

5141

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. FUSCHILLO -- 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 sanctions for driving while ability impaired while holding a conditional license

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

1 Section 1. Clauses d and e of subparagraph 7 of paragraph (e) of
2 subdivision 2 of section 1193 of the vehicle and traffic law, as amended
3 by chapter 251 of the laws of 2007, are amended to read as follows:
4 d. Notwithstanding any contrary provision of this chapter, if any
5 suspension occurring under this subparagraph has been in effect for a
6 period of thirty days, AT THE DISCRETION OF THE COURT, the holder may be
7 issued a conditional license, in accordance with section eleven hundred
8 ninety-six of this article, provided the holder of such license is
9 otherwise eligible to receive such conditional license. A conditional
10 license issued pursuant to this subparagraph shall not be valid for the
11 operation of a commercial motor vehicle. The commissioner shall
12 prescribe by regulation the procedures for the issuance of such conditional license.
13 tional license.
14 e. If the court finds that the suspension imposed pursuant to this
15 subparagraph will result in extreme hardship, the court must issue such
16 suspension, but may grant a hardship privilege, IN CONJUNCTION WITH THE
17 INSTALLATION OF AN IGNITION INTERLOCK DEVICE, which shall be issued on a
18 form prescribed by the commissioner. For the purposes of this clause,
19 "extreme hardship" shall mean the inability to obtain alternative means
20 of travel to or from the licensee's employment, or to or from necessary
21 medical treatment for the licensee or a member of the licensee's household, or if the licensee is a matriculating student enrolled in an
22 accredited school, college or university travel to or from such
23 licensee's school, college or university if such travel is necessary for
24 the completion of the educational degree or certificate. The burden of
25

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

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1 proving extreme hardship shall be on the licensee who may present mate-
2 rial and relevant evidence. A finding of extreme hardship may not be
3 based solely upon the testimony of the licensee. In no event shall
4 arraignment be adjourned or otherwise delayed more than three business
5 days solely for the purpose of allowing the licensee to present evidence
6 of extreme hardship. The court shall set forth upon the record, or
7 otherwise set forth in writing, the factual basis for such finding. The
8 hardship privilege shall permit the operation of a vehicle only for
9 travel to or from the licensee's employment, or to or from necessary
10 medical treatment for the licensee or a member of the licensee's house-
11 hold, or if the licensee is a matriculating student enrolled in an
12 accredited school, college or university travel to or from such
13 licensee's school, college or university if such travel is necessary for
14 the completion of the educational degree or certificate. A hardship
15 privilege shall not be valid for the operation of a commercial motor
16 vehicle.

17 S 2. This act shall take effect immediately; provided, however, that
18 the amendments to clauses d and e of subparagraph 7 of paragraph (e) of
19 subdivision 2 of section 1193 of the vehicle and traffic law made by
20 section one of this act shall not affect the repeal of such subparagraph
21 and shall be deemed repealed therewith.