

7555

2011-2012 Regular Sessions

I N A S S E M B L Y

May 10, 2011

Introduced by M. of A. McKEVITT -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to increasing fines and license revocation periods for repeat alcohol and drug related offenses

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

1 Section 1. Subparagraph (i) of paragraph (c) of subdivision 1 of
2 section 1193 of the vehicle and traffic law, as amended by chapter 496
3 of the laws of 2009, is amended to read as follows:
4 (i) A person who operates a vehicle (A) in violation of subdivision
5 two, two-a, three, four or four-a of section eleven hundred ninety-two
6 of this article after having been convicted of a violation of subdivi-
7 sion two, two-a, three, four or four-a of such section or of vehicular
8 assault in the second or first degree, as defined, respectively, in
9 sections 120.03 and 120.04 and aggravated vehicular assault as defined
10 in section 120.04-a of the penal law or of vehicular manslaughter in the
11 second or first degree, as defined, respectively, in sections 125.12 and
12 125.13 and aggravated vehicular homicide as defined in section 125.14 of
13 such law, within the preceding ten years, or (B) in violation of para-
14 graph (b) of subdivision two-a of section eleven hundred ninety-two of
15 this article shall be guilty of a class E felony, and shall be punished
16 by a fine of not less than [one thousand] TWENTY-FIVE HUNDRED dollars
17 nor more than five thousand dollars or by a period of imprisonment as
18 provided in the penal law, or by both such fine and imprisonment.
19 S 2. Subparagraph 3 of paragraph (b) of subdivision 2 of section 1193
20 of the vehicle and traffic law, as amended by chapter 732 of the laws of
21 2006, is amended to read as follows:
22 (3) Driving while intoxicated or while ability impaired by drugs or
23 while ability impaired by the combined influence of drugs or of alcohol
24 and any drug or drugs; aggravated driving while intoxicated; prior

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

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1 offense. [One year] TWO YEARS, where the holder is convicted of a
2 violation of subdivision two, three, four or four-a of section eleven
3 hundred ninety-two of this article committed within ten years of a
4 conviction for a violation of subdivision two, three, four or four-a of
5 section eleven hundred ninety-two of this article. [Eighteen months,
6 where the holder is convicted of a violation of subdivision two-a of
7 section eleven hundred ninety-two of this article committed within ten
8 years of a conviction for a violation of subdivision two, two-a, three,
9 four or four-a of section eleven hundred ninety-two of this article; or
10 where] WHERE the holder is convicted of a violation of subdivision two,
11 TWO-A, three, four or four-a of section eleven hundred ninety-two of
12 this article [committed] AFTER HAVING BEEN CONVICTED TWO OR MORE TIMES
13 OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A OF
14 SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE within THE PRECEDING
15 ten years [of a conviction for a violation of subdivision two-a of
16 section eleven hundred ninety-two of this article], SUCH HOLDER SHALL BE
17 PERMANENTLY DISQUALIFIED FROM OPERATING A MOTOR VEHICLE.

18 S 3. Subparagraph 3 of paragraph (e) of subdivision 2 of section 1193
19 of the vehicle and traffic law, as amended by chapter 173 of the laws of
20 1990, item (iii) of clause a as amended by section 35 and item (iii) of
21 clause b as amended by section 36 of part LL of chapter 56 of the laws
22 of 2010 and clause b as amended by section 17 of part E of chapter 60 of
23 the laws of 2005, is amended to read as follows:

24 (3) Permanent disqualification from operating certain motor vehicles.

25 a. ANY PERSON SENTENCED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (C)
26 OF SUBDIVISION ONE OF THIS SECTION SHALL BE PERMANENTLY DISQUALIFIED
27 FROM OPERATING A MOTOR VEHICLE. IN ADDITION, THE COMMISSIONER SHALL NOT
28 ISSUE SUCH PERSON A LICENSE VALID FOR THE OPERATION OF ANY VEHICLE.
29 HOWEVER, THE COMMISSIONER MAY WAIVE SUCH DISQUALIFICATION AND PROHIBI-
30 TION HEREINBEFORE PROVIDED AFTER A PERIOD OF TEN YEARS HAS EXPIRED FROM
31 SUCH SENTENCE AND MAY ISSUE A PERMANENTLY PROBATIONARY LICENSE PROVIDED:

