

3619

2009-2010 Regular Sessions

I N S E N A T E

March 25, 2009

Introduced by Sen. DILAN -- (at request of the Department of Motor Vehicles) -- 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 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.

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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 iss-
10 uance 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.