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

6505

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the vehicle and traffic law, in relation to penalties for driving in violation of provisions relating to the use of cellular phones

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

Section 1. Subdivision 3 of section 120.03 of the penal law, as amended by chapter 732 of the laws of 2006, is amended and a new subdivision 4 is added to read as follows:

(3) operates a snowmobile in violation of paragraph (b), (c) or (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law or operates an all terrain vehicle as defined in paragraph (a) of subdivision one of section twenty-two hundred eighty-one of the vehicle and traffic law and in violation of subdivision two, three, four, or four-a of section eleven hundred ninety-two of the vehicle and traffic law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such snowmobile or all terrain vehicle in a manner that causes such serious physical injury to such other person[.], OR

(4) OPERATES A MOTOR VEHICLE IN VIOLATION OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THE VEHICLE AND TRAFFIC LAW.

S 2. Subdivisions 2 and 3 of section 120.04 of the penal law, as amended by chapter 746 of the laws of 2006, are amended to read as follows:

(2) commits such crime while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other

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

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state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; [or] (b) his or her license or his or her privilege of operating a motor vehicle in the state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; OR (C) HIS OR HER LICENSE OR HIS OR HER PRIVILEGE OF OPERATING A MOTOR VEHICLE IN ANOTHER STATE OR HIS OR HER PRIVILEGE OF OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE IN ANOTHER STATE IS SUSPENDED OR REVOKED AND SUCH SUSPENSION OR REVOCATION IS BASED UPON A CONVICTION IN SUCH OTHER STATE FOR AN OFFENSE WHICH WOULD, IF COMMITTED IN THIS STATE, CONSTITUTE A VIOLATION OF ANY OF THE PROVISIONS OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THE VEHICLE AND TRAFFIC LAW;

(3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law[.];

S 3. Subdivision 3 of section 125.12 of the penal law, as amended by chapter 732 of the laws of 2006, is amended and a new subdivision 4 is added to read as follows:

(3) operates a snowmobile in violation of paragraph (b), (c) or (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law or operates an all terrain vehicle as defined in paragraph (a) of subdivision one of section twenty-two hundred eighty-one of the vehicle and traffic law in violation of subdivision two, three, four, or four-a of section eleven hundred ninety-two of the vehicle and traffic law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such snowmobile or all terrain vehicle in a manner that causes the death of such other person[.], OR

(4) OPERATES A MOTOR VEHICLE IN VIOLATION OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THE VEHICLE AND TRAFFIC LAW.

S 4. Subdivisions 2 and 3 of section 125.13 of the penal law, as amended by chapter 746 of the laws of 2006, are amended to read as follows:

(2) commits such crime while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; [or] (b) his or her license or his or her privilege of operating a motor vehicle in the state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of

section eleven hundred ninety-two of the vehicle and traffic law; OR (C) HIS OR HER LICENSE OR HIS OR HER PRIVILEGE OF OPERATING A MOTOR VEHICLE IN ANOTHER STATE OR HIS OR HER PRIVILEGE OF OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE IN ANOTHER STATE IS SUSPENDED OR REVOKED AND SUCH SUSPENSION OR REVOCATION IS BASED UPON A CONVICTION IN SUCH OTHER STATE FOR AN OFFENSE WHICH WOULD, IF COMMITTED IN THIS STATE, CONSTITUTE A VIOLATION OF ANY OF THE PROVISIONS OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THE VEHICLE AND TRAFFIC LAW;

(3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law[.];

S 5. Section 1800 of the vehicle and traffic law is amended by adding a new subdivision (i) to read as follows:

(I) EVERY PERSON CONVICTED OF A VIOLATION OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THIS CHAPTER SHALL, IN ADDITION TO ANY OTHER PENALTIES OTHERWISE APPLICABLE, BE SUBJECT TO A PENALTY IN THE FORM OF TWO POINTS AGAINST SUCH PERSON'S DRIVER'S LICENSE.

S 6. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.