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

1050

2009-2010 Regular Sessions

I N  S E N A T E

January 22, 2009

Introduced by Sens. MAZIARZ, ALESI, BONACIC, FLANAGAN, GOLDEN, LANZA, LAVALLE, MORAHAN, SALAND, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to repeat convictions of alcohol and drug-related offenses

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

Section 1. Subdivision 1-a of section 1193 of the vehicle and traffic law, as added by chapter 691 of the laws of 2002, paragraph (c) as amended by chapter 669 of the laws of 2007 and paragraph (d) as added by chapter 732 of the laws of 2006, is amended to read as follows:

1-a. Additional penalties. (a) Except as provided for in paragraph (b) of this subdivision, a person who operates a vehicle in violation of subdivision two [or], three, FOUR, FIVE OR SIX of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two [or], three, FOUR, FIVE OR SIX of such section within the preceding five years shall, in addition to any other penalties which may be imposed pursuant to subdivision one of this section, be sentenced to a term of imprisonment of five days or, as an alternative to such imprisonment, be required to perform thirty days of service for a public or not-for-profit corporation, association, institution or agency as set forth in paragraph (h) of subdivision two of section 65.10 of the penal law as a condition of sentencing for such violation. Notwithstanding the provisions of this paragraph, a sentence of a term of imprisonment of five days or more pursuant to the provisions of subdivision one of this section shall be deemed to be in compliance with this subdivision.

(b) A person who operates a vehicle in violation of subdivision two [or], three, FOUR, FIVE OR SIX of section eleven hundred ninety-two of this article after having been convicted on two or more occasions of a violation of any of such subdivisions within the preceding five years shall, in addition to any other penalties which may be imposed pursuant

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

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to subdivision one of this section, be sentenced to a term of imprisonment of ten days or, as an alternative to such imprisonment, be required to perform sixty days of service for a public or not-for-profit corporation, association, institution or agency as set forth in paragraph (h) of subdivision two of section 65.10 of the penal law as a condition of sentencing for such violation. Notwithstanding the provisions of this paragraph, a sentence of a term of imprisonment of ten days or more pursuant to the provisions of subdivision one of this section shall be deemed to be in compliance with this subdivision.

(c) A court sentencing a person pursuant to paragraph (a) or (b) of this subdivision shall: (i) order the installation of an ignition interlock device approved pursuant to section eleven hundred ninety-eight of this article in any motor vehicle owned or operated by the person so sentenced. Such devices shall remain installed during any period of license revocation required to be imposed pursuant to paragraph (b) of subdivision two of this section, and, upon the termination of such revocation period, for an additional period as determined by the court; [and] (ii) order that such person receive an assessment of the degree of their alcohol or substance abuse and dependency pursuant to the provisions of section eleven hundred ninety-eight-a of this article. Where such assessment indicates the need for treatment, such court is authorized to impose treatment as a condition of such sentence except that such court shall impose treatment as a condition of a sentence of probation or conditional discharge pursuant to the provisions of subdivision three of section eleven hundred ninety-eight-a of this article. Any person ordered to install an ignition interlock device pursuant to this paragraph shall be subject to the provisions of subdivisions four, five, seven, eight and nine of section eleven hundred ninety-eight of this article; AND (III) ORDER THAT, DURING ANY PERIOD OF LICENSE REVOCATION REQUIRED TO BE IMPOSED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, THE REGISTRATION OF EACH MOTOR VEHICLE OWNED BY SUCH PERSON BE REVOKED; PROVIDED, HOWEVER, THAT THE COURT MAY GRANT RELIEF FROM SUCH REGISTRATION REVOCATION IF AN INDIVIDUAL, OTHER THAN THE PERSON SENTENCED, WOULD BE SUBJECTED TO UNDUE HARDSHIP DUE TO SUCH REVOCATION.

(d) Confidentiality of records. The provisions of subdivision six of section eleven hundred ninety-eight-a of this article shall apply to the records and content of all assessments and treatment conducted pursuant to this subdivision.

S 2. Subparagraph 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, is amended to read as follows:

(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] TWO YEARS, 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. [Eighteen months] FOUR YEARS, 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. FOUR YEARS, WHERE THE HOLDER IS CONVICTED OF A VIOLATION OF SUBDIVISION TWO, THREE OR FOUR OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE AFTER HAVING BEEN CONVICTED TWO OR MORE TIMES OF A VIOLATION OF SUBDIVISION TWO, THREE OR FOUR OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE WITHIN THE PRECEDING TEN YEARS.

S 3. This act shall take effect immediately, provided that section two of this act shall take effect on the first of March next succeeding the date on which it shall have become a law.