

1398

2009-2010 Regular Sessions

I N   S E N A T E

January 29, 2009

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Introduced by Sens. MAZIARZ, ALESI, BONACIC, DeFRANCISCO, FLANAGAN, FUSCHILLO, 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 and the navigation law, in relation to suspension of vessel operation privileges and motor vehicle licenses for the operation of a vessel while under the influence of alcohol or drugs

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "Guy Kyler Act".  
3     S 2. Section 1193 of the vehicle and traffic law is amended by adding  
4     a new subdivision 3 to read as follows:  
5     3. SUSPENSION OF PRIVILEGE TO OPERATE A VESSEL. IN ADDITION TO ANY  
6     OTHER SANCTION IMPOSED PURSUANT TO THIS SECTION, A PERSON'S PRIVILEGE TO  
7     OPERATE A VESSEL SHALL BE SUSPENDED, AND A VESSEL REGISTRATION MAY BE  
8     SUSPENDED, FOLLOWING A CONVICTION UNDER SECTION ELEVEN HUNDRED  
9     NINETY-TWO OF THIS ARTICLE IN ACCORDANCE WITH THE PROVISIONS OF SUBPARA-  
10    GRAPHS FOUR, FIVE AND SIX OF PARAGRAPH (A) OF SUBDIVISION THREE OF  
11    SECTION FORTY-NINE-A OF THE NAVIGATION LAW.  
12    S 3. Paragraph (a) of subdivision 3 of section 49-a of the navigation  
13    law, as added by chapter 805 of the laws of 1992, subparagraph 1 as  
14    amended by chapter 599 of the laws of 2008, is amended to read as  
15    follows:  
16    (a) The court shall suspend a person's privilege to operate a vessel  
17    and may suspend a vessel registration for:  
18    (1) a period of at least six but less than twelve months where an  
19    operator is convicted of a violation of paragraph (a) of subdivision two  
20    of this section. In determining the length of such suspension or suspen-  
21    sions, the court may take into consideration the seriousness of the  
22    offense and may impose a period of suspension whereby such suspension

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

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1 may be in effect during a portion of the current or subsequent boating  
2 season;

3 (2) a period of twelve months where an operator is convicted of a  
4 violation of paragraph (b), (c), (d) or (e) of subdivision two of this  
5 section;

6 (3) a period of twenty-four months where a person is convicted of a  
7 violation of paragraph (b), (c), (d) or (e) of subdivision two of this  
8 section after having been convicted of a violation of paragraph (b),  
9 (c), (d) or (e) of subdivision two of this section or of operating a  
10 vessel or public vessel while intoxicated or under the influence of  
11 drugs within the preceding ten years[.];

12 (4) A PERIOD OF NINETY DAYS, WHERE SUCH PERSON IS CONVICTED OF A  
13 VIOLATION OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE  
14 VEHICLE AND TRAFFIC LAW. WHERE THE COURT DETERMINES THAT THE PERIOD OF  
15 SUSPENSION IMPOSED PURSUANT TO THIS SUBPARAGRAPH WOULD EXTEND BEYOND THE  
16 CURRENT BOATING SEASON, THE COURT MAY DIRECT THAT ANY PORTION OF SUCH  
17 SUSPENSION PERIOD TAKE EFFECT DURING THE FOLLOWING BOATING SEASON;

18 (5) A PERIOD OF SIX MONTHS, WHERE SUCH PERSON IS CONVICTED OF A  
19 VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION  
20 ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW. WHERE THE  
21 COURT DETERMINES THAT THE PERIOD OF SUSPENSION IMPOSED PURSUANT TO THIS  
22 SUBPARAGRAPH WOULD EXTEND BEYOND THE CURRENT BOATING SEASON, THE COURT  
23 MAY DIRECT THAT ANY PORTION OF SUCH SUSPENSION PERIOD TAKE EFFECT DURING  
24 THE FOLLOWING BOATING SEASON; OR

25 (6) A PERIOD OF ONE YEAR, WHERE SUCH PERSON IS CONVICTED OF A  
26 VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION  
27 ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW COMMITTED WITH-  
28 IN TEN YEARS OF A CONVICTION FOR A VIOLATION OF SUBDIVISION TWO, TWO-A,  
29 THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHI-  
30 CLE AND TRAFFIC LAW. WHERE THE COURT DETERMINES THAT THE PERIOD OF  
31 SUSPENSION IMPOSED PURSUANT TO THIS SUBPARAGRAPH WOULD EXTEND BEYOND THE  
32 CURRENT BOATING SEASON, THE COURT MAY DIRECT THAT ANY PORTION OF SUCH  
33 SUSPENSION PERIOD TAKE EFFECT DURING THE FOLLOWING BOATING SEASON.

