

8568

2009-2010 Regular Sessions

I N A S S E M B L Y

May 28, 2009

Introduced by M. of A. GANTT, KOON -- (at request of the Department of Motor Vehicles) -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the graduated licensing program; and to repeal section 503-a 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. Subdivision 4 of section 501 of the vehicle and traffic  
2 law, as amended by chapter 644 of the laws of 2002, is amended to read  
3 as follows:

4 4. Probationary licenses. Any driver's license, other than a class DJ  
5 and class MJ license [or limited class DJ and MJ license], shall be  
6 considered probationary until the expiration of six months following the  
7 date of issuance thereof, and thereafter as provided in section five  
8 hundred ten-b of this title, but this subdivision shall not apply to  
9 renewals of a license, or, unless so provided by the commissioner, to a  
10 license for which a road test has been waived by the commissioner.

11 S 2. Paragraphs (c) and (d) of subdivision 1 of section 501-b of the  
12 vehicle and traffic law, as added by chapter 644 of the laws of 2002,  
13 are amended to read as follows:

14 (c) operate a motor vehicle with more than [two passengers] ONE  
15 PASSENGER who [are] IS under the age of twenty-one and who [are] IS not  
16 [members] A MEMBER of such holder's immediate family, provided, however,  
17 that the provisions of this [subparagraph] PARAGRAPH shall not apply  
18 when such holder is accompanied by a duly licensed parent, guardian,  
19 person in a position of loco parentis, driver education teacher or driv-  
20 ing school instructor;

21 (d) be eligible for issuance of a class DJ [or], MJ, D OR M license  
22 unless such permit [and/or limited class DJ or MJ license issued pursu-  
23 ant to section five hundred three-a of this article, singly or in combi-

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

LBD09379-03-9

1 nation, have] HAS been valid for at least six months. Any time period in  
2 which such class DJ or MJ learner's permit [or limited class DJ or MJ  
3 license] has been suspended or revoked shall not be counted in determin-  
4 ing the length of time that such learner's permit [or limited license]  
5 has been valid.

6 S 3. Paragraph (b) of subdivision 2 of section 501-b of the vehicle  
7 and traffic law, as added by chapter 644 of the laws of 2002, is amended  
8 to read as follows:

9 (b) with more than [two passengers] ONE PASSENGER who [are] IS under  
10 the age of twenty-one and who [are] IS not [members] A MEMBER of such  
11 holder's immediate family, provided, however, that the provisions of  
12 this [subparagraph] PARAGRAPH shall not apply when such holder is accom-  
13 panied by a duly licensed parent, guardian, person in a position of loco  
14 parentis, driver education teacher or driving school instructor.

15 S 4. Section 501-b of the vehicle and traffic law is amended by adding  
16 a new subdivision 3 to read as follows:

17 3. (A) IN ADDITION TO THE RESTRICTIONS CONTAINED IN SUBDIVISIONS THREE  
18 AND FIVE OF SECTION FIVE HUNDRED ONE OF THIS ARTICLE, NO HOLDER OF A  
19 CLASS DJ OR MJ LEARNER'S PERMIT OR CLASS DJ OR MJ LICENSE SHALL OPERATE  
20 A MOTOR VEHICLE WHILE USING ANY PORTABLE ELECTRONIC DEVICE.

21 (B) FOR THE PURPOSES OF THIS SUBDIVISION, THE FOLLOWING TERMS SHALL BE  
22 DEFINED AS FOLLOWS:

23 (I) "PORTABLE ELECTRONIC DEVICE" INCLUDES, BUT SHALL NOT BE LIMITED  
24 TO, ANY HAND-HELD OR HANDS-FREE MOBILE TELEPHONE, PERSONAL DIGITAL  
25 ASSISTANT (PDA), HANDHELD DEVICE WITH MOBILE DATA ACCESS, LAPTOP COMPUT-  
26 ER, PAGER, BROADBAND PERSONAL COMMUNICATION DEVICE, MOBILE RADIO DEVICE,  
27 TWO-WAY MESSAGING DEVICE, ELECTRONIC GAME, OR PORTABLE COMPUTING DEVICE.

