

1452

2009-2010 Regular Sessions

I N S E N A T E

February 2, 2009

Introduced by Sens. MAZIARZ, ALESI, FUSCHILLO, HANNON, LITTLE -- 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 the installation of an ignition interlock device in connection with a conviction for driving under the influence of alcohol or drugs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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], TWO-A, three, FOUR, FOUR-A OR SIX of section elev-
8 en hundred ninety-two of this article after having been convicted of a
9 violation of subdivision two [or], TWO-A, three, FOUR, FOUR-A OR SIX of
10 such section within the preceding five years shall, in addition to any
11 other penalties which may be imposed pursuant to subdivision one of this
12 section, be sentenced to a term of imprisonment of five days or, as an
13 alternative to such imprisonment, be required to perform thirty days of
14 service for a public or not-for-profit corporation, association, insti-
15 tution or agency as set forth in paragraph (h) of subdivision two of
16 section 65.10 of the penal law as a condition of sentencing for such
17 violation. Notwithstanding the provisions of this paragraph, a sentence
18 of a term of imprisonment of five days or more pursuant to the
19 provisions of subdivision one of this section shall be deemed to be in
20 compliance with this subdivision.
21 (b) A person who operates a vehicle in violation of subdivision two
22 [or], TWO-A, three, FOUR, FOUR-A OR SIX of section eleven hundred nine-
23 ty-two of this article after having been convicted on two or more occa-

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

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1 sions of a violation of any of such subdivisions within the preceding
2 five years shall, in addition to any other penalties which may be
3 imposed pursuant to subdivision one of this section, be sentenced to a
4 term of imprisonment of ten days or, as an alternative to such imprison-
5 ment, be required to perform sixty days of service for a public or not-
6 for-profit corporation, association, institution or agency as set forth
7 in paragraph (h) of subdivision two of section 65.10 of the penal law as
8 a condition of sentencing for such violation. Notwithstanding the
9 provisions of this paragraph, a sentence of a term of imprisonment of
10 ten days or more pursuant to the provisions of subdivision one of this
11 section shall be deemed to be in compliance with this subdivision.

12 (c) A court sentencing a person pursuant to paragraph (a) or (b) of
13 this subdivision shall: (i) order the installation of an ignition inter-
14 lock device approved pursuant to section eleven hundred ninety-eight of
15 this article in any motor vehicle owned or operated by the person so
16 sentenced. Such devices shall remain installed during any period of
17 license revocation required to be imposed pursuant to paragraph (b) of
18 subdivision two of this section, and, upon the termination of such revo-
19 cation period, for an additional period [as determined by the court] OF
20 NOT LESS THAN SIX MONTHS WHERE SUCH PERSON HAS BEEN SENTENCED PURSUANT
21 TO PARAGRAPH (A) OF THIS SUBDIVISION AND FOR AN ADDITIONAL PERIOD OF NOT
22 LESS THAN ONE YEAR WHERE SUCH PERSON HAS BEEN SENTENCED PURSUANT TO
23 PARAGRAPH (B) OF THIS SUBDIVISION; and (ii) order that such person
24 receive an assessment of the degree of their alcohol or substance abuse
25 and dependency pursuant to the provisions of section eleven hundred
26 ninety-eight-a of this article. Where such assessment indicates the need
27 for treatment, such court is authorized to impose treatment as a condi-
28 tion of such sentence except that such court shall impose treatment as a
29 condition of a sentence of probation or conditional discharge pursuant
30 to the provisions of subdivision three of section eleven hundred nine-
31 ty-eight-a of this article. Any person ordered to install an ignition
32 interlock device pursuant to this paragraph shall be subject to the
33 provisions of subdivisions four, five, seven, eight and nine of section
34 eleven hundred ninety-eight of this article.

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

39 (E) A COURT SENTENCING: (I) A PERSON FOUND TO HAVE OPERATED A MOTOR
40 VEHICLE AFTER HAVING CONSUMED ALCOHOL IN VIOLATION OF SECTION ELEVEN
41 HUNDRED NINETY-TWO-A OF THIS ARTICLE, WHO HAS PREVIOUSLY BEEN CONVICTED
42 OF A VIOLATION OF SUCH SECTION WHERE SUCH PERSON WAS UNDER THE AGE OF
43 TWENTY-ONE AT THE TIME OF COMMISSION OF SUCH VIOLATION; OR (II) A PERSON
44 WHO HAS BEEN CONVICTED OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE,
45 FOUR, FOUR-A OR SIX OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE
46 WHO HAS PREVIOUSLY BEEN CONVICTED OF, OR ADJUDICATED A YOUTHFUL OFFENDER
47 FOR, ANY VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE
48 NOT ARISING OUT OF THE SAME INCIDENT, OR HAS PREVIOUSLY BEEN CONVICTED
49 OF OR RECEIVED A YOUTHFUL OFFENDER OR JUVENILE ADJUDICATION FOR AN
50 OFFENSE CONSISTING OF OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF
51 INTOXICATING LIQUOR WHEN THE CONVICTION, OR YOUTHFUL OFFENDER OR OTHER
52 JUVENILE ADJUDICATION WAS HAD OUTSIDE THIS STATE AND NOT ARISING OUT OF
53 THE SAME, SHALL ORDER THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE
54 APPROVED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTI-
55 CLE ON EACH MOTOR VEHICLE OWNED BY THE PERSON SO SENTENCED. SUCH
56 DEVICES SHALL REMAIN INSTALLED DURING ANY PERIOD OF LICENSE SUSPENSION

1 OR REVOCATION REQUIRED TO BE IMPOSED PURSUANT TO SUBDIVISION TWO OF THIS
2 SECTION, AND, UPON THE TERMINATION OF SUCH SUSPENSION OR REVOCATION
3 PERIOD, FOR AN ADDITIONAL PERIOD OF NOT LESS THAN SIX MONTHS.
4 S 2. This act shall take effect immediately and shall apply to
5 offenses committed on and after such date.