34 S 4. Section 49-a of the navigation law is amended by adding a new  
35 subdivision 3-a to read as follows:

36 3-A. ADDITIONAL SANCTIONS; SUSPENSION OF MOTOR VEHICLE DRIVER'S  
37 LICENSE AND MOTOR VEHICLE REGISTRATION. IN ADDITION TO ANY OTHER SANC-  
38 TION IMPOSED PURSUANT TO THIS SECTION, A COURT MAY SUSPEND A LICENSE TO  
39 DRIVE A MOTOR VEHICLE, AND A MOTOR VEHICLE REGISTRATION MAY ALSO BE  
40 SUSPENDED, WHERE (A) A PERSON IS CONVICTED OF A VIOLATION OF SUBDIVISION  
41 TWO OF THIS SECTION AFTER HAVING BEEN CONVICTED OF A VIOLATION OF SUBDI-  
42 VISION TWO OF THIS SECTION, NOT ARISING OUT OF THE SAME INCIDENT, WITHIN  
43 THE PRECEDING TEN YEARS, OR (B) A PERSON IS CONVICTED OF A VIOLATION OF  
44 SUBDIVISION TWO OF THIS SECTION AND, AS A RESULT OF SUCH VIOLATION, A  
45 PERSON OTHER THAN THE PERSON SO CONVICTED WAS KILLED OR SUFFERED SERIOUS  
46 PHYSICAL INJURY. ANY SUSPENSION IMPOSED PURSUANT TO THIS SUBDIVISION  
47 SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPHS L AND M OF  
48 SUBDIVISION THREE OF SECTION FIVE HUNDRED TEN OF THE VEHICLE AND TRAFFIC  
49 LAW.

50 S 5. Subdivision 3 of section 510 of the vehicle and traffic law is  
51 amended by adding two new paragraphs l and m to read as follows:

52 1. FOR A PERIOD OF FORTY-FIVE DAYS WHERE THE HOLDER IS CONVICTED OF A  
53 VIOLATION OF PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION FORTY-NINE-A  
54 OF THE NAVIGATION LAW AND SUCH SUSPENSION IS ORDERED PURSUANT TO SUBDI-  
55 VISION THREE-A OF SECTION FORTY-NINE-A OF THE NAVIGATION LAW;

1 M. FOR A PERIOD OF NINETY DAYS WHERE THE HOLDER IS CONVICTED OF A  
2 VIOLATION OF PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION TWO OF  
3 SECTION FORTY-NINE-A OF THE NAVIGATION LAW AND SUCH SUSPENSION IS  
4 ORDERED PURSUANT TO SUBDIVISION THREE-A OF SECTION FORTY-NINE-A OF THE  
5 NAVIGATION LAW;

6 S 6. Subdivision 4 of section 1196 of the vehicle and traffic law, as  
7 amended by chapter 196 of the laws of 1996, is amended to read as  
8 follows:

9 4. Eligibility. Participation in the program shall be limited to those  
10 persons convicted of alcohol or drug-related traffic offenses or persons  
11 who have been adjudicated youthful offenders for alcohol or drug-related  
12 traffic offenses, or persons found to have been operating a motor vehi-  
13 cle after having consumed alcohol in violation of section eleven hundred  
14 ninety-two-a of this article, OR PERSONS CONVICTED OF ALCOHOL OR  
15 DRUG-RELATED NAVIGATION OFFENSES IN VIOLATION OF SUBDIVISION TWO OF  
16 SECTION FORTY-NINE-A OF THE NAVIGATION LAW AND WHOSE DRIVERS' LICENSES  
17 WERE SUSPENDED AS A RESULT OF SUCH CONVICTION, who choose to participate  
18 and who satisfy the criteria and meet the requirements for participation  
19 as established by this section and the regulations promulgated there-  
20 under; provided, however, in the exercise of discretion, the judge  
21 imposing sentence may prohibit the defendant from enrolling in such  
22 program. The commissioner or deputy may exercise discretion, to reject  
23 any person from participation referred to such program and nothing here-  
24 in contained shall be construed as creating a right to be included in  
25 any course or program established under this section. In addition, no  
26 person shall be permitted to take part in such program if, during the  
27 five years immediately preceding commission of an alcohol or drug-relat-  
28 ed traffic offense or a finding of a violation of section eleven hundred  
29 ninety-two-a of this article, such person has participated in a program  
30 established pursuant to this article or been convicted of a violation of  
31 any subdivision of section eleven hundred ninety-two of this article, OR  
32 THE COMMISSION OF AN ALCOHOL OR DRUG-RELATED NAVIGATION OFFENSE IN  
33 VIOLATION OF SUBDIVISION TWO OF SECTION FORTY-NINE-A OF THE NAVIGATION  
34 LAW FOR WHICH THE DRIVER'S LICENSE WAS SUSPENDED other than a violation  
35 committed prior to November first, nineteen hundred eighty-eight, for  
36 which such person did not participate in such program. In the exercise  
37 of discretion, the commissioner or a deputy shall have the right to  
38 expel any participant from the program who fails to satisfy the require-  
39 ments for participation in such program or who fails to satisfactorily  
40 participate in or attend any aspect of such program. Notwithstanding any  
41 contrary provisions of this chapter, satisfactory participation in and  
42 completion of a course in such program shall result in the termination  
43 of any sentence of imprisonment that may have been imposed by reason of  
44 a conviction therefor; provided, however, that nothing contained in this  
45 section shall delay the commencement of such sentence.

46 S 7. This act shall take effect on the first of November next succeed-  
47 ing the date on which it shall have become a law.