

1831

2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sens. KLEIN, KRUEGER, ONORATO, PARKER, SAMPSON -- 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 requiring participation in an alcohol and drug rehabilitation program for certain first offenders

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

1 Section 1. Subdivision 1 of section 1193 of the vehicle and traffic
2 law is amended by adding a new paragraph (g) to read as follows:
3 (G) WHERE THE COURT IMPOSES A SENTENCE FOR A VIOLATION OF SECTION
4 ELEVEN HUNDRED NINETY-TWO OR ELEVEN HUNDRED NINETY-TWO-A OF THIS ARTI-
5 CLE, THE COURT SHALL REQUIRE THE DEFENDANT, AS A PART OR CONDITION OF
6 SUCH SENTENCE, TO ATTEND AN ALCOHOL AND DRUG REHABILITATION PROGRAM
7 CONDUCTED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTICLE,
8 IN CASES IN WHICH THE DEFENDANT HAS NOT PREVIOUSLY BEEN CONVICTED OF A
9 VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OR ELEVEN HUNDRED NINE-
10 TY-TWO-A OF THIS ARTICLE AND MEETS THE ELIGIBILITY CRITERIA FOR PARTIC-
11 IPATION IN SUCH PROGRAM SET FORTH IN SUCH SECTION.
12 S 2. Subdivision 4 of section 1196 of the vehicle and traffic law, as
13 amended by chapter 196 of the laws of 1996, is amended to read as
14 follows:
15 4. Eligibility. Participation in the program shall be limited to those
16 persons convicted of alcohol or drug-related traffic offenses or persons
17 who have been adjudicated youthful offenders for alcohol or drug-related
18 traffic offenses, or persons found to have been operating a motor vehi-
19 cle after having consumed alcohol in violation of section eleven hundred
20 ninety-two-a of this article, who choose OR ARE SENTENCED to participate
21 and who satisfy the criteria and meet the requirements for participation
22 as established by this section and the regulations promulgated there-
23 under; provided, however, in the exercise of discretion, the judge

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

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1 imposing sentence may prohibit the defendant from enrolling in such
2 program FOR GOOD CAUSE, IN WHICH EVENT THE REASONS THEREFOR SHALL BE
3 STATED UPON THE RECORD. The commissioner or deputy may exercise
4 discretion, FOR GOOD CAUSE, THE REASONS FOR WHICH MUST BE MADE KNOWN TO
5 THE PERSON, to reject any person [from participation] referred OR
6 SENTENCED to such program FROM PARTICIPATING THEREIN, and nothing herein
7 contained shall be construed as creating a right to be included in any
8 course or program established under this section. In addition, no
9 person shall be permitted to take part in such program if, during the
10 five years immediately preceding commission of an alcohol or drug-relat-
11 ed traffic offense or a finding of a violation of section eleven hundred
12 ninety-two-a of this article, such person has participated in a program
13 established pursuant to this article or been convicted of a violation of
14 any subdivision of section eleven hundred ninety-two of this article
15 other than a violation committed prior to November first, nineteen
16 hundred eighty-eight, for which such person did not participate in such
17 program. In the exercise of discretion, the commissioner or a deputy
18 shall have the right to expel any participant from the program who fails
19 to satisfy the requirements for participation in such program or who
20 fails to satisfactorily participate in or attend any aspect of such
21 program. Notwithstanding any contrary provisions of this chapter, satis-
22 factory participation in and completion of a course in such program
23 shall result in the termination of any sentence of imprisonment that may
24 have been imposed by reason of a conviction therefor; provided, however,
25 that nothing contained in this section shall delay the commencement of
26 such sentence.

27 S 3. This act shall take effect on the first of November next succeed-
28 ing the date on which it shall have become a law.