S T A T E O F N E W Y O R K

2633

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. ORTIZ -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, COLTON, GALEF, HOOPER, ROBINSON, SWEENEY, TOWNS -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to a statewide ignition interlock device program; to amend the state finance law, in relation to the creation of the ignition interlock device program fund; to amend the vehicle and traffic law, in relation to penalties for provisions relating to driving under the influence of alcohol; and to amend the criminal procedure law, in relation to the application for bail

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

Section 1. The vehicle and traffic law is amended by adding a new article 31-A to read as follows:

ARTICLE 31-A

STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM

SECTION 1199-A. STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM.
1199-B. IMPLEMENTATION OF PROGRAM.
1199-C. IGNITION INTERLOCK SERVICE PROVIDERS.
1199-D. IGNITION INTERLOCK PROGRAM VIOLATIONS.
1199-E. TAMPERING WITH AN IGNITION INTERLOCK DEVICE.
1199-F. ATTEMPTING TO TAMPER WITH AN IGNITION INTERLOCK DEVICE.
1199-G. DUTIES OF THE COMMISSIONER.

S 1199-A. STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM. 1. THERE IS HEREBY CREATED A STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM.

2. THE PROGRAM IS ADMINISTERED BY IGNITION INTERLOCK SERVICE PROVIDERS, WHO ARE MONITORED AND REGULATED BY THE COMMISSIONER.

S 1199-B. IMPLEMENTATION OF PROGRAM. 1. EVERY PERSON WHO IS CONVICTED UNDER SECTION ELEVEN HUNDRED NINETY-TWO OR ELEVEN HUNDRED NINETY-TWO-A OF THIS TITLE IS REQUIRED TO PARTICIPATE IN THE PROGRAM.

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

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2. EVERY PERSON REQUIRED TO PARTICIPATE IN THE PROGRAM SHALL HAVE AN IGNITION INTERLOCK DEVICE INSTALLED ON HIS OR HER VEHICLE BY AN IGNITION INTERLOCK SERVICE PROVIDER. THE DEVICE MUST BE CAPABLE OF RECORDING THE DATE OF ALL BREATH TESTS PERFORMED ON THE DEVICE.

3. A PARTICIPANT IS REQUIRED TO BREATHE INTO THE IGNITION INTERLOCK DEVICE EVERY TIME HE OR SHE ATTEMPTS TO OPERATE HIS OR HER VEHICLE. IF THE PARTICIPANT'S BLOOD ALCOHOL CONTENT IS EQUAL TO OR GREATER THAN .025 OF ONE PERCENT BY WEIGHT, THEN THE PARTICIPANT'S VEHICLE WILL NOT START.

4. IF A PARTICIPANT IS ABLE TO START HIS OR HER VEHICLE, HE OR SHE WILL BE SUBJECT TO ROLLING TESTS, WHEREBY THE PARTICIPANT WILL BREATHE INTO THE IGNITION INTERLOCK DEVICE EVERY TWENTY TO FORTY MINUTES, DEPENDING ON HOW THE DEVICE IS CONFIGURED. THE DEVICE SHALL RECORD ALL OF THE DATA REGARDING THESE ROLLING TESTS.

5. A PARTICIPANT IN THE PROGRAM IS PROHIBITED FROM DRIVING ANY VEHICLE OTHER THAN A VEHICLE THAT HAS BEEN EQUIPPED WITH HIS OR HER OWN IGNITION INTERLOCK DEVICE.

6. THE COSTS OF INSTALLATION OF THE IGNITION INTERLOCK DEVICE SHALL BE PAID BY THE OFFENDER.

7. IF THE COURT DEEMS A PERSON TO BE INDIGENT, THEN FIFTY PERCENT OF THE COST OF INSTALLATION SHALL BE PAID FROM THE IGNITION INTERLOCK DEVICE PROGRAM FUND ESTABLISHED UNDER SECTION NINETY-ONE-H OF THE STATE FINANCE LAW.

