

6342

2009-2010 Regular Sessions

I N S E N A T E

December 16, 2009

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the vehicle and traffic law and the penal law, in relation to restrictions on commercial driver's licenses

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

1 Section 1. The vehicle and traffic law is amended by adding a new
2 section 501-c to read as follows:

3 S 501-C. COMMERCIAL DRIVER'S LICENSE RESTRICTIONS. 1. THE DEPARTMENT
4 SHALL NOT ISSUE OR RENEW A COMMERCIAL DRIVER'S LICENSE TO ANY PERSON
5 REQUIRED TO REGISTER UNDER ARTICLE SIX-C OF THE CORRECTION LAW.

6 2. THE DEPARTMENT SHALL NOT ISSUE A COMMERCIAL DRIVER LEARNER'S PERMIT
7 TO ANY PERSON REQUIRED TO REGISTER UNDER ARTICLE SIX-C OF THE CORRECTION
8 LAW.

9 3. A PERSON WHO IS CONVICTED OF A VIOLATION THAT REQUIRES REGISTRATION
10 UNDER ARTICLE SIX-C OF THE CORRECTION LAW IS DISQUALIFIED FROM DRIVING A
11 COMMERCIAL MOTOR VEHICLE FOR THE PERIOD OF TIME DURING WHICH THE PERSON
12 IS REQUIRED TO MAINTAIN REGISTRATION UNDER ARTICLE SIX-C OF THE
13 CORRECTION LAW.

14 4. A PERSON WHO DRIVES A COMMERCIAL VEHICLE OR SCHOOL BUS AND WHO DOES
15 NOT HAVE A COMMERCIAL DRIVER'S LICENSE BECAUSE THE PERSON WAS CONVICTED
16 OF A VIOLATION THAT REQUIRES REGISTRATION UNDER ARTICLE SIX-C OF THE
17 CORRECTION LAW SHALL BE PUNISHED AS PROVIDED IN SUBDIVISION SIX OF THIS
18 SECTION.

19 5. THE DEPARTMENT SHALL NOT ISSUE A COMMERCIAL DRIVER'S LICENSE TO AN
20 APPLICANT UNTIL THE DEPARTMENT HAS SEARCHED BOTH THE STATEWIDE REGISTRY
21 AND THE NATIONAL SEX OFFENDER PUBLIC REGISTRY TO DETERMINE IF THE PERSON
22 IS CURRENTLY REGISTERED AS A SEX OFFENDER IN NEW YORK OR ANOTHER STATE.

23 A. IF THE DEPARTMENT FINDS THAT THE PERSON IS CURRENTLY REGISTERED AS
24 A SEX OFFENDER IN EITHER NEW YORK OR ANOTHER STATE, THE DEPARTMENT, IN

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

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1 COMPLIANCE WITH THIS SECTION, SHALL NOT ISSUE A COMMERCIAL DRIVER'S
2 LICENSE TO THE APPLICANT.

3 B. IF THE DEPARTMENT IS UNABLE TO ACCESS EITHER THE STATEWIDE REGISTRY
4 OR ALL OF THE STATES' INFORMATION CONTAINED IN THE NATIONAL SEX OFFENDER
5 PUBLIC REGISTRY, BUT THE PERSON IS OTHERWISE QUALIFIED TO OBTAIN A
6 COMMERCIAL DRIVER'S LICENSE, THEN THE DEPARTMENT SHALL ISSUE THE COMMER-
7 CIAL DRIVER'S LICENSE BUT SHALL FIRST REQUIRE THE PERSON TO SIGN AN
8 AFFIDAVIT STATING THAT THE PERSON DOES NOT APPEAR ON EITHER THE STATE-
9 WIDE REGISTRY OR THE NATIONAL SEX OFFENDER PUBLIC REGISTRY. THE DEPART-
10 MENT SHALL SEARCH THE STATEWIDE REGISTRY AND THE NATIONAL SEX OFFENDER
11 PUBLIC REGISTRY FOR THE PERSON WITHIN A REASONABLE TIME AFTER ACCESS TO
12 THE STATEWIDE REGISTRY OR THE NATIONAL SEX OFFENDER PUBLIC REGISTRY IS
13 RESTORED. IF THE PERSON DOES APPEAR IN EITHER REGISTRY, THE PERSON IS IN
14 VIOLATION OF THIS SECTION, AND THE DEPARTMENT SHALL IMMEDIATELY CANCEL
15 THE COMMERCIAL DRIVER'S LICENSE AND SHALL PROMPTLY NOTIFY THE SHERIFF OF
16 THE COUNTY WHERE THE PERSON RESIDES OF THE OFFENSE.

