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I N   S E N A T E

April 30, 2012

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

AN ACT to amend the alcoholic beverage control law, in relation to penalties for the purchase or attempt to purchase an alcoholic beverage by a person under twenty-one years of age

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

1     Section 1. Paragraphs (a), (b) and (c) of subdivision 3 of section  
2     65-b of the alcoholic beverage control law, as amended by chapter 519 of  
3     the laws of 1999, are amended to read as follows:  
4     (a) For a first violation, the court shall order payment of a fine of  
5     not LESS THAN ONE HUNDRED DOLLARS, NOR more than [one] FIVE hundred  
6     dollars and/or an appropriate amount of community service not to exceed  
7     thirty hours. In addition, the court may order completion of an alcohol  
8     awareness program established pursuant to section 19.25 of the mental  
9     hygiene law.  
10    (b) For a second violation, the court shall order payment of a fine of  
11    not less than TWO HUNDRED fifty dollars nor more than [three] SEVEN  
12    hundred fifty dollars and/or an appropriate amount of community service  
13    not to exceed [thirty] SIXTY hours. The court also shall order  
14    completion of an alcohol awareness program as referenced in paragraph  
15    (a) of this subdivision if such program has not previously been  
16    completed by the offender, unless the court determines that attendance  
17    at such program is not feasible due to the lack of availability of such  
18    program within a reasonably close proximity to the locality in which the  
19    offender resides or matriculates, as appropriate.  
20    (c) For third and subsequent violations, the court shall order payment  
21    of a fine of not less than [fifty] FIVE HUNDRED dollars nor more than  
22    [seven hundred fifty] ONE THOUSAND dollars and/or an appropriate amount  
23    of community service not to exceed [thirty] NINETY hours. The court also  
24    shall order that such person submit to an evaluation by an appropriate  
25    agency certified or licensed by the office of alcoholism and substance  
26    abuse services to determine whether the person suffers from the disease  
27    of alcoholism or alcohol abuse, unless the court determines that under

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

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1 the circumstances presented such an evaluation is not necessary, in  
2 which case the court shall state on the record the basis for such deter-  
3 mination. Payment for such evaluation shall be made by such person. If,  
4 based on such evaluation, a need for treatment is indicated, such person  
5 may choose to participate in a treatment plan developed by an agency  
6 certified or licensed by the office of alcoholism and substance abuse  
7 services. If such person elects to participate in recommended treatment,  
8 the court shall order that payment of such fine and community service be  
9 suspended pending the completion of such treatment.

10 S 2. Subdivision 6 of section 65-b of the alcoholic beverage control  
11 law, as amended by chapter 519 of the laws of 1999 and the opening para-  
12 graph as amended by chapter 503 of the laws of 2000, is amended to read  
13 as follows:

14 6. In addition to the penalties otherwise provided in subdivision  
15 three of this section, if a determination is made sustaining a charge of  
16 illegally purchasing or attempting to illegally purchase an alcoholic  
17 beverage, the court may suspend such person's license to drive a motor  
18 vehicle and the privilege of an unlicensed person of obtaining such  
19 license, in accordance with the following and for the following periods,  
20 if it is found that a driver's license, FALSE IDENTIFICATION CARD OR  
21 OTHER FORGED INSTRUMENT, AS DEFINED IN SUBDIVISION SEVEN OF SECTION  
22 170.00 OF THE PENAL LAW, was used for the purpose of such illegal  
23 purchase or attempt to illegally purchase; provided, however, that where  
24 a person is sentenced pursuant to paragraph (b) or (c) of subdivision  
25 three of this section, the court shall impose such license suspension if  
26 it is found that a driver's license, FALSE IDENTIFICATION CARD OR OTHER  
27 FORGED INSTRUMENT, AS DEFINED IN SUBDIVISION SEVEN OF SECTION 170.00 OF  
28 THE PENAL LAW, was used for the purpose of such illegal purchase or  
29 attempt to illegally purchase:

30 (a) For a first violation of paragraph (a) of subdivision two of this  
31 section, a [three] FIVE month suspension[.]; AND

32 (b) [For a second violation of paragraph (a) of subdivision two of  
33 this section, a six month suspension.

34 (c)] For a [third] SECOND or subsequent violation of paragraph (a) of  
35 subdivision two of this section, a suspension for [one year] TEN MONTHS  
36 or until the holder reaches the age of twenty-one, whichever is the  
37 greater period of time.

38 Such person may thereafter apply for and be issued a restricted use  
39 license in accordance with the provisions of section five hundred thirty  
40 of the vehicle and traffic law.

41 S 3. This act shall take effect on the first of September next  
42 succeeding the date on which it shall have become a law.