8. EVERY PERSON REQUIRED TO PARTICIPATE IN THE PROGRAM SHALL ALSO BE REQUIRED TO:

A. ATTEND ALCOHOL AND SUBSTANCE ABUSE COUNSELING; AND

B. MEET WEEKLY WITH VICTIM SUPPORT GROUPS FOR ALCOHOL RELATED ACCIDENTS; AND

C. MEET WEEKLY WITH A PROBATION OFFICER.

9. THE COMMISSIONER SHALL ESTABLISH THE CRITERIA THAT MUST BE MET BEFORE A PERSON MAY BE REMOVED FROM THE PROGRAM. SUCH CRITERIA MUST INCLUDE AN IGNITION INTERLOCK DEVICE RECORD OF AT LEAST TWELVE CONSECUTIVE MONTHS WHERE ALL TEST RESULTS INDICATE A BLOOD ALCOHOL CONTENT OF LESS THAN .025 OF ONE PERCENT BY WEIGHT AS WELL AS APPROVAL BY THE PERSON'S PROBATION OFFICER, SUBSTANCE ABUSE COUNSELOR, AND THE COMMISSIONER.

S 1199-C. IGNITION INTERLOCK SERVICE PROVIDERS. 1. ANY PERSON WHO MEETS THE FOLLOWING CRITERIA MAY APPLY TO THE DEPARTMENT TO BECOME AN IGNITION INTERLOCK SERVICE PROVIDER:

A. HE OR SHE MUST HAVE AT LEAST TWO YEARS OF EXPERIENCE IN SERVICE AND INSTALLATION OF IGNITION INTERLOCK DEVICES; AND

B. HE OR SHE HAS THE ABILITY, ACCEPTABLE TO THE COMMISSIONER, TO ESTABLISH SUFFICIENT SERVICE CENTERS FOR HIS OR HER JURISDICTION.

2. ALL IGNITION INTERLOCK SERVICE PROVIDERS MUST PROVIDE A TWENTY-FOUR HOUR TOLL-FREE TELEPHONE HOTLINE.

3. AN IGNITION INTERLOCK SERVICE PROVIDER MUST SERVICE ALL IGNITION INTERLOCK DEVICES ON A BI-MONTHLY BASIS.

4. AN IGNITION INTERLOCK SERVICE PROVIDER MUST:

A. RETURN ALL SERVICE CALLS WITHIN FORTY-FIVE MINUTES; AND

B. REPAIR OR REPLACE ALL IGNITION INTERLOCK DEVICES WITHIN FORTY-EIGHT HOURS.

5. AN IGNITION INTERLOCK SERVICE PROVIDER SHALL INFORM THE DEPARTMENT WITHIN TWENTY-FOUR HOURS OF HIS OR HER NOTICE OF:

A. ANY INSTALLATION, REPAIR, RESET, OR REMOVAL OF AN IGNITION INTERLOCK DEVICE; AND

B. ANY TAMPERING OR ATTEMPTED TAMPERING OF THE IGNITION INTERLOCK DEVICE IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE.

6. AN IGNITION INTERLOCK SERVICE PROVIDER SHALL REPORT AT LEAST MONTHLY TO THE DEPARTMENT ON ALL ASPECTS OF THEIR SERVICE PROGRAM.

7. AN IGNITION INTERLOCK SERVICE PROVIDER MAY CHARGE FEES FOR SERVICES. SUCH FEES SHALL BE UNIFORM THROUGHOUT THE STATE AND SHALL BE ESTABLISHED BY THE COMMISSIONER.

8. AN IGNITION INTERLOCK SERVICE PROVIDER SHALL BE RESPONSIBLE FOR INFORMING THE IGNITION INTERLOCK PROGRAM PARTICIPANT ON THE PROPER USE AND MAINTENANCE OF THE IGNITION INTERLOCK DEVICE.

