

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 1-a of section 1193 of the vehicle and traffic  
2     law, as added by chapter 691 of the laws of 2002, paragraph (c) as  
3     amended by chapter 669 of the laws of 2007 and paragraph (d) as added by  
4     chapter 732 of the laws of 2006, is amended to read as follows:  
5     1-a. Additional penalties. (a) Except as provided for in paragraph (b)  
6     of this subdivision, a person who operates a vehicle in violation of  
7     subdivision two [or], three, FOUR, FIVE OR SIX of section eleven hundred  
8     ninety-two of this article after having been convicted of a violation of  
9     subdivision two [or], three, FOUR, FIVE OR SIX of such section within  
10    the preceding five years shall, in addition to any other penalties which  
11    may be imposed pursuant to subdivision one of this section, be sentenced  
12    to a term of imprisonment of five days or, as an alternative to such  
13    imprisonment, be required to perform thirty days of service for a public  
14    or not-for-profit corporation, association, institution or agency as set  
15    forth in paragraph (h) of subdivision two of section 65.10 of the penal  
16    law as a condition of sentencing for such violation. Notwithstanding the  
17    provisions of this paragraph, a sentence of a term of imprisonment of  
18    five days or more pursuant to the provisions of subdivision one of this  
19    section shall be deemed to be in compliance with this subdivision.  
20    (b) A person who operates a vehicle in violation of subdivision two  
21    [or], three, FOUR, FIVE OR SIX of section eleven hundred ninety-two of  
22    this article after having been convicted on two or more occasions of a  
23    violation of any of such subdivisions within the preceding five years  
24    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.

LBD01168-01-9

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

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

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

40 S 2. Subparagraph 3 of paragraph (b) of subdivision 2 of section 1193  
41 of the vehicle and traffic law, as amended by chapter 732 of the laws of  
42 2006, is amended to read as follows:

43 (3) Driving while intoxicated or while ability impaired by drugs or  
44 while ability impaired by the combined influence of drugs or of alcohol  
45 and any drug or drugs; aggravated driving while intoxicated; prior  
46 offense. [One year] TWO YEARS, where the holder is convicted of a  
47 violation of subdivision two, three, four or four-a of section eleven  
48 hundred ninety-two of this article committed within ten years of a  
49 conviction for a violation of subdivision two, three, four or four-a of  
50 section eleven hundred ninety-two of this article. [Eighteen months]  
51 FOUR YEARS, where the holder is convicted of a violation of subdivision  
52 two-a of section eleven hundred ninety-two of this article committed  
53 within ten years of a conviction for a violation of subdivision two,  
54 two-a, three, four or four-a of section eleven hundred ninety-two of  
55 this article; or where the holder is convicted of a violation of subdi-  
56 vision two, three, four or four-a of section eleven hundred ninety-two

1 of this article committed within ten years of a conviction for a  
2 violation of subdivision two-a of section eleven hundred ninety-two of  
3 this article. FOUR YEARS, WHERE THE HOLDER IS CONVICTED OF A VIOLATION  
4 OF SUBDIVISION TWO, THREE OR FOUR OF SECTION ELEVEN HUNDRED NINETY-TWO  
5 OF THIS ARTICLE AFTER HAVING BEEN CONVICTED TWO OR MORE TIMES OF A  
6 VIOLATION OF SUBDIVISION TWO, THREE OR FOUR OF SECTION ELEVEN HUNDRED  
7 NINETY-TWO OF THIS ARTICLE WITHIN THE PRECEDING TEN YEARS.  
8 S 3. This act shall take effect immediately, provided that section two  
9 of this act shall take effect on the first of March next succeeding the  
10 date on which it shall have become a law.