

10531

I N A S S E M B L Y

April 2, 2010

Introduced by M. of A. TEDISCO -- Multi-Sponsored by -- M. of A. HAWLEY
-- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the criminal procedure law, in relation to plea bargaining options and personal court appearances for certain driver's license holders

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

1 Section 1. Section 1805 of the vehicle and traffic law, as amended by
2 chapter 182 of the laws of 2004, is amended to read as follows:
3 S 1805. Plea of guilty, how put in. [The] EXCEPT IN ANY CASE IN WHICH
4 THE DEFENDANT IS A HOLDER OF A CLASS DJ OR CLASS MJ LEARNER'S PERMIT OR
5 CLASS DJ OR CLASS MJ DRIVER'S LICENSE PURSUANT TO SECTION FIVE HUNDRED
6 TWO OR LIMITED CLASS DJ OR MJ LICENSE PURSUANT TO SECTION FIVE HUNDRED
7 THREE-A OF THIS CHAPTER, THE provisions of section 170.10 of the criminal
8 procedure law and the provisions of section eighteen hundred seven
9 of this article may be waived, to the extent hereinafter indicated, by a
10 defendant charged with a violation of any provision of the tax law or
11 the transportation law regulating traffic, or a traffic infraction, as
12 defined in this chapter, other than a third or subsequent speeding
13 violation committed within a period of eighteen months, provided that he
14 OR SHE shall submit to the local criminal court having jurisdiction, in
15 person, by duly authorized agent, by first class mail or by registered
16 or certified mail, return receipt requested, an application setting
17 forth (a) the nature of the charge, (b) the information or instructions
18 required by section eighteen hundred seven of this article to be given
19 defendant upon arraignment, (c) that defendant waives arraignment in
20 open court and the aid of counsel, (d) that he OR SHE pleads guilty to
21 the offense as charged, (e) that defendant elects and requests that the
22 charge be disposed of and the fine or penalty fixed by the court, pursuant
23 to this section, (f) any statement or explanation that the defendant
24 may desire to make concerning the offense charged and (g) that defendant
25 makes all statements with respect to such application under penalty of
26 perjury. This application shall be in such form as the commissioner
27 shall prescribe and a copy thereof shall be handed to the defendant by

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

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1 the officer charging him OR HER with such offense. Thereupon the local
2 criminal court may proceed as though the defendant had been convicted
3 upon a plea of guilty in open court, provided, however, that any imposi-
4 tion of fine or penalty hereunder shall be deemed tentative until such
5 fine or penalty shall have been paid and discharged in full, prior to
6 which time such court, in its discretion, may annul any proceedings
7 hereunder, including such tentative imposition of fine or penalty, and
8 deny the application, in which event the charge shall be disposed of
9 pursuant to the applicable provisions of law, as though no proceedings
10 had been had under this section. If upon receipt of the aforesaid appli-
11 cation such court shall deny the same, it shall thereupon inform the
12 defendant of this fact, and that he OR SHE is required to appear before
13 the said court at a stated time and place to answer the charge which
14 shall thereafter be disposed of pursuant to the applicable provisions of
15 law. THE HOLDER OF A CLASS DJ OR CLASS MJ LEARNER'S PERMIT, A CLASS DJ
16 OR CLASS MJ DRIVER'S LICENSE OR A LIMITED CLASS DJ OR CLASS MJ LICENSE
17 MAY NOT WAIVE THE PROVISIONS OF SECTION 170.10 OF THE CRIMINAL PROCEDURE
18 LAW OR SECTION EIGHTEEN HUNDRED SEVEN OF THIS ARTICLE AND SUCH DEFENDANT
19 SHALL BE REQUIRED TO PERSONALLY ENTER A PLEA IN COURT.

