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

6069

2009-2010 Regular Sessions

I N  A S S E M B L Y

February 24, 2009

Introduced by M. of A. BRODSKY, HOYT -- Multi-Sponsored by -- M. of A. CLARK, DINOWITZ, GALEF, HOOPER, MAYERSOHN, PHEFFER -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to sanctions against driving while ability is impaired or while intoxicated

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

Section 1. Paragraphs (a), (b) and (c) of subdivision 1 of section 1193 of the vehicle and traffic law, paragraph (a) as amended by chapter 75 of the laws of 1994, paragraph (b) as amended by chapter 669 of the laws of 2007, paragraph (c) as amended by chapter 732 of the laws of 2006, and subparagraphs (i) and (ii) of paragraph (c) as amended by chapter 345 of the laws of 2007, are amended to read as follows:

(a) Driving while ability impaired. 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. 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] AND by imprisonment of not LESS THAN THREE DAYS NOR more than thirty days in a penitentiary or county jail [or by both such fine and imprisonment]. 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] AND by imprisonment of not LESS THAN

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

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FIVE DAYS NOR more than one hundred eighty days in a penitentiary or county jail [or by both such fine and imprisonment].

(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] AND by imprisonment in a penitentiary or county jail for not LESS THAN THREE DAYS NOR more than one year[, or by both such fine and imprisonment]. 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.

(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] AND by a period of imprisonment OF NOT LESS THAN FIFTEEN DAYS NOR MORE THAN A PERIOD OF IMPRISONMENT as provided in the penal law[, or by both such fine and imprisonment].

(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] AND by a period of imprisonment OF NOT LESS THAN FIFTEEN DAYS NOR MORE THAN A PERIOD OF

IMPRISONMENT as provided in the penal law[, or by both such fine and imprisonment].

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.