

5338--A

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 -- recommitted to the Committee on Alcoholism and Drug Abuse in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, 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

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

LBD11135-02-2

1 county jail for not more than one year, or by both such fine and imprisonment.
2

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15 whose license or privilege to operate a motor vehicle has been revoked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

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

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

50 (ii) A person who operates a vehicle in violation of subdivision two,
51 two-a, three, four or four-a of section eleven hundred ninety-two of
52 this article after having been convicted of a violation of subdivision
53 two, two-a, three, four or four-a of such section or of vehicular
54 assault in the second or first degree, as defined, respectively, in
55 sections 120.03 and 120.04 and aggravated vehicular assault as defined
56 in section 120.04-a of the penal law or of vehicular manslaughter in the

1 second or first degree, as defined, respectively, in sections 125.12 and
2 125.13 and aggravated vehicular homicide as defined in section 125.14 of
3 such law, twice within the preceding ten years, shall be guilty of a
4 class D felony, and shall be punished by a fine of not less than [two]
5 FIVE thousand dollars nor more than ten thousand dollars [or] AND by a
6 period of imprisonment as provided in the penal law, [or by both such
7 fine and imprisonment] PROVIDED THAT SUCH PERIOD OF IMPRISONMENT SHALL
8 NOT BE LESS THAN FIVE YEARS NOR MORE THAN SEVEN YEARS.

9 (iii) A. In addition to the imposition of any fine or period of impri-
10 sonment set forth in this paragraph, the court shall also sentence such
11 person convicted of a violation of subdivision two, two-a or three of
12 section eleven hundred ninety-two of this article to a period of
13 probation or conditional discharge, as a condition of which it shall
14 order such person to install and maintain, in accordance with the
15 provisions of section eleven hundred ninety-eight of this article, an
16 ignition interlock device in any motor vehicle owned or operated by such
17 person during the term of such probation or conditional discharge
18 imposed for such violation of section eleven hundred ninety-two of this
19 article and in no event for a period of less than six months. Provided,
20 however, the court may not authorize the operation of a motor vehicle by
21 any person whose license or privilege to operate a motor vehicle has
22 been revoked pursuant to the provisions of this section.

23 B. IN ADDITION TO THE IMPOSITION OF ANY FINE AND PERIOD OF IMPRISON-
24 MENT SET FORTH IN SUBPARAGRAPH (I) 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 EIGHTEEN MONTHS.

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

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

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

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