20 S 2. Paragraph (b) of subdivision 1 of section 170.10 of the criminal
21 procedure law, as amended by chapter 661 of the laws of 1972, is amended
22 to read as follows:

23 (b) In any case in which the defendant's appearance is required by a
24 summons or an appearance ticket, the court in its discretion may, for
25 good cause shown, permit the defendant to appear by counsel instead of
26 in person, EXCEPT IN ANY CASE IN WHICH THE DEFENDANT IS A HOLDER OF A
27 CLASS DJ OR CLASS MJ LEARNER'S PERMIT, A CLASS DJ OR CLASS MJ DRIVER'S
28 LICENSE OR A LIMITED CLASS DJ OR MJ DRIVER'S LICENSE ISSUED PURSUANT TO
29 SECTION FIVE HUNDRED TWO OR FIVE HUNDRED THREE-A OF THE VEHICLE AND
30 TRAFFIC LAW, WHERE SUCH DEFENDANT HAS BEEN CHARGED WITH A VIOLATION OF
31 THE VEHICLE AND TRAFFIC LAW, OR OTHER LAW OR ORDINANCE RELATING TO THE
32 OPERATION OF MOTOR VEHICLES OR MOTORCYCLES.

33 S 3. Section 170.10 of the criminal procedure law is amended by adding
34 a new subdivision 10 to read as follows:

35 10. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN
36 ANY CASE WHEREIN A CHARGE LAID BEFORE A COURT ON A SIMPLIFIED TRAFFIC
37 INFORMATION CHARGES ANY HOLDER OF A CLASS DJ OR CLASS MJ LEARNER'S
38 PERMIT, A CLASS DJ OR CLASS MJ DRIVER'S LICENSE OR LIMITED CLASS DJ OR
39 MJ DRIVER'S LICENSE ISSUED PURSUANT TO SECTION FIVE HUNDRED TWO OR FIVE
40 HUNDRED THREE-A OF THE VEHICLE AND TRAFFIC LAW WITH A SERIOUS TRAFFIC
41 VIOLATION AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION, ANY PLEA OF
42 GUILTY THEREAFTER ENTERED IN SATISFACTION OF SUCH CHARGE MUST INCLUDE AT
43 LEAST A PLEA OF GUILTY TO ONE OF THE CHARGES THAT SUCH HOLDER WAS
44 ORIGINALLY CHARGED WITH AND NO OTHER DISPOSITION BY PLEA OF GUILTY TO
45 ANY OTHER CHARGE IN SATISFACTION OF SUCH CHARGE SHALL BE AUTHORIZED,
46 PROVIDED, HOWEVER, IF THE DISTRICT ATTORNEY UPON REVIEWING THE AVAILABLE
47 EVIDENCE DETERMINES THAT THE CHARGE OF SUCH VIOLATION IS NOT WARRANTED,
48 SUCH DISTRICT ATTORNEY MAY CONSENT, AND THE COURT MAY ALLOW A DISPOSI-
49 TION BY PLEA OF GUILTY TO ANOTHER CHARGE IN SATISFACTION OF SUCH CHARGE;
50 PROVIDED, HOWEVER, IN ALL SUCH CASES, THE COURT SHALL SET FORTH UPON THE
51 RECORD THE BASIS FOR SUCH DISPOSITION.

52 (B) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "SERIOUS TRAFFIC
53 VIOLATION" SHALL MEAN OPERATING A MOTOR VEHICLE IN VIOLATION OF ANY OF
54 THE FOLLOWING PROVISIONS OF THE VEHICLE AND TRAFFIC LAW: ARTICLES TWEN-
55 TY-FIVE AND TWENTY-SIX; SUBDIVISION ONE OF SECTION SIX HUNDRED; SECTION
56 SIX HUNDRED ONE; SECTIONS ELEVEN HUNDRED ELEVEN, ELEVEN HUNDRED SEVENTY,

1 ELEVEN HUNDRED SEVENTY-TWO AND ELEVEN HUNDRED SEVENTY-FOUR; SUBDIVISIONS
2 (A), (B), (C), (D) AND (F) OF SECTION ELEVEN HUNDRED EIGHTY, PROVIDED
3 THAT THE VIOLATION INVOLVED TEN OR MORE MILES PER HOUR OVER THE ESTAB-
4 LISHED LIMIT; SECTION ELEVEN HUNDRED EIGHTY-TWO; SUBDIVISION THREE OF
5 SECTION TWELVE HUNDRED TWENTY-NINE-C FOR VIOLATIONS INVOLVING USE OF
6 SAFETY BELTS OR SEATS BY A CHILD UNDER THE AGE OF SIXTEEN; AND SECTION
7 TWELVE HUNDRED TWELVE.
8 S 4. This act shall take effect on the ninetieth day after it shall
9 have become a law and shall apply to violations occurring on and after
10 such effective date.