

6342

2009-2010 Regular Sessions

I N S E N A T E

December 16, 2009

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the vehicle and traffic law and the penal law, in relation to restrictions on commercial driver's licenses

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

- 1 Section 1. The vehicle and traffic law is amended by adding a new  
2 section 501-c to read as follows:  
3 S 501-C. COMMERCIAL DRIVER'S LICENSE RESTRICTIONS. 1. THE DEPARTMENT  
4 SHALL NOT ISSUE OR RENEW A COMMERCIAL DRIVER'S LICENSE TO ANY PERSON  
5 REQUIRED TO REGISTER UNDER ARTICLE SIX-C OF THE CORRECTION LAW.  
6 2. THE DEPARTMENT SHALL NOT ISSUE A COMMERCIAL DRIVER LEARNER'S PERMIT  
7 TO ANY PERSON REQUIRED TO REGISTER UNDER ARTICLE SIX-C OF THE CORRECTION  
8 LAW.  
9 3. A PERSON WHO IS CONVICTED OF A VIOLATION THAT REQUIRES REGISTRATION  
10 UNDER ARTICLE SIX-C OF THE CORRECTION LAW IS DISQUALIFIED FROM DRIVING A  
11 COMMERCIAL MOTOR VEHICLE FOR THE PERIOD OF TIME DURING WHICH THE PERSON  
12 IS REQUIRED TO MAINTAIN REGISTRATION UNDER ARTICLE SIX-C OF THE  
13 CORRECTION LAW.  
14 4. A PERSON WHO DRIVES A COMMERCIAL VEHICLE OR SCHOOL BUS AND WHO DOES  
15 NOT HAVE A COMMERCIAL DRIVER'S LICENSE BECAUSE THE PERSON WAS CONVICTED  
16 OF A VIOLATION THAT REQUIRES REGISTRATION UNDER ARTICLE SIX-C OF THE  
17 CORRECTION LAW SHALL BE PUNISHED AS PROVIDED IN SUBDIVISION SIX OF THIS  
18 SECTION.  
19 5. THE DEPARTMENT SHALL NOT ISSUE A COMMERCIAL DRIVER'S LICENSE TO AN  
20 APPLICANT UNTIL THE DEPARTMENT HAS SEARCHED BOTH THE STATEWIDE REGISTRY  
21 AND THE NATIONAL SEX OFFENDER PUBLIC REGISTRY TO DETERMINE IF THE PERSON  
22 IS CURRENTLY REGISTERED AS A SEX OFFENDER IN NEW YORK OR ANOTHER STATE.  
23 A. IF THE DEPARTMENT FINDS THAT THE PERSON IS CURRENTLY REGISTERED AS  
24 A SEX OFFENDER IN EITHER NEW YORK OR ANOTHER STATE, THE DEPARTMENT, IN

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

LBD15214-03-9

1 COMPLIANCE WITH THIS SECTION, SHALL NOT ISSUE A COMMERCIAL DRIVER'S  
2 LICENSE TO THE APPLICANT.

3 B. IF THE DEPARTMENT IS UNABLE TO ACCESS EITHER THE STATEWIDE REGISTRY  
4 OR ALL OF THE STATES' INFORMATION CONTAINED IN THE NATIONAL SEX OFFENDER  
5 PUBLIC REGISTRY, BUT THE PERSON IS OTHERWISE QUALIFIED TO OBTAIN A  
6 COMMERCIAL DRIVER'S LICENSE, THEN THE DEPARTMENT SHALL ISSUE THE COMMER-  
7 CIAL DRIVER'S LICENSE BUT SHALL FIRST REQUIRE THE PERSON TO SIGN AN  
8 AFFIDAVIT STATING THAT THE PERSON DOES NOT APPEAR ON EITHER THE STATE-  
9 WIDE REGISTRY OR THE NATIONAL SEX OFFENDER PUBLIC REGISTRY. THE DEPART-  
10 MENT SHALL SEARCH THE STATEWIDE REGISTRY AND THE NATIONAL SEX OFFENDER  
11 PUBLIC REGISTRY FOR THE PERSON WITHIN A REASONABLE TIME AFTER ACCESS TO  
12 THE STATEWIDE REGISTRY OR THE NATIONAL SEX OFFENDER PUBLIC REGISTRY IS  
13 RESTORED. IF THE PERSON DOES APPEAR IN EITHER REGISTRY, THE PERSON IS IN  
14 VIOLATION OF THIS SECTION, AND THE DEPARTMENT SHALL IMMEDIATELY CANCEL  
15 THE COMMERCIAL DRIVER'S LICENSE AND SHALL PROMPTLY NOTIFY THE SHERIFF OF  
16 THE COUNTY WHERE THE PERSON RESIDES OF THE OFFENSE.

