

11660

I N A S S E M B L Y

July 6, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Weisenberg)
-- read once and referred to the Committee on Transportation

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
20 of travel to or from the licensee's employment, or to or from necessary
21 medical treatment for the licensee or a member of the licensee's household,
22 or if the licensee is a matriculating student enrolled in an
23 accredited school, college or university travel to or from such
24 licensee's school, college or university if such travel is necessary for
25 the completion of the educational degree or certificate. The burden of
26 proving extreme hardship shall be on the licensee who may present material
27 and relevant evidence. A finding of extreme hardship may not be
28 based solely upon the testimony of the licensee. In no event shall

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

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1 arraignment be adjourned or otherwise delayed more than three business
2 days solely for the purpose of allowing the licensee to present evidence
3 of extreme hardship. The court shall set forth upon the record, or
4 otherwise set forth in writing, the factual basis for such finding. The
5 hardship privilege shall permit the operation of a vehicle only for
6 travel to or from the licensee's employment, or to or from necessary
7 medical treatment for the licensee or a member of the licensee's house-
8 hold, or if the licensee is a matriculating student enrolled in an
9 accredited school, college or university travel to or from such
10 licensee's school, college or university if such travel is necessary for
11 the completion of the educational degree or certificate. A hardship
12 privilege shall not be valid for the operation of a commercial motor
13 vehicle. A PRE-CONVICTION IGNITION INTERLOCK DEVICE INSTALLED PURSUANT
14 TO THIS CLAUSE SHALL BE INSTALLED AND MAINTAINED IN THE SAME MANNER AS
15 PRESCRIBED IN THIS ARTICLE.

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20 the repeal of such subparagraph and shall be deemed repealed therewith.