S T A T E O F N E W Y O R K

1048

2009-2010 Regular Sessions

I N S E N A T E

January 22, 2009

Introduced by Sens. MAZIARZ, ALESI, DeFRANCISCO, FLANAGAN, O. JOHNSON, LANZA, MORAHAN, SALAND, SEWARD, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to increasing penalties for certain alcohol related driving convictions

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

Section 1. Paragraph (c) of subdivision 1 of section 1193 of the vehicle and traffic law is amended by adding a new subparagraph (iii) to read as follows:

(III) A PERSON WHO OPERATES A VEHICLE IN VIOLATION OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE AFTER HAVING BEEN CONVICTED THREE TIMES PREVIOUSLY OF A VIOLATION OF ANY SUBDIVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, WITHIN THE PRECEDING TEN YEARS, SHALL BE GUILTY OF A CLASS E FELONY, AND SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN FIVE THOUSAND DOLLARS OR BY A PERIOD OF IMPRISONMENT AS PROVIDED IN THE PENAL LAW, OR BY BOTH SUCH FINE AND IMPRISONMENT.

S 2. Paragraph (a) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 75 of the laws of 1994, is amended to read as follows:

(a) Driving while ability impaired. A violation of subdivision one of section eleven hundred ninety-two of this article shall be a traffic infraction and shall be punishable by a fine of not less than three hundred dollars nor more than five hundred dollars or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment. A person who operates a vehicle in violation of such subdivision after having been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding five years shall be punished by a fine of not less than

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

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five hundred dollars nor more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment. A person who operates a vehicle in violation of such subdivision after having been convicted two [or more] times of a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not less than seven hundred fifty dollars nor more than fifteen hundred dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such fine and imprisonment.

S 3. Subparagraphs (i) and (ii) of paragraph (c) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 345 of the laws of 2007, are amended to read as follows:

(i) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section, OR OF DRIVING WHILE ABILITY IMPAIRED AS A MISDEMEANOR PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, within the preceding ten years, shall be guilty of a class E felony, and shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(ii) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section, OR OF DRIVING WHILE ABILITY IMPAIRED AS A FELONY PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, twice within the preceding ten years, shall be guilty of a class D felony, and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.