

848--A

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. WEISENBERG, COLTON, SPANO, MAISEL, STEVENSON,
SCHIMEL, ZEBROWSKI, LAVINE, COOK -- Multi-Sponsored by -- M. of A.
GALEF, GIBSON, P. RIVERA, SWEENEY -- read once and referred to the
Committee on Transportation -- committee discharged, bill amended,
ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to the defini-
tions of the terms "impaired" and "intoxication" for the purposes of
such law

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

1 Section 1. Section 119-b of the vehicle and traffic law is renumbered
2 119-c and a new section 119-b is added to read as follows:
3 S 119-B. IMPAIRED. IMPAIRMENT IS REACHED WHEN A DRIVER HAS VOLUNTARILY
4 CONSUMED OR INGESTED A SUBSTANCE OR COMBINATION OF SUBSTANCES TO THE
5 EXTENT THAT THE DRIVER HAS IMPAIRED, TO ANY EXTENT, THE PHYSICAL AND
6 MENTAL ABILITIES WHICH A DRIVER IS EXPECTED TO POSSESS IN ORDER TO OPER-
7 ATE A VEHICLE AS A REASONABLE AND PRUDENT DRIVER.
8 S 2. The vehicle and traffic law is amended by adding a new section
9 120-a to read as follows:
10 S 120-A. INTOXICATION. INTOXICATION IS A GREATER DEGREE OF IMPAIRMENT
11 WHICH IS REACHED WHEN A DRIVER HAS VOLUNTARILY CONSUMED OR INGESTED A
12 SUBSTANCE OR COMBINATION OF SUBSTANCES TO THE EXTENT THAT THE DRIVER IS
13 INCAPABLE OF EMPLOYING THE PHYSICAL AND MENTAL ABILITIES WHICH A DRIVER
14 IS EXPECTED TO POSSESS IN ORDER TO OPERATE A VEHICLE AS A REASONABLE AND
15 PRUDENT DRIVER.
16 S 3. Section 1192 of the vehicle and traffic law is amended by adding
17 a new subdivision 13 to read as follows:
18 13. IT SHALL BE AN AFFIRMATIVE DEFENSE TO A CHARGE UNDER ANY SUBDIVI-
19 SION OF THIS SECTION THAT THE OPERATOR NEITHER KNEW NOR HAD REASON TO
20 KNOW OF THE IMPAIRING NATURE OF THE SUBSTANCE OR COMBINATION OF

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

LBD00099-07-1

1 SUBSTANCES CONSUMED OR INGESTED. PROVIDED, HOWEVER, THAT NO DEFENSE
2 SHALL BE AVAILABLE IF ANY SUCH CONSUMED OR INGESTED SUBSTANCE IS
3 CONTAINED IN SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW.
4 S 4. This act shall take effect on the first of November next succeed-
5 ing the date on which it shall have become a law.