17 C. ANY PERSON DENIED A COMMERCIAL DRIVER'S LICENSE OR WHO IS DISQUALI-
18 FIED FROM DRIVING A COMMERCIAL VEHICLE THAT REQUIRES A COMMERCIAL DRIV-
19 ERS LICENSE BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL HAVE A
20 RIGHT TO FILE A PETITION WITHIN THIRTY DAYS THEREAFTER FOR A HEARING IN
21 THE MATTER, IN THE SUPREME COURT OF THE COUNTY WHERE THE PERSON RESIDES.
22 THE COURT IS VESTED WITH JURISDICTION TO HEAR THE PETITION, AND IT SHALL
23 BE THE DUTY OF THE COURT TO SET THE MATTER FOR HEARING UPON THIRTY DAYS'
24 WRITTEN NOTICE TO THE DEPARTMENT, AND THEREUPON TO TAKE TESTIMONY AND
25 EXAMINE INTO THE FACTS OF THE CASE AND TO DETERMINE WHETHER THE PETI-
26 TIONER IS ENTITLED TO A COMMERCIAL DRIVER'S LICENSE UNDER THE PROVISIONS
27 OF THIS SECTION.

28 D. ANY PERSON WHO MAKES A FALSE AFFIDAVIT, OR WHO KNOWINGLY SWEARS OR
29 AFFIRMS FALSELY, TO ANY MATTER OR THING REQUIRED BY THE TERMS OF THIS
30 SECTION TO BE AFFIRMED TO OR SWORN IS GUILTY OF A CLASS E FELONY.

31 6. A PERSON CONVICTED OF A VIOLATION OF THIS SECTION SHALL BE GUILTY
32 OF A CLASS D FELONY UNLESS SUCH VIOLATION IS SPECIFIED OTHERWISE.

33 S 2. The vehicle and traffic law is amended by adding a new section
34 510-d to read as follows:

35 S 510-D. REVOCATION OF COMMERCIAL DRIVER'S LICENSE UPON CONVICTION OF
36 CERTAIN OFFENSES. THE DEPARTMENT SHALL REVOKE THE COMMERCIAL DRIVER'S
37 LICENSE OF ANY PERSON CONVICTED OF ANY OFFENSE ON OR AFTER JUNE FIRST,
38 TWO THOUSAND TEN, THAT REQUIRES REGISTRATION UNDER ARTICLE SIX-C OF THE
39 CORRECTION LAW. THE PERSON MAY APPLY FOR THE ISSUANCE OF A NEW COMMER-
40 CIAL DRIVER'S LICENSE PURSUANT TO THIS CHAPTER, BUT, SHALL REMAIN
41 DISQUALIFIED FROM OBTAINING A COMMERCIAL DRIVER'S LICENSE FOR THE PERIOD
42 OF TIME DURING WHICH THE PERSON IS REQUIRED TO MAINTAIN REGISTRATION.

43 S 3. The penal law is amended by adding a new section 130.87 to read
44 as follows:

45 S 130.87 UNLAWFUL DRIVING OF A COMMERCIAL VEHICLE OR SCHOOL BUS.

46 IT IS UNLAWFUL FOR ANY PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO
47 ARTICLE SIX-C OF THE CORRECTION LAW TO DRIVE A COMMERCIAL VEHICLE OR A
48 SCHOOL BUS WITHOUT HAVING A VALID COMMERCIAL DRIVER'S LICENSE.

49 UNLAWFUL DRIVING OF A COMMERCIAL VEHICLE OR SCHOOL BUS IS A CLASS D
50 FELONY.

51 S 4. This act shall take effect on the ninetieth day after it shall
52 have become a law.