17 C. ANY PERSON DENIED A COMMERCIAL DRIVER'S LICENSE OR WHO IS DISQUALI-  
18 FIED FROM DRIVING A COMMERCIAL VEHICLE THAT REQUIRES A COMMERCIAL DRIV-  
19 ERS LICENSE BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL HAVE A  
20 RIGHT TO FILE A PETITION WITHIN THIRTY DAYS THEREAFTER FOR A HEARING IN  
21 THE MATTER, IN THE SUPREME COURT OF THE COUNTY WHERE THE PERSON RESIDES.  
22 THE COURT IS VESTED WITH JURISDICTION TO HEAR THE PETITION, AND IT SHALL  
23 BE THE DUTY OF THE COURT TO SET THE MATTER FOR HEARING UPON THIRTY DAYS'  
24 WRITTEN NOTICE TO THE DEPARTMENT, AND THEREUPON TO TAKE TESTIMONY AND  
25 EXAMINE INTO THE FACTS OF THE CASE AND TO DETERMINE WHETHER THE PETI-  
26 TIONER IS ENTITLED TO A COMMERCIAL DRIVER'S LICENSE UNDER THE PROVISIONS  
27 OF THIS SECTION.

28 D. ANY PERSON WHO MAKES A FALSE AFFIDAVIT, OR WHO KNOWINGLY SWEARS OR  
29 AFFIRMS FALSELY, TO ANY MATTER OR THING REQUIRED BY THE TERMS OF THIS  
30 SECTION TO BE AFFIRMED TO OR SWORN IS GUILTY OF A CLASS E FELONY.

31 6. A PERSON CONVICTED OF A VIOLATION OF THIS SECTION SHALL BE GUILTY  
32 OF A CLASS D FELONY UNLESS SUCH VIOLATION IS SPECIFIED OTHERWISE.

33 S 2. The vehicle and traffic law is amended by adding a new section  
34 510-d to read as follows:

35 S 510-D. REVOCATION OF COMMERCIAL DRIVER'S LICENSE UPON CONVICTION OF  
36 CERTAIN OFFENSES. THE DEPARTMENT SHALL REVOKE THE COMMERCIAL DRIVER'S  
37 LICENSE OF ANY PERSON CONVICTED OF ANY OFFENSE ON OR AFTER JUNE FIRST,  
38 TWO THOUSAND TEN, THAT REQUIRES REGISTRATION UNDER ARTICLE SIX-C OF THE  
39 CORRECTION LAW. THE PERSON MAY APPLY FOR THE ISSUANCE OF A NEW COMMER-  
40 CIAL DRIVER'S LICENSE PURSUANT TO THIS CHAPTER, BUT, SHALL REMAIN  
41 DISQUALIFIED FROM OBTAINING A COMMERCIAL DRIVER'S LICENSE FOR THE PERIOD  
42 OF TIME DURING WHICH THE PERSON IS REQUIRED TO MAINTAIN REGISTRATION.

43 S 3. The penal law is amended by adding a new section 130.87 to read  
44 as follows:

45 S 130.87 UNLAWFUL DRIVING OF A COMMERCIAL VEHICLE OR SCHOOL BUS.

46 IT IS UNLAWFUL FOR ANY PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO  
47 ARTICLE SIX-C OF THE CORRECTION LAW TO DRIVE A COMMERCIAL VEHICLE OR A  
48 SCHOOL BUS WITHOUT HAVING A VALID COMMERCIAL DRIVER'S LICENSE.

49 UNLAWFUL DRIVING OF A COMMERCIAL VEHICLE OR SCHOOL BUS IS A CLASS D  
50 FELONY.

51 S 4. This act shall take effect on the ninetieth day after it shall  
52 have become a law.