

5141--A

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sens. FUSCHILLO, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Codes -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to sanctions for driving while ability impaired while holding a conditional license

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

1 Section 1. Clauses d and e of subparagraph 7 of paragraph (e) of
2 subdivision 2 of section 1193 of the vehicle and traffic law, as amended
3 by chapter 251 of the laws of 2007, are amended to read as follows:
4 d. Notwithstanding any contrary provision of this chapter, if any
5 suspension occurring under this subparagraph has been in effect for a
6 period of thirty days, [the holder may be issued] THE DEPARTMENT MAY,
7 WITH THE CONSENT OF THE COURT, ISSUE a conditional license, in accordance
8 with section eleven hundred ninety-six of this article, provided
9 the holder of such license is otherwise eligible to receive such conditional
10 license. A conditional license issued pursuant to this subparagraph
11 shall not be valid for the operation of a commercial motor vehicle.
12 The commissioner shall prescribe by regulation the procedures for
13 the issuance of such conditional license.
14 e. If the court finds that the suspension imposed pursuant to this
15 subparagraph will result in extreme hardship, the court must issue such
16 suspension, but may grant a hardship privilege, IN CONJUNCTION WITH THE
17 INSTALLATION OF AN IGNITION INTERLOCK DEVICE, which shall be issued on a
18 form prescribed by the commissioner. For the purposes of this clause,
19 "extreme hardship" shall mean the inability to obtain alternative means

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

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1 of travel to or from the licensee's employment, or to or from necessary
2 medical treatment for the licensee or a member of the licensee's house-
3 hold, or if the licensee is a matriculating student enrolled in an
4 accredited school, college or university travel to or from such
5 licensee's school, college or university if such travel is necessary for
6 the completion of the educational degree or certificate. The burden of
7 proving extreme hardship shall be on the licensee who may present mate-
8 rial and relevant evidence. A finding of extreme hardship may not be
9 based solely upon the testimony of the licensee. In no event shall
10 arraignment be adjourned or otherwise delayed more than three business
11 days solely for the purpose of allowing the licensee to present evidence
12 of extreme hardship. The court shall set forth upon the record, or
13 otherwise set forth in writing, the factual basis for such finding. The
14 hardship privilege shall permit the operation of a vehicle only for
15 travel to or from the licensee's employment, or to or from necessary
16 medical treatment for the licensee or a member of the licensee's house-
17 hold, or if the licensee is a matriculating student enrolled in an
18 accredited school, college or university travel to or from such
19 licensee's school, college or university if such travel is necessary for
20 the completion of the educational degree or certificate. A hardship
21 privilege shall not be valid for the operation of a commercial motor
22 vehicle. A PRE-CONVICTION IGNITION INTERLOCK DEVICE INSTALLED PURSUANT
23 TO THIS CLAUSE SHALL BE INSTALLED AND MAINTAINED IN THE SAME MANNER AS
24 PRESCRIBED IN THIS ARTICLE.

25 S 2. This act shall take effect one year after it shall have become a
26 law; provided, however, that the amendments to clauses d and e of
27 subparagraph 7 of paragraph (e) of subdivision 2 of section 1193 of the
28 vehicle and traffic law made by section one of this act shall not affect
29 the repeal of such subparagraph and shall be deemed repealed therewith.