

1671

2011-2012 Regular Sessions

I N A S S E M B L Y

January 11, 2011

Introduced by M. of A. TEDISCO -- Multi-Sponsored by -- M. of A. HAWLEY
-- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the criminal procedure law, in relation to plea bargaining options and personal court appearances for certain driver's license holders

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

1 Section 1. Section 1805 of the vehicle and traffic law, as amended by
2 chapter 182 of the laws of 2004, is amended to read as follows:
3 S 1805. Plea of guilty, how put in. [The] EXCEPT IN ANY CASE IN WHICH
4 THE DEFENDANT IS A HOLDER OF A CLASS DJ OR CLASS MJ LEARNER'S PERMIT OR
5 CLASS DJ OR CLASS MJ DRIVER'S LICENSE PURSUANT TO SECTION FIVE HUNDRED
6 TWO, THE provisions of section 170.10 of the criminal procedure law and
7 the provisions of section eighteen hundred seven of this article may be
8 waived, to the extent hereinafter indicated, by a defendant charged with
9 a violation of any provision of the tax law or the transportation law
10 regulating traffic, or a traffic infraction, as defined in this chapter,
11 other than a third or subsequent speeding violation committed within a
12 period of eighteen months, provided that he OR SHE shall submit to the
13 local criminal court having jurisdiction, in person, by duly authorized
14 agent, by first class mail or by registered or certified mail, return
15 receipt requested, an application setting forth (a) the nature of the
16 charge, (b) the information or instructions required by section eighteen
17 hundred seven of this article to be given defendant upon arraignment,
18 (c) that defendant waives arraignment in open court and the aid of coun-
19 sel, (d) that he OR SHE pleads guilty to the offense as charged, (e)
20 that defendant elects and requests that the charge be disposed of and
21 the fine or penalty fixed by the court, pursuant to this section, (f)
22 any statement or explanation that the defendant may desire to make
23 concerning the offense charged and (g) that defendant makes all state-
24 ments with respect to such application under penalty of perjury. This

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

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1 application shall be in such form as the commissioner shall prescribe
2 and a copy thereof shall be handed to the defendant by the officer
3 charging him OR HER with such offense. Thereupon the local criminal
4 court may proceed as though the defendant had been convicted upon a plea
5 of guilty in open court, provided, however, that any imposition of fine
6 or penalty hereunder shall be deemed tentative until such fine or penal-
7 ty shall have been paid and discharged in full, prior to which time such
8 court, in its discretion, may annul any proceedings hereunder, including
9 such tentative imposition of fine or penalty, and deny the application,
10 in which event the charge shall be disposed of pursuant to the applica-
11 ble provisions of law, as though no proceedings had been had under this
12 section. If upon receipt of the aforesaid application such court shall
13 deny the same, it shall thereupon inform the defendant of this fact, and
14 that he OR SHE is required to appear before the said court at a stated
15 time and place to answer the charge which shall thereafter be disposed
16 of pursuant to the applicable provisions of law. THE HOLDER OF A CLASS
17 DJ OR CLASS MJ LEARNER'S PERMIT, A CLASS DJ OR CLASS MJ DRIVER'S LICENSE
18 OR A LIMITED CLASS DJ OR CLASS MJ LICENSE MAY NOT WAIVE THE PROVISIONS
19 OF SECTION 170.10 OF THE CRIMINAL PROCEDURE LAW OR SECTION EIGHTEEN
20 HUNDRED SEVEN OF THIS ARTICLE AND SUCH DEFENDANT SHALL BE REQUIRED TO
21 PERSONALLY ENTER A PLEA IN COURT.

