

2863

2011-2012 Regular Sessions

I N S E N A T E

February 2, 2011

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

AN ACT to amend the vehicle and traffic law, in relation to increasing the penalties for violations relating to the licensing of drivers

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

- 1 Section 1. Paragraph (b) of subdivision 2 of section 318 of the vehi-
2 cle and traffic law is amended to read as follows:
3 (b) Such motor vehicle shall not be registered in the name of such
4 person, or in any other name where the commissioner has reasonable
5 grounds to believe that such registration will have the effect of
6 defeating the purpose of this article, and no other motor vehicle shall
7 be registered in the name of such person, nor any driver's license
8 issued to such person, for a period of [one year] EIGHTEEN MONTHS from
9 the date of such revocation.
- 10 S 2. Paragraph (b) of subdivision 4 of section 318 of the vehicle and
11 traffic law is amended to read as follows:
12 (b) Such non-resident privileges shall not be restored for a period of
13 [one year] EIGHTEEN MONTHS from the date of such revocation.
- 14 S 3. Paragraph (b) of subdivision 5 of section 318 of the vehicle and
15 traffic law is amended to read as follows:
16 (b) No new driver's license shall be issued, or non-resident privilege
17 restored to such person for a period of [one year] EIGHTEEN MONTHS from
18 the date of such revocation.
- 19 S 4. Subdivision 9 of section 318 of the vehicle and traffic law, as
20 amended by chapter 1025 of the laws of 1971, is amended to read as
21 follows:
22 9. (a) If a motor vehicle has been involved in an accident, and its
23 registration or the driver's license of its operator, or both, have been
24 revoked pursuant to this section, then neither such vehicle nor any
25 other motor vehicle shall be registered or reregistered in the name of

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

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1 its owner or of any other person legally responsible for its use, nor
2 shall any driver's license be issued to such owner, person or operator
3 until [one year has] EIGHTEEN MONTHS HAVE passed since the date of such
4 revocation and, as the case may be, the commissioner has received the
5 payments and evidence required by paragraph (c) [below] OF THIS SUBDIVI-
6 SION.

7 (b) If a motor vehicle not registered in this state is involved in an
8 accident in this state and the privilege of its operation within this
9 state has been revoked, then neither its owner, any person legally
10 responsible for its use nor its operator shall exercise the privilege of
11 the operation of such vehicle within this state or the privilege of
12 operation within this state of any motor vehicle, until [one year has]
13 EIGHTEEN MONTHS HAVE passed since the date of revocation and, as the
14 case may be, the commissioner has received the payments and evidence as
15 required in PARAGRAPH (c) [below] OF THIS SUBDIVISION.

16 (c) The payments and evidence referred to in paragraphs (a) and (b)
17 [above] OF THIS SUBDIVISION shall be evidence, satisfactory to the
18 commissioner,

19 (1) That no cause of action based upon such accident against such
20 owner, person legally responsible or operator has been commenced within
21 a period of [one year] EIGHTEEN MONTHS from the date of the accident or
22 a release thereof has been given to such owner, person or operator, or

23 (2) That no judgment arising out of such cause of action for amounts
24 within the limits stated in paragraph (a) of subdivision four of section
25 three hundred eleven OF THIS ARTICLE against such owner, person or oper-
26 ator remains unsatisfied, except that such registration and licensing
27 privileges may be restored on compliance with the procedures permitting
28 the payment of a judgment in installments provided in section three
29 hundred thirty-four OF THIS TITLE and

30 (3) That all civil penalties required to be paid to the department
31 pursuant to the provisions of subdivision five of section three hundred
32 nineteen of this [chapter] ARTICLE have been paid.

33 S 5. Subdivision 15 of section 318 of the vehicle and traffic law, as
34 amended by chapter 186 of the laws of 1985, is amended and a new subdi-
35 vision 16 is added to read as follows:

36 15. Notwithstanding any provisions of this section, a restricted use
37 license or privilege of operating a motor vehicle in this state may be
38 issued to a person who has had his OR HER license or such privilege
39 revoked or suspended pursuant to any provision of this section in
40 accordance with article twenty-one-A of this chapter. NO RESTRICTED USE
41 LICENSE OR PRIVILEGE OF OPERATING A MOTOR VEHICLE IN THIS STATE MAY BE
42 ISSUED TO A PERSON WHO HAS HAD HIS OR HER LICENSE OR SUCH PRIVILEGE
43 REVOKED OR SUSPENDED PURSUANT TO ANY PROVISION OF THIS SECTION TWICE
44 WITHIN EIGHTEEN MONTHS.