28 (II) "USING" INCLUDES, BUT SHALL NOT BE LIMITED TO: ACTIVATING OR  
29 DEACTIVATING, INITIATING OR TERMINATING FUNCTIONS, VIEWING, TAKING OR  
30 TRANSMITTING IMAGES, PLAYING GAMES OR MUSIC, CONVERSING, SPEAKING INTO,  
31 LISTENING TO, OR COMPOSING, SENDING, RECEIVING, READING, SAVING OR  
32 RETRIEVING E-MAIL, TEXT MESSAGES, OR OTHER DATA; PROVIDED HOWEVER THAT  
33 FOR PURPOSES OF THIS SUBDIVISION, THE TERM "LISTENING" SHALL NOT INCLUDE  
34 OVERHEARING A CONVERSATION, TO WHICH THE DRIVER IS NOT A PARTY, WHICH IS  
35 CONDUCTED BY A PASSENGER USING A MOBILE TELEPHONE OR OTHER PORTABLE  
36 ELECTRONIC DEVICE SUCH AS A SPEAKERPHONE.

37 (C) PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT APPLY TO A PERSON  
38 USING A PORTABLE ELECTRONIC DEVICE FOR THE SOLE PURPOSE OF COMMUNICATING  
39 WITH ANY OF THE FOLLOWING REGARDING AN EMERGENCY SITUATION: AN EMERGENCY  
40 RESPONSE OPERATOR, A HOSPITAL, A PHYSICIAN'S OFFICE OR HEALTH CLINIC; AN  
41 AMBULANCE COMPANY OR CORPS, A FIRE DEPARTMENT, DISTRICT OR COMPANY, OR A  
42 POLICE DEPARTMENT.

43 (D) A PERSON WHO HOLDS A PORTABLE ELECTRONIC DEVICE WHILE OPERATING A  
44 MOTOR VEHICLE IS PRESUMED TO BE USING THE DEVICE. THE PRESUMPTION ESTAB-  
45 LISHED BY THIS PARAGRAPH IS REBUTTABLE BY EVIDENCE SHOWING THAT THE  
46 OPERATOR WAS NOT USING THE DEVICE WITHIN THE MEANING OF THIS SUBDIVI-  
47 SION.

48 S 5. The vehicle and traffic law is amended by adding a new section  
49 501-c to read as follows:

50 S 501-C. PLEA BARGAINING RESTRICTIONS APPLICABLE TO CERTAIN VIOLATIONS  
51 COMMITTED BY JUNIOR DRIVERS. IN ANY CASE WHEREIN THE CHARGE LAID BEFORE  
52 THE COURT ALLEGES A VIOLATION OF TITLE SEVEN OF THIS CHAPTER FOR ANY  
53 OFFENSE THAT WOULD RESULT IN THE ASSIGNMENT OF POINTS IN ACCORDANCE WITH  
54 THE COMMISSIONER'S REGULATIONS AND THE DEFENDANT HELD A CLASS DJ OR MJ  
55 LEARNER'S PERMIT OR CLASS DJ OR MJ LICENSE ON THE DATE OF THE ALLEGED  
56 VIOLATION, THEN ANY PLEA OF GUILTY THEREAFTER ENTERED IN SATISFACTION OF

1 SUCH CHARGE MUST INCLUDE AT LEAST A PLEA OF GUILTY TO A CHARGE THAT WILL  
2 RESULT IN THE ASSIGNMENT OF POINTS ON THE DEFENDANT'S DRIVING RECORD IN  
3 ACCORDANCE WITH THE REGULATIONS OF THE COMMISSIONER; NO OTHER DISPOSI-  
4 TION BY PLEA OF GUILTY TO ANY OTHER CHARGE IN SATISFACTION OF SUCH  
5 CHARGE SHALL BE AUTHORIZED. PROVIDED, HOWEVER, IF THE DISTRICT ATTORNEY,  
6 UPON REVIEWING THE AVAILABLE EVIDENCE, DETERMINES THAT THE CHARGE WAS  
7 NOT WARRANTED, SUCH DISTRICT ATTORNEY MAY CONSENT, AND THE COURT MAY  
8 ALLOW, A DISPOSITION BY PLEA OF GUILTY IN SATISFACTION OF SUCH CHARGE TO  
9 A CHARGE THAT WILL NOT RESULT IN THE IMPOSITION OF POINTS ON THE DEFEND-  
10 ANT'S DRIVING RECORD.

