

2601

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. PRETLOW, FIELDS, BRENNAN, CLARK, GALEF, HOOPER,  
WRIGHT -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to the seizure of vehicles after driving while intoxicated convictions; and to amend the vehicle and traffic law, in relation to the revocation of licenses for driving while intoxicated offenses and the denial of vehicle registration after three driving while intoxicated offenses

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

1 Section 1. Section 1310 of the civil practice law and rules is amended  
2 by adding a new subdivision 15 to read as follows:

3 15. "INTOXICATION OFFENSE" MEANS A CONVICTION FOR A VIOLATION OF  
4 SUBDIVISION TWO, TWO-A OR THREE OF SECTION ONE THOUSAND ONE HUNDRED  
5 NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW.

6 S 2. Subdivision 1 of section 1311 of the civil practice law and rules  
7 is amended by adding a new paragraph (c) to read as follows:

8 (C) AN ACTION RELATING TO AN INTOXICATION OFFENSE MUST BE GROUNDED  
9 UPON A CONVICTION OF AN INTOXICATED OFFENSE, AS PROVIDED FOR BY THIS  
10 PARAGRAPH. IF A DEFENDANT HAS BEEN CONVICTED OF HIS OR HER SECOND INTOX-  
11 ICATION OFFENSE, ANY AND ALL VEHICLES REGISTERED TO HIM OR HER SHALL BE  
12 FORFEITED FOR A PERIOD OF SIX MONTHS. IF SUCH VEHICLE IS ALSO USED BY A  
13 MEMBER OF THE DEFENDANT'S HOUSEHOLD, THE HOUSEHOLD MEMBER SHALL POST A  
14 BOND OF NOT LESS THAN ONE THOUSAND DOLLARS TO BE SURRENDERED IN THE  
15 EVENT THAT THE DEFENDANT IS FOUND TO BE DRIVING SUCH VEHICLE. IF A  
16 DEFENDANT HAS BEEN CONVICTED OF HIS OR HER THIRD INTOXICATION OFFENSE,  
17 ANY AND ALL VEHICLES REGISTERED TO HIM OR HER SHALL BE FORFEITED AND  
18 NOTWITHSTANDING THE PROVISIONS OF SECTION ONE THOUSAND THREE HUNDRED  
19 FORTY-NINE OF THIS ARTICLE, SUCH VEHICLE OR VEHICLES SHALL BE SOLD WITH  
20 THE PROCEEDS OF SUCH SALE GOING TO THE COUNTY OF JURISDICTION'S DRIVING  
21 WHILE INTOXICATED PROGRAM.

22 S 3. Paragraph (c) of subdivision 2 of section 1193 of the vehicle and  
23 traffic law, as amended by section 1 of chapter 312 of the laws of 1994  
24 and subparagraph 3 as amended by chapter 732 of the laws of 2006, is  
25 amended to read as follows:

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

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1 (c) Reissuance of licenses; restrictions. (1) Except as otherwise  
2 provided in this paragraph, where a license is revoked pursuant to para-  
3 graph (b) of this subdivision, no new license shall be issued after the  
4 expiration of the minimum period specified in such paragraph, except in  
5 the discretion of the commissioner.

6 (2) Where a license is revoked pursuant to subparagraph two, three or  
7 eight of paragraph (b) of this subdivision for a violation of subdivi-  
8 sion four of section eleven hundred ninety-two of this article, and  
9 where the individual does not have a driver's license or the individ-  
10 ual's license was suspended at the time of conviction or youthful offen-  
11 der or other juvenile adjudication, the commissioner shall not issue a  
12 new license nor restore the former license for a period of six months  
13 after such individual would otherwise have become eligible to obtain a  
14 new license or to have the former license restored; provided, however,  
15 that during such delay period the commissioner may issue a restricted  
16 use license pursuant to section five hundred thirty of this chapter.

17 (3) In no event shall a new license be issued where a person has been  
18 twice convicted of a violation of subdivision TWO, TWO-A, three, four or  
19 four-a of section eleven hundred ninety-two of this article or of driv-  
20 ing while intoxicated or of driving while ability is impaired by the use  
21 of a drug or of driving while ability is impaired by the combined influ-  
22 ence of drugs or of alcohol and any drug or drugs where physical injury,  
23 as defined in section 10.00 of the penal law, has resulted from such  
24 offense in each instance.

25 S 4. Paragraph (c) of subdivision 2 of section 1193 of the vehicle and  
26 traffic law, as amended by section 8 of chapter 732 of the laws of 2006,  
27 is amended to read as follows:

28 (c) Reissuance of licenses; restrictions. Where a license is revoked  
29 pursuant to paragraph (b) of this subdivision, no new license shall be  
30 issued after the expiration of the minimum period specified in such  
31 paragraph, except in the discretion of the commissioner; provided,  
32 however, that in no event shall a new license be issued where a person  
33 has been twice convicted of a violation of subdivision TWO, TWO-A,  
34 three, four or four-a of section eleven hundred ninety-two of this arti-  
35 cle or of driving while intoxicated or of driving while ability is  
36 impaired by the use of a drug or of driving while ability is impaired by  
37 the combined influence of drugs or of alcohol and any drug or drugs  
38 where physical injury, as defined in section 10.00 of the penal law, has  
39 resulted from such offense in each instance.

40 S 5. Section 401 of the vehicle and traffic law is amended by adding a  
41 new subdivision 22 to read as follows:

42 22. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION OR ANY OTHER LAW,  
43 NO VEHICLE MAY BE REGISTERED BY AN INDIVIDUAL WHO HAS BEEN CONVICTED  
44 THREE TIMES OF A VIOLATION OF SUBDIVISIONS TWO, TWO-A, THREE, FOUR OR  
45 FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER.

46 S 6. This act shall take effect immediately; provided, however, that  
47 sections one, two and five of this act shall take effect on the first of  
48 November next succeeding the date on which it shall have become a law  
49 and shall apply to offenses committed on or after such date; provided  
50 further however, that the amendment to paragraph (c) of subdivision 2 of  
51 section 1193 of the vehicle and traffic law made by section three of  
52 this act shall be subject to the expiration and reversion of such para-  
53 graph pursuant to section 9 of chapter 533 of the laws of 1993, as  
54 amended, when upon such date the provisions of section four of this act  
55 shall take effect.