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

6979

2009-2010 Regular Sessions

I N A S S E M B L Y

March 18, 2009

Introduced by M. of A. SALADINO -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to increasing the period of license suspension for certain DWI offenses and requiring attendance at an alcohol and drug rehabilitation program

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

Section 1. Subparagraphs 2 and 3 of paragraph (b) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by chapter 732 of the laws of 2006, are amended to read as follows:

(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] (A) ONE YEAR, where the holder is convicted of a violation of subdivision two, TWO-A, three, four or four-a of section eleven hundred ninety-two of this article.

(B) One year AND SIX MONTHS, where the holder is convicted of a violation of subdivision TWO, two-a, THREE, FOUR OR FOUR-A of section eleven hundred ninety-two of this article AND A CHILD OF LESS THAN THIRTEEN YEARS OF AGE WAS A PASSENGER OF THE VEHICLE AT THE TIME OF SUCH OFFENSE.

(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] (A) TWO YEARS, where the holder is convicted of a violation of subdivision two, TWO-A, 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, TWO-A, three, four or four-a of section eleven hundred ninety-two of this article.

[Eighteen months] (B) TWO YEARS AND SIX MONTHS, where the holder is convicted of a violation of subdivision TWO, two-a, THREE, FOUR OR

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

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FOUR-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] AND A CHILD OF LESS THAN THIRTEEN YEARS OF AGE WAS A PASSENGER OF THE VEHICLE AT THE TIME OF SUCH OFFENSE.

S 2. Subdivision 4 of section 1196 of the vehicle and traffic law, as amended by chapter 196 of the laws of 1996, is amended to read as follows:

4. Eligibility. Participation in the program shall be [limited to] MANDATORY FOR those persons convicted of alcohol or drug-related traffic offenses [or persons who], have been adjudicated youthful offenders for alcohol or drug-related traffic offenses [,] or persons found to have been operating a motor vehicle after having consumed alcohol, DRUGS OR ALCOHOL AND DRUGS in violation of section eleven hundred ninety-two-a of this article[, who choose to participate and who satisfy the criteria and meet the requirements for participation as established by this section and the regulations promulgated thereunder; provided, however, in the exercise of discretion, the judge imposing sentence may prohibit the defendant from enrolling in such program. The commissioner or deputy may exercise discretion, to reject any person from participation referred to such program and nothing herein contained shall be construed as creating a right to be included in any course or program established under this section. In addition, no person shall be permitted to take part in such program if, during the five years immediately preceding commission of an alcohol or drug-related traffic offense or a finding of a violation of section eleven hundred ninety-two-a of this article, such person has participated in a program established pursuant to this article or been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article other than a violation committed prior to November first, nineteen hundred eighty-eight, for which such person did not participate in such program. In the exercise of discretion, the commissioner or a deputy shall have the right to expel any participant from the program who fails to satisfy the requirements for participation in such program or who fails to satisfactorily participate in or attend any aspect of such program]. Notwithstanding any contrary provisions of this chapter, satisfactory participation in and completion of a course in such program shall result in the termination of any sentence of imprisonment that may have been imposed by reason of a conviction therefor; provided, however, that nothing contained in this section shall delay the commencement of such sentence.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.