11 S 6. Paragraph (d) of subdivision 2 of section 502 of the vehicle and  
12 traffic law, as amended by chapter 644 of the laws of 2002, is amended  
13 to read as follows:

14 (d) An applicant for a class DJ or MJ license shall be at least  
15 sixteen years of age and such applicant must submit written consent to  
16 the issuance of such license by the applicant's parent or guardian. Upon  
17 receipt of withdrawal of such consent, any class DJ or MJ license,  
18 learner's permit or license application shall be cancelled. No class DJ  
19 or MJ license [or limited class DJ or MJ license] shall be issued unless  
20 the applicant presents, at the time of the road test administered pursu-  
21 ant to paragraph (b) of subdivision four of THIS section [five hundred  
22 two of this article], a written certification by the applicant's parent  
23 or guardian that such applicant has operated a motor vehicle for no less  
24 than [twenty] FIFTY hours, AT LEAST FIFTEEN HOURS OF WHICH SHALL BE  
25 AFTER SUNSET, under the immediate supervision of a person as authorized  
26 pursuant to subparagraph (ii) of paragraph (a) or paragraph (b) of  
27 subdivision five of section five hundred one of this article, a driver  
28 education teacher pursuant to section eight hundred six-a of the educa-  
29 tion law or a driving school instructor pursuant to subdivision seven-a  
30 of section three hundred ninety-four of this chapter.

31 S 7. Section 503-a of the vehicle and traffic law is REPEALED.

32 S 8. Subdivision 3 of section 509 of the vehicle and traffic law, as  
33 added by chapter 780 of the laws of 1972, is amended to read as follows:

34 3. Whenever a PERMIT OR license is required to operate a motor vehi-  
35 cle, no person shall operate any motor vehicle in violation of any  
36 restriction contained on [his], OR APPLICABLE TO, THE PERMIT OR license.

37 S 9. Subdivisions 1, 2 and 3 of section 510-b of the vehicle and traf-  
38 fic law, as amended by chapter 644 of the laws of 2002, are amended to  
39 read as follows:

40 1. A license, other than a class DJ or class MJ license [or a limited  
41 class DJ or class MJ license], shall be suspended, for a period of sixty  
42 days, (i) upon the first conviction of the licensee of a violation,  
43 committed during the probationary period provided for in subdivision  
44 four of section five hundred one of this title, of any provision of  
45 section eleven hundred twenty-nine of this chapter, section eleven  
46 hundred eighty of this chapter or any ordinance or regulation limiting  
47 the speed of motor vehicles and motorcycles, section eleven hundred  
48 eighty-two of this chapter, or subdivision one of section eleven hundred  
49 ninety-two of this chapter or section twelve hundred twelve of this  
50 chapter; or (ii) upon the second conviction of the licensee of a  
51 violation, committed during the aforesaid probationary period, of any  
52 other provision of this chapter or of any other law, ordinance, order,  
53 rule or regulation relating to traffic.

54 2. A license, other than a class DJ or class MJ license [or a limited  
55 class DJ or class MJ license], considered probationary pursuant to  
56 subdivision three of this section shall be revoked upon the conviction

1 of the licensee of a violation or violations committed within six months  
2 following the restoration or issuance of such license, which conviction  
3 or convictions would result in the suspension of a probationary license  
4 pursuant to subdivision one of this section.

5 3. Any license, other than a class DJ or class MJ license [or a limit-  
6 ed class DJ or class MJ license], which is restored or issued to a  
7 person who has had his last valid license suspended or revoked pursuant  
8 to the provisions of this section shall be considered probationary until  
9 the expiration of six months following the date of restoration or issu-  
10 ance thereof.

11 S 10. Section 510-c of the vehicle and traffic law, as added by chap-  
12 ter 644 of the laws of 2002, is amended to read as follows:

13 S 510-c. Suspension and revocation of [certain] LEARNER'S PERMITS AND  
14 DRIVER'S LICENSES FOR VIOLATIONS COMMITTED BY HOLDERS OF class DJ or  
15 class MJ learner's permits or [driver's] licenses. 1. (a) A [class DJ or  
16 class MJ] learner's permit OR A DRIVER'S LICENSE shall be suspended for  
17 a period of sixty days:

18 (i) upon a conviction or finding of a serious traffic violation as  
19 defined in subdivision [four] TWO of this section, WHEN SUCH VIOLATION  
20 WAS committed while the holder had a class DJ or class MJ learner's  
21 permit OR A CLASS DJ OR MJ LICENSE; or

22 (ii) upon the second conviction or finding of such PERMIT OR LICENSE  
23 holder of a violation of any other provision of this chapter or any  
24 other law, ordinance, order, rule or regulation relating to traffic, AND  
25 WHEN SUCH VIOLATION WAS committed while such holder had [such] A CLASS  
26 DJ OR CLASS MJ learner's permit OR A CLASS DJ OR MJ LICENSE.