S 1199-D. IGNITION INTERLOCK PROGRAM VIOLATIONS. 1. FOR EVERY VIOLATION OF THE IGNITION INTERLOCK PROGRAM A POINT VALUE SHALL BE ASSIGNED ACCORDING TO SUBDIVISION TWO OF THIS SECTION. APPROPRIATE SANCTIONS SHALL BE DETERMINED IN ACCORDANCE WITH SUBDIVISION THREE OF THIS SECTION BASED UPON THE ACCUMULATED POINTS OF THE PARTICIPANT.

2. THE FOLLOWING VIOLATIONS SHALL RESULT IN THE FOLLOWING NUMBER OF POINTS:

A. ONE POINT EACH TIME A PARTICIPANT REGISTERS A BLOOD ALCOHOL CONTENT EQUAL TO OR GREATER THAN .08 OF ONE PERCENT BY WEIGHT.

B. ONE POINT WHEN A PARTICIPANT REGISTERS A BLOOD ALCOHOL CONTENT EQUAL TO OR GREATER THAN .025 OF ONE PERCENT BY WEIGHT ON THREE CONSECUTIVE TESTS.

C. ONE POINT FOR MISSING A ROLLING TEST AS REQUIRED PURSUANT TO SUBDIVISION FOUR OF SECTION ELEVEN HUNDRED NINETY-NINE-B OF THIS ARTICLE.

D. THREE POINTS FOR TAMPERING WITH AN IGNITION INTERLOCK DEVICE AS PROVIDED IN SECTION ELEVEN HUNDRED NINETY-NINE-E OF THIS ARTICLE OR ATTEMPTING TO TAMPER WITH AN IGNITION INTERLOCK DEVICE AS PROVIDED IN SECTION ELEVEN HUNDRED NINETY-NINE-F OF THIS ARTICLE.

3. FOR EVERY THREE POINTS ACCUMULATED BY THE PARTICIPANT, HE OR SHE:

A. MUST RETURN HIS OR HER VEHICLE TO AN IGNITION INTERLOCK SERVICE PROVIDER TO HAVE THE DEVICE RESET;

B. IS RESPONSIBLE FOR THE COST OF THE RESETTING FEE, WHERE SUCH FEE SHALL BE DETERMINED BY THE COMMISSIONER;

C. IS SUBJECT TO AT LEAST AN ADDITIONAL SIX MONTH EXTENSION OF HIS OR HER SCHEDULED IGNITION INTERLOCK PROGRAM; AND

D. MUST PAY A FINE OF FIVE HUNDRED DOLLARS.

4. ANY PERSON WHO OPERATES A VEHICLE IN VIOLATION OF SUBDIVISION FIVE OF SECTION ELEVEN HUNDRED NINETY-NINE-B OF THIS ARTICLE SHALL BE PUNISHED AS FOLLOWS:

A. SUCH PERSON SHALL HAVE AN ADDITIONAL SIX MONTHS ADDED ON TO HIS OR HER MINIMUM REQUIRED PARTICIPATION IN THE IGNITION INTERLOCK DEVICE PROGRAM;

B. SUCH PERSON SHALL BE REQUIRED TO PAY A FINE OF TWO THOUSAND DOLLARS; AND

C. SUCH PERSON SHALL HAVE THEIR DRIVER'S LICENSE SUSPENDED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-THREE OF THIS TITLE.

S 1199-E. TAMPERING WITH AN IGNITION INTERLOCK DEVICE. A PERSON IS GUILTY OF TAMPERING WITH AN IGNITION INTERLOCK DEVICE WHEN HE OR SHE CIRCUMVENTS OR CAUSES THE CIRCUMVENTION OF THE TESTING AND/OR DATA RECORDING OF THE IGNITION INTERLOCK DEVICE. ANY PERSON WHO TAMPERS WITH AN IGNITION INTERLOCK DEVICE SHALL BE GUILTY OF VIOLATING THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM AND SHALL BE SUBJECT TO UP TO ONE YEAR OF IMPRISONMENT AND A FINE OF UP TO ONE THOUSAND FIVE HUNDRED DOLLARS. TAMPERING WITH AN IGNITION INTERLOCK DEVICE SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY PERSON WHO ASSISTS IN TAMPERING WITH AN IGNITION INTERLOCK DEVICE, INCLUDING ANY PERSON WHO BREATHES INTO AN IGNITION INTERLOCK DEVICE ON BEHALF OF THE DESIGNATED PARTICIPANT.