32 (I) THAT DURING SUCH TEN YEAR PERIOD SUCH PERSON HAS NOT VIOLATED ANY
33 OF THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE
34 OR ANY ALCOHOL OR DRUG RELATED TRAFFIC OFFENSE IN THIS STATE OR IN ANY
35 JURISDICTION OUTSIDE THIS STATE;

36 (II) THAT SUCH PERSON PROVIDES ACCEPTABLE DOCUMENTATION TO THE COMMIS-
37 SIONER THAT SUCH PERSON IS NOT IN NEED OF ALCOHOL OR DRUG TREATMENT OR
38 HAS SATISFACTORILY COMPLETED A PRESCRIBED COURSE OF SUCH TREATMENT; AND

39 (III) AFTER SUCH DOCUMENTATION IS ACCEPTED, THAT SUCH PERSON IS GRANT-
40 ED A CERTIFICATE OF RELIEF FROM DISABILITIES AS PROVIDED FOR IN SECTION
41 SEVEN HUNDRED ONE OF THE CORRECTION LAW BY THE COURT IN WHICH SUCH
42 PERSON WAS LAST PENALIZED PURSUANT TO PARAGRAPH (D) OF SUBDIVISION ONE
43 OF THIS SECTION.

44 B. Except as otherwise provided herein, in addition to any revocation
45 set forth in subparagraph four or five of paragraph (b) of this subdivi-
46 sion, any person sentenced pursuant to subparagraph three of paragraph
47 (d) of subdivision one of this section shall be permanently disqualified
48 from operating any vehicle set forth in such paragraph. In addition, the
49 commissioner shall not issue such person a license valid for the opera-
50 tion of any vehicle set forth therein by such person. The commissioner
51 may waive such disqualification and prohibition hereinbefore provided
52 after a period of five years has expired from such sentencing provided:

53 (i) that during such five year period such person has not violated any
54 of the provisions of section eleven hundred ninety-two of this article
55 or any alcohol or drug related traffic offense in this state or in any
56 jurisdiction outside this state;

1 (ii) that such person provides acceptable documentation to the commis-
2 sioner that such person is not in need of alcohol or drug treatment or
3 has satisfactorily completed a prescribed course of such treatment; and

4 (iii) after such documentation is accepted, that such person is grant-
5 ed a certificate of relief from disabilities or a certificate of good
6 conduct pursuant to article twenty-three of the correction law.

7 [b] C. Any person who holds a commercial driver's license and is
8 convicted of a violation of any subdivision of section eleven hundred
9 ninety-two of this article who has had a prior finding of refusal to
10 submit to a chemical test pursuant to section eleven hundred ninety-four
11 of this article or has had a prior conviction of any of the following
12 offenses: any violation of section eleven hundred ninety-two of this
13 article; any violation of subdivision one or two of section six hundred
14 of this chapter; or has a prior conviction of any felony involving the
15 use of a motor vehicle pursuant to paragraph (a) of subdivision one of
16 section five hundred ten-a of this chapter, shall be permanently
17 disqualified from operating a commercial motor vehicle. The commissioner
18 may waive such disqualification and prohibition hereinbefore provided
19 after a period of ten years has expired from such sentence provided:

20 (i) that during such ten year period such person has not been found to
21 have refused a chemical test pursuant to section eleven hundred ninety-
22 four of this article while operating a motor vehicle and has not been
23 convicted of any one of the following offenses while operating a motor
24 vehicle: any violation of section eleven hundred ninety-two of this
25 article; any violation of subdivision one or two of section six hundred
26 of this chapter; or has a prior conviction of any felony involving the
27 use of a motor vehicle pursuant to paragraph (a) of subdivision one of
28 section five hundred ten-a of this chapter;

29 (ii) that such person provides acceptable documentation to the commis-
30 sioner that such person is not in need of alcohol or drug treatment or
31 has satisfactorily completed a prescribed course of such treatment; and

32 (iii) after such documentation is accepted, that such person is grant-
33 ed a certificate of relief from disabilities or a certificate of good
34 conduct pursuant to article twenty-three of the correction law.

35 [c] D. Upon a third finding of refusal and/or conviction of any of
36 the offenses which require a permanent commercial driver's license revo-
37 cation, such permanent revocation may not be waived by the commissioner
38 under any circumstances.

39 S 4. This act shall take effect on the first of November next succeed-
40 ing the date on which it shall have become a law.