27 (b) A [class DJ or class MJ] learner's permit OR A DRIVER'S LICENSE  
28 shall be revoked for a period of sixty days upon the conviction or find-  
29 ing of the PERMIT OR LICENSE holder of a violation or violations,  
30 committed within six months after the restoration of [a class DJ or  
31 class MJ learner's] SUCH permit OR LICENSE suspended pursuant to para-  
32 graph (a) of this subdivision, which convictions or findings would  
33 result in the suspension of such permit OR LICENSE pursuant to paragraph  
34 (a) of this subdivision.

35 2. [(a) A class DJ or class MJ driver's license or limited class DJ or  
36 class MJ license shall be suspended, for a period of sixty days:

37 (i) upon a conviction or finding of a serious traffic violation as  
38 defined in subdivision four of this section, committed while the holder  
39 had such license; or

40 (ii) upon the second conviction or finding of the holder of a  
41 violation of any other provision of this chapter or any other law, ordi-  
42 nance, order, rule or regulation relating to traffic, committed while  
43 such holder had such license.

44 (b) A class DJ or class MJ driver's license or a limited class DJ or  
45 class MJ license shall be revoked for a period of sixty days upon the  
46 conviction or finding of the holder of a violation or violations,  
47 committed within six months either after the restoration of such driv-  
48 er's license suspended pursuant to paragraph (a) of this subdivision or  
49 after the restoration of a learner's permit suspended or revoked pursu-  
50 ant to subdivision one of this section, which convictions or findings  
51 would result in the suspension of such license pursuant to paragraph (a)  
52 of this subdivision.

53 3. A driver's license which has been restored following a suspension  
54 of a class DJ or class MJ driver's license or a limited class DJ or  
55 class MJ license pursuant to subdivision two of this section shall be  
56 revoked for a period of sixty days upon the conviction or finding, with-

1 in six months of such restoration, of any violation or violations which  
2 would result in the suspension of a class DJ or class MJ driver's  
3 license or a limited class DJ or class MJ license pursuant to paragraph  
4 (a) of subdivision two of this section.

5 4.] For purposes of this section, the term "serious traffic violation"  
6 shall mean operating a motor vehicle in violation of any of the follow-  
7 ing provisions of this chapter: articles twenty-five and twenty-six;  
8 subdivision one of section six hundred; section six hundred one;  
9 sections eleven hundred eleven, eleven hundred seventy, eleven hundred  
10 seventy-two and eleven hundred seventy-four; subdivisions (a), (b), (c),  
11 (d) and (f) of section eleven hundred eighty, provided that the  
12 violation involved ten or more miles per hour over the established  
13 limit; section eleven hundred eighty-two; subdivision three-a of section  
14 twelve hundred twenty-nine-c for violations involving use of safety  
15 belts or seats by a child under the age of sixteen; and section twelve  
16 hundred twelve of this chapter.

17 S 11. Subdivision 3-a of section 1229-c of the vehicle and traffic  
18 law, as added by chapter 644 of the laws of 2002, is amended to read as  
19 follows:

20 3-a. No person holding a class DJ learner's permit or class DJ license  
21 issued pursuant to section five hundred two of this chapter, [or a  
22 limited class DJ or MJ license issued pursuant to section five hundred  
23 three-a of this chapter,] shall operate a motor vehicle in this state  
24 unless such person is restrained by a safety belt approved by the  
25 commissioner, and all passengers under the age of four are restrained in  
26 a specially designed seat which meets the federal motor vehicle safety  
27 standards set forth in 49 C.F.R. 571.213 and which is either permanently  
28 affixed or is affixed to such vehicle by a safety belt and, in the case  
29 of any other passenger under the age of sixteen, he or she is restrained  
30 by a safety belt approved by the commissioner. No person sixteen years  
31 of age or over shall be a passenger in a motor vehicle operated by a  
32 person holding a class DJ learner's permit, a class DJ license or a  
33 limited class DJ license unless such passenger is restrained by a safety  
34 belt approved by the commissioner.

35 S 12. This act shall take effect on the one hundred eightieth day  
36 after it shall have become a law, provided however, that section eight  
37 of this act shall take effect immediately; and provided further, this  
38 act shall apply to licenses issued on or after such date. Any license  
39 issued pursuant to section five hundred three-a of the vehicle and traf-  
40 fic law prior to such effective date shall remain in effect until its  
41 expiration date.