDIVISION ONE OF  
41 SECTION TWENTY-FOUR HUNDRED FOUR OF THIS CHAPTER SHALL BE DEEMED TO BE A  
42 PRIOR CONVICTION OF A VIOLATION OF SUBDIVISION ONE OF THIS SECTION FOR  
43 PURPOSES OF DETERMINING PENALTIES IMPOSED PURSUANT TO THIS SECTION OR  
44 FOR PURPOSES OF ANY ADMINISTRATIVE ACTION REQUIRED TO BE TAKEN PURSUANT  
45 TO SUBDIVISION TWO OF SECTION ELEVEN HUNDRED NINETY-THREE OF THIS ARTI-  
46 CLE.

47 S 5. This act shall take effect on the one hundred twentieth day after  
48 it shall have become a law and shall apply to convictions occurring on  
49 and after such date.