S 1199-F. ATTEMPTING TO TAMPER WITH AN IGNITION INTERLOCK DEVICE. A PERSON IS GUILTY OF ATTEMPTING TO TAMPER WITH AN IGNITION INTERLOCK DEVICE WHEN HE OR SHE ATTEMPTS TO CIRCUMVENT THE TESTING AND/OR DATA RECORDING OF AN IGNITION INTERLOCK DEVICE. ANY PERSON WHO ATTEMPTS TO TAMPER WITH AN IGNITION INTERLOCK DEVICE SHALL BE GUILTY OF VIOLATING THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM AND SHALL BE SUBJECT TO UP TO SIX MONTHS OF IMPRISONMENT AND A FINE OF UP TO ONE THOUSAND FIVE HUNDRED DOLLARS.

S 1199-G. DUTIES OF THE COMMISSIONER. 1. THE COMMISSIONER SHALL PROMULGATE ANY RULE OR REGULATION NECESSARY FOR THE EFFECTIVE IMPLEMENTATION OF THIS ARTICLE.

2. THE COMMISSIONER SHALL CAUSE TO BE ESTABLISHED A DISTINCTIVE DRIVER'S LICENSE THAT CLEARLY DISTINGUISHES PARTICIPANTS IN THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM FROM OTHER DRIVERS OF THE STATE.

S 2. The state finance law is amended by adding a new section 91-h to read as follows:

S 91-H. IGNITION INTERLOCK DEVICE PROGRAM FUND. 1. THERE IS HEREBY CREATED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF MOTOR VEHICLES A FUND TO BE KNOWN AS THE "IGNITION INTERLOCK DEVICE PROGRAM FUND".

2. THE FUND SHALL CONSIST OF ALL MONIES APPROPRIATED BY THE STATE LEGISLATURE AND ALL FINES IMPOSED UPON VIOLATIONS OF THE STATEWIDE IGNITION INTERLOCK PROGRAM.

3. THE MONIES OF THE FUND SHALL BE USED FOR ANY PURPOSE DESIGNATED BY THE COMMISSIONER OF MOTOR VEHICLES THAT FURTHERS THE GOALS AND PURPOSE OF THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM, INCLUDING THE PRODUCTION OF EDUCATIONAL MATERIALS THAT INFORM THE PUBLIC OF THE HAZARDS OF DRIVING UNDER THE INFLUENCE OF ALCOHOL.

S 3. Paragraph (a) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 75 of the laws of 1994, is amended to read as follows:

(a) Driving while ability impaired. (1) A violation of subdivision one of section eleven hundred ninety-two of this article shall be a traffic infraction and shall be punishable by a fine of not less than three hundred dollars nor more than five hundred dollars or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment. SUCH PERSON SHALL ALSO BE REQUIRED TO PARTICIPATE IN THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM ESTABLISHED UNDER ARTICLE THIRTY-ONE-A OF THIS TITLE FOR A MINIMUM OF TWELVE MONTHS.

(2) A person who operates a vehicle in violation of such subdivision after having been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding five years shall be punished by a fine of not less than five hundred dollars nor more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment. SUCH PERSON SHALL ALSO BE REQUIRED TO PARTICIPATE IN THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM ESTABLISHED UNDER ARTICLE THIRTY-ONE-A OF THIS TITLE FOR A MINIMUM OF EIGHTEEN MONTHS.

