

5722

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 25, 2011

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Introduced by M. of A. SCHIMMINGER -- read once and referred to the  
Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, the penal law and  
the vehicle and traffic law, in relation to authorizing courts to  
suspend a driver's license where the holder fails to appear before the  
court, pay a fine, complete an alcohol awareness program or complete  
community service within the period of time established by such court

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

1     Section 1. Subdivision 3 of section 65-c of the alcoholic beverage  
2     control law, as amended by chapter 137 of the laws of 2001, is amended  
3     to read as follows:  
4     3. Any person who unlawfully possesses an alcoholic beverage with  
5     intent to consume may be summoned before and examined by a court having  
6     jurisdiction of that charge; provided, however, that nothing contained  
7     herein shall authorize, or be construed to authorize, a peace officer as  
8     defined in subdivision thirty-three of section 1.20 of the criminal  
9     procedure law or a police officer as defined in subdivision thirty-four  
10    of section 1.20 of such law to arrest a person who unlawfully possesses  
11    an alcoholic beverage with intent to consume. If a determination is made  
12    sustaining such charge the court may impose a fine not exceeding fifty  
13    dollars and/or completion of an alcohol awareness program established  
14    pursuant to section 19.25 of the mental hygiene law and/or an appropri-  
15    ate amount of community service not to exceed thirty hours. IN ADDITION  
16    TO ANY FINE, ALCOHOL AWARENESS PROGRAM AND/OR COMMUNITY SERVICE IMPOSED  
17    BY THE COURT PURSUANT TO THIS SECTION, THE COURT MAY SUSPEND THE DRIV-  
18    ER'S LICENSE OF ANY PERSON WHO FAILS TO APPEAR BEFORE THE COURT, PAY A  
19    FINE, COMPLETE AN ALCOHOL AWARENESS PROGRAM OR COMPLETE COMMUNITY  
20    SERVICE PURSUANT TO THIS SECTION WITHIN THE PERIOD OF TIME ESTABLISHED  
21    BY SUCH COURT. SUCH SUSPENSION SHALL BE MADE UPON NOTICE TO SUCH PERSON  
22    AND SHALL REMAIN IN EFFECT UNTIL SUCH PERSON APPEARS IN COURT, SUCH FINE

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

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1 HAS BEEN PAID OR SUCH PROGRAM OR COMMUNITY SERVICE HAS BEEN COMPLETED TO  
2 THE SATISFACTION OF THE COURT.

3 S 2. Section 221.05 of the penal law, as added by chapter 360 of the  
4 laws of 1977, is amended to read as follows:

5 S 221.05 Unlawful possession of marihuana.

6 A person is guilty of unlawful possession of marihuana when he OR SHE  
7 knowingly and unlawfully possesses marihuana.

8 Unlawful possession of marihuana is a violation punishable only by a  
9 fine of not more than one hundred dollars. However, where the defendant  
10 has previously been convicted of an offense defined in this article or  
11 article [220] TWO HUNDRED TWENTY of this chapter, committed within the  
12 three years immediately preceding such violation, it shall be punishable  
13 (a) only by a fine of not more than two hundred dollars, if the defend-  
14 ant was previously convicted of one such offense committed during such  
15 period, and (b) by a fine of not more than two hundred fifty dollars or  
16 a term of imprisonment not in excess of fifteen days or both, if the  
17 defendant was previously convicted of two such offenses committed during  
18 such period. IN ADDITION TO ANY FINE IMPOSED BY THE COURT PURSUANT TO  
19 THIS SECTION, THE COURT MAY SUSPEND THE DRIVER'S LICENSE OF ANY PERSON  
20 WHO FAILS TO APPEAR BEFORE THE COURT OR PAY A FINE PURSUANT TO THIS  
21 SECTION WITHIN THE PERIOD OF TIME ESTABLISHED BY SUCH COURT. SUCH  
22 SUSPENSION SHALL BE MADE UPON NOTICE TO SUCH PERSON AND SHALL REMAIN IN  
23 EFFECT UNTIL SUCH PERSON APPEARS IN COURT OR SUCH FINE HAS BEEN PAID TO  
24 THE SATISFACTION OF THE COURT.

25 S 3. Paragraph k of subdivision 3 of section 510 of the vehicle and  
26 traffic law, as amended by chapter 124 of the laws of 1992, is amended  
27 and two new paragraphs l and m are added to read as follows:

28 k. for a period of up to ninety days because of the conviction of the  
29 holder of the offenses of menacing as defined in section 120.15 of the  
30 penal law, where such offense was committed against a traffic enforce-  
31 ment agent employed by the city of New York or the city of Buffalo while  
32 such agent was enforcing or attempting to enforce the traffic regu-  
33 lations of such city[.];

34 L. FOR FAILING TO APPEAR BEFORE THE COURT OR PAY A FINE OR TO COMPLETE  
35 AN ALCOHOL AWARENESS PROGRAM OR COMPLETE COMMUNITY SERVICE IMPOSED BY  
36 THE COURT PURSUANT TO SUBDIVISION THREE OF SECTION SIXTY-FIVE-C OF THE  
37 ALCOHOLIC BEVERAGE CONTROL LAW;

38 M. FOR FAILING TO APPEAR BEFORE THE COURT OR PAY A FINE IMPOSED BY THE  
39 COURT PURSUANT TO SECTION 221.05 OF THE PENAL LAW.

40 S 4. Paragraph (a) of subdivision 4-a of section 510 of the vehicle  
41 and traffic law, as added by section 10 of part J of chapter 62 of the  
42 laws of 2003, is amended to read as follows:

43 (a) Upon receipt of a court notification of the failure of a person to  
44 appear within sixty days of the return date or new subsequent adjourned  
45 date, pursuant to an appearance ticket charging said person with a  
46 violation of any of the provisions of this chapter (except one for park-  
47 ing, stopping, or standing), of any violation of the tax law or OF  
48 SUBDIVISION THREE OF SECTION SIXTY-FIVE-C OF THE ALCOHOLIC BEVERAGE  
49 CONTROL LAW OR OF SECTION 221.05 OF THE PENAL LAW OR of the transpor-  
50 tation law regulating traffic or of any lawful ordinance or regulation  
51 made by a local or public authority, relating to traffic (except one for  
52 parking, stopping, or standing) or the failure to pay a fine imposed by  
53 a court the commissioner or his or her agent may suspend the driver's  
54 license or privileges of such person pending receipt of notice from the  
55 court that such person has appeared in response to such appearance tick-  
56 et or has paid such fine. Such suspension shall take effect no less than

1 thirty days from the day upon which notice thereof is sent by the  
2 commissioner to the person whose driver's license or privileges are to  
3 be suspended. Any suspension issued pursuant to this paragraph shall be  
4 subject to the provisions of paragraph (j-1) of subdivision two of  
5 section five hundred three of this [chapter] TITLE.

6 S 5. This act shall take effect on the first of January next succeed-  
7 ing the date on which it shall have become a law.