22 S 2. Paragraph (b) of subdivision 1 of section 170.10 of the criminal
23 procedure law, as amended by chapter 661 of the laws of 1972, is amended
24 to read as follows:

25 (b) In any case in which the defendant's appearance is required by a
26 summons or an appearance ticket, the court in its discretion may, for
27 good cause shown, permit the defendant to appear by counsel instead of
28 in person, EXCEPT IN ANY CASE IN WHICH THE DEFENDANT IS A HOLDER OF A
29 CLASS DJ OR CLASS MJ LEARNER'S PERMIT, A CLASS DJ OR CLASS MJ DRIVER'S
30 LICENSE ISSUED PURSUANT TO SECTION FIVE HUNDRED TWO OF THE VEHICLE AND
31 TRAFFIC LAW, WHERE SUCH DEFENDANT HAS BEEN CHARGED WITH A VIOLATION OF
32 THE VEHICLE AND TRAFFIC LAW, OR OTHER LAW OR ORDINANCE RELATING TO THE
33 OPERATION OF MOTOR VEHICLES OR MOTORCYCLES.

34 S 3. Section 170.10 of the criminal procedure law is amended by adding
35 a new subdivision 10 to read as follows:

36 10. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN
37 ANY CASE WHEREIN A CHARGE LAID BEFORE A COURT ON A SIMPLIFIED TRAFFIC
38 INFORMATION CHARGES ANY HOLDER OF A CLASS DJ OR CLASS MJ LEARNER'S
39 PERMIT, A CLASS DJ OR CLASS MJ DRIVER'S LICENSE ISSUED PURSUANT TO
40 SECTION FIVE HUNDRED TWO OF THE VEHICLE AND TRAFFIC LAW WITH A SERIOUS
41 TRAFFIC VIOLATION AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION, ANY
42 PLEA OF GUILTY THEREAFTER ENTERED IN SATISFACTION OF SUCH CHARGE MUST
43 INCLUDE AT LEAST A PLEA OF GUILTY TO ONE OF THE CHARGES THAT SUCH HOLDER
44 WAS ORIGINALLY CHARGED WITH AND NO OTHER DISPOSITION BY PLEA OF GUILTY
45 TO ANY OTHER CHARGE IN SATISFACTION OF SUCH CHARGE SHALL BE AUTHORIZED,
46 PROVIDED, HOWEVER, IF THE DISTRICT ATTORNEY UPON REVIEWING THE AVAILABLE
47 EVIDENCE DETERMINES THAT THE CHARGE OF SUCH VIOLATION IS NOT WARRANTED,
48 SUCH DISTRICT ATTORNEY MAY CONSENT, AND THE COURT MAY ALLOW A DISPOSI-
49 TION BY PLEA OF GUILTY TO ANOTHER CHARGE IN SATISFACTION OF SUCH CHARGE;
50 PROVIDED, HOWEVER, IN ALL SUCH CASES, THE COURT SHALL SET FORTH UPON THE
51 RECORD THE BASIS FOR SUCH DISPOSITION.

52 (B) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "SERIOUS TRAFFIC
53 VIOLATION" SHALL MEAN OPERATING A MOTOR VEHICLE IN VIOLATION OF ANY OF
54 THE FOLLOWING PROVISIONS OF THE VEHICLE AND TRAFFIC LAW: ARTICLES TWEN-
55 TY-FIVE AND TWENTY-SIX; SUBDIVISION ONE OF SECTION SIX HUNDRED; SECTION
56 SIX HUNDRED ONE; SECTIONS ELEVEN HUNDRED ELEVEN, ELEVEN HUNDRED SEVENTY,

1 ELEVEN HUNDRED SEVENTY-TWO AND ELEVEN HUNDRED SEVENTY-FOUR; SUBDIVISIONS
2 (A), (B), (C), (D) AND (F) OF SECTION ELEVEN HUNDRED EIGHTY, PROVIDED
3 THAT THE VIOLATION INVOLVED TEN OR MORE MILES PER HOUR OVER THE ESTAB-
4 LISHED LIMIT; SECTION ELEVEN HUNDRED EIGHTY-TWO; SUBDIVISION THREE OF
5 SECTION TWELVE HUNDRED TWENTY-NINE-C FOR VIOLATIONS INVOLVING USE OF
6 SAFETY BELTS OR SEATS BY A CHILD UNDER THE AGE OF SIXTEEN; AND SECTION
7 TWELVE HUNDRED TWELVE.
8 S 4. This act shall take effect on the ninetieth day after it shall
9 have become a law and shall apply to violations occurring on and after
10 such effective date.