(3) A person who operates a vehicle in violation of such subdivision after having been convicted two or more times of a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not less than seven hundred fifty dollars nor more than fifteen hundred dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such

fine and imprisonment. SUCH PERSON SHALL ALSO BE REQUIRED TO PARTICIPATE IN THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM ESTABLISHED UNDER ARTICLE THIRTY-ONE-A OF THIS TITLE FOR A MINIMUM OF TWENTY-FOUR MONTHS.

S 4. Paragraph (a) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by chapter 196 of the laws of 1996, is amended to read as follows:

(a) Suspensions. Except as otherwise provided in this subdivision, a license shall be suspended and a registration may be suspended for the following periods:

(1) Driving while ability impaired. [Ninety] FORTY-FIVE days, where the holder is convicted of a violation of subdivision one of section eleven hundred ninety-two of this article;

(2) Persons under the age of twenty-one; driving after having consumed alcohol. [Six months] NINETY DAYS, where the holder has been found to have operated a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article where such person was under the age of twenty-one at the time of commission of such violation;

(3) OPERATION OF A VEHICLE NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE. SIX MONTHS, WHERE THE HOLDER HAS BEEN FOUND TO HAVE VIOLATED SUBDIVISION FIVE OF SECTION ELEVEN HUNDRED NINETY-NINE-B OF THIS TITLE.

S 5. Paragraph (b) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 669 of the laws of 2007, is amended to read as follows:

(b) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; misdemeanor offenses. A violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment AND MANDATORY PARTICIPATION IN THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM ESTABLISHED UNDER ARTICLE THIRTY-ONE-A OF THIS TITLE FOR A MINIMUM OF EIGHTEEN MONTHS. A violation of subdivision two-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than one thousand dollars nor more than two thousand five hundred dollars or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. In addition to the imposition of any fine or period of imprisonment set forth in this paragraph, the court shall require that any person who has been convicted of a violation of subdivision two-a of section eleven hundred ninety-two of this article and who is sentenced to a period of probation, to install and maintain, as a condition of such probation and in accordance with section eleven hundred ninety-eight of this article, a functioning ignition interlock device in any vehicle owned or operated by the person during the term of such probation; provided, however, the court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked pursuant to the provisions of this section.

S 6. Paragraph (c) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 732 of the laws of 2006, subparagraphs (i) and (ii) as amended by chapter 345 of the laws of of 2007, is amended to read as follows:

(c) Felony offenses. (i) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, within the preceding ten years, shall be guilty of a class E felony, and shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment AND SHALL ALSO BE REQUIRED TO PARTICIPATE IN THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM ESTABLISHED UNDER ARTICLE THIRTY-ONE-A OF THIS TITLE FOR A MINIMUM OF TWENTY-FOUR MONTHS.

(ii) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, twice within the preceding ten years, shall be guilty of a class D felony, and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment AND SHALL ALSO BE REQUIRED TO PARTICIPATE IN THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM ESTABLISHED UNDER ARTICLE THIRTY-ONE-A OF THIS TITLE FOR A MINIMUM OF THIRTY-SIX MONTHS.

S 7. Section 1192-a of the vehicle and traffic law, as added by chapter 196 of the laws of 1996, is amended to read as follows:

S 1192-a. Operating a motor vehicle after having consumed alcohol; under the age of twenty-one; per se. No person under the age of twenty-one shall operate a motor vehicle after having consumed alcohol as defined in this section. For purposes of this section, a person under the age of twenty-one is deemed to have consumed alcohol only if such person has .02 of one per centum or more but not more than .07 of one per centum by weight of alcohol in the person's blood, as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article. Any person who operates a motor vehicle in violation of this section, and who is not charged with a violation of any subdivision of section eleven hundred ninety-two of this article arising out of the same incident shall be referred to the department for action in accordance with the provisions of section eleven hundred ninety-four-a of this article. Except as otherwise provided in subdivision five of section eleven hundred ninety-two of this article, this section shall not apply to a person who operates a commercial motor vehicle. Notwithstanding any provision of law to the contrary, a finding that a person under the age of twenty-one operated a motor vehicle after having consumed alcohol in violation of this section is not a judgment of conviction for a crime or any other offense. ANY PERSON WHO IS FOUND TO HAVE VIOLATED THE

PROVISIONS OF THIS SECTION SHALL BE REQUIRED TO PARTICIPATE IN THE STATEWIDE IGNITION INTERLOCK DEVICE PROGRAM ESTABLISHED UNDER ARTICLE THIRTY-ONE-A OF THIS TITLE FOR A MINIMUM OF TWELVE MONTHS IF IT IS THEIR FIRST OFFENSE OR UNTIL HE OR SHE REACHES THE AGE OF TWENTY-ONE, WHICHEVER IS LATER, TWENTY-FOUR MONTHS FOR A SECOND OFFENSE OR UNTIL HE OR SHE REACHES THE AGE OF TWENTY-ONE, WHICHEVER IS LATER, AND THIRTY-SIX MONTHS FOR THIRD AND SUBSEQUENT OFFENSES OR UNTIL HE OR SHE REACHES THE AGE OF TWENTY-ONE, WHICHEVER IS LATER.

S 8. Subparagraphs 1, 1-a, 2, and 3 of paragraph (b) of subdivision 2 of section 1193 of the vehicle and traffic law, subparagraph 1 as amended by chapter 173 of the laws of 1990, subparagraph 1-a as added by chapter 75 of the laws of 1994, and subparagraphs 2 and 3 as amended by chapter 732 of the laws of 2006, are amended to read as follows:

(1) Driving while ability impaired; prior offense. [Six months] NINETY DAYS, where the holder is convicted of a violation of subdivision one of section eleven hundred ninety-two of this article committed within five years of a conviction for a violation of any subdivision of section eleven hundred ninety-two of this article.

(1-a) Driving while ability impaired; misdemeanor offense. [Six months] ONE HUNDRED TWENTY DAYS, where the holder is convicted of a violation of subdivision one of section eleven hundred ninety-two of this article committed within ten years of two previous convictions for a violation of any subdivision of section eleven hundred ninety-two of this article.

(2) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated. [Six months] NINETY DAYS, where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article. One year where the holder is convicted of a violation of subdivision two-a of section eleven hundred ninety-two of this article.

(3) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; prior offense. One [year] HUNDRED TWENTY DAYS, where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article. ONE HUNDRED EIGHTY DAYS, WHERE THE HOLDER IS CONVICTED OF A VIOLATION OF SUBDIVISION TWO, THREE OR FOUR OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE COMMITTED WITHIN TEN YEARS OF TWO CONVICTIONS FOR A VIOLATION OF SUBDIVISION TWO, THREE OR FOUR OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE. Eighteen months, where the holder is convicted of a violation of subdivision two-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article; or where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two-a of section eleven hundred ninety-two of this article.

S 9. Subdivision 2 of section 510.30 of the criminal procedure law is amended by adding a new paragraph (c) to read as follows:

(C) WHERE THE PRINCIPAL HAS BEEN CHARGED WITH A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OR ELEVEN HUNDRED NINETY-TWO-A OF THE VEHICLE AND TRAFFIC LAW, THE COURT MUST DETERMINE THAT THE PRINCIPAL HAS COMPLIED WITH OR HAS TAKEN STEPS TO COMPLY WITH THE IGNITION INTERLOCK DEVICE PROGRAM ESTABLISHED UNDER ARTICLE THIRTY-ONE-A OF THE VEHICLE AND TRAFFIC LAW.

S 10. This act shall take effect on the one hundred twentieth day after it shall have become a law, provided, however, that effective immediately the addition, amendment, and/or repeal of any rule or regulation necessary for the timely implementation of this act upon its effective date are hereby authorized and directed to be made on or before such effective date.