45 16. ANY PERSON WHO HAS HAD HIS OR HER LICENSE OR PRIVILEGE OF OPERAT-
46 ING A MOTOR VEHICLE IN THIS STATE REVOKED OR SUSPENDED PURSUANT TO ANY
47 PROVISION OF THIS SECTION THREE OR MORE TIMES WITHIN EIGHTEEN MONTHS
48 SHALL HAVE HIS OR HER LICENSE OR SUCH PRIVILEGE REVOKED PERMANENTLY.

49 S 6. Subdivisions 1 and 5 of section 319 of the vehicle and traffic
50 law, as amended by section 11 of part C of chapter 62 of the laws of
51 2003, are amended to read as follows:

52 1. Any owner of a motor vehicle registered in this state, or an unreg-
53 istered motor vehicle, who shall operate such motor vehicle or permit it
54 to be operated in this state without having in full force and effect the
55 financial security required by the provisions of this chapter and any
56 other person who shall operate in this state any motor vehicle regis-

1 tered in this state, or an unregistered motor vehicle, with the know-
2 ledge that the owner thereof does not have in full force and effect such
3 proof of financial security, except a person who, at the time of opera-
4 tion of such motor vehicle, had in effect an operator's policy of
5 liability insurance, as defined in section three hundred eighteen OF
6 THIS ARTICLE, with respect to his operation of such vehicle shall be
7 guilty of a [traffic infraction and upon conviction may be fined not
8 less than one hundred fifty dollars or more than one thousand five
9 hundred dollars or may be imprisoned for not more than fifteen days or
10 both] MISDEMEANOR. In addition to the penalties [herein] set forth IN
11 THIS SECTION, such person, upon conviction, shall also become liable for
12 payment to the department of the civil penalty provided in subdivision
13 five of this section.

14 5. The civil penalty for a violation of subdivision one of this
15 section shall be [seven hundred fifty] ONE THOUSAND dollars.

16 S 7. Subdivision 11 of section 509 of the vehicle and traffic law, as
17 amended by section 3 of part C of chapter 62 of the laws of 2003, is
18 amended to read as follows:

19 11. (A) A violation of any provision of this section shall be punisha-
20 ble by a fine of not less than seventy-five nor more than three hundred
21 dollars, or by imprisonment for not more than fifteen days, or by both
22 such fine and imprisonment except, if the violation consists of failure
23 to renew a license which was valid within sixty days, the fine shall be
24 not more than forty dollars, and except that a violation of subdivision
25 [seven or] eight of this section shall be punishable by a fine of not
26 more than seventy-five dollars.

27 (B) A SECOND OR SUBSEQUENT VIOLATION OF ANY PROVISION OF THIS SECTION,
28 EXCEPT FOR A VIOLATION FOR FAILURE TO RENEW A LICENSE WHICH WAS VALID
29 WITHIN SIXTY DAYS OR FOR A VIOLATION OF SUBDIVISION EIGHT OF THIS
30 SECTION, SHALL BE PUNISHABLE BY A FINE OF NOT LESS THAN SEVENTY-FIVE NOR
31 MORE THAN FIVE HUNDRED DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN
32 NINETY DAYS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

33 S 8. Paragraph (a) of subdivision 1 of section 511 of the vehicle and
34 traffic law, as amended by chapter 173 of the laws of 1990, is amended
35 to read as follows:

36 (a) A person is guilty of the offense of aggravated unlicensed opera-
37 tion of a motor vehicle in the third degree when such person operates a
38 motor vehicle upon a public highway while knowing or having reason to
39 know that such person's license or privilege of operating such motor
40 vehicle in this state or privilege of obtaining a license to operate
41 such motor vehicle issued by the commissioner is suspended, revoked or
42 otherwise withdrawn by the commissioner, OR WHEN SUCH PERSON OPERATES A
43 MOTOR VEHICLE WITHOUT BEING DULY LICENSED PURSUANT TO SECTION FIVE
44 HUNDRED TWO OF THIS TITLE AND SUCH PERSON HAS PREVIOUSLY BEEN CONVICTED
45 FOR A VIOLATION OF SECTION FIVE HUNDRED NINE OF THIS TITLE WITHIN THE
46 IMMEDIATELY PRECEDING EIGHTEEN MONTHS. FOR THE PURPOSE OF THIS PARA-
47 GRAPH, A PERSON WHO HAS IN EFFECT THREE OR MORE SUSPENSIONS OR REVOC-
48 TIONS OF HIS OR HER LICENSE, IMPOSED ON AT LEAST THREE SEPARATE DATES,
49 SHALL BE PRESUMED TO KNOW THAT SUCH LICENSE WAS SUSPENDED OR REVOKED.

50 S 9. Paragraph (b) of subdivision 2 of section 511 of the vehicle and
51 traffic law, as amended by chapter 607 of the laws of 1993, is amended
52 to read as follows:

53 (b) Aggravated unlicensed operation of a motor vehicle in the second
54 degree is a [misdemeanor] CLASS E FELONY. When a person is convicted of
55 this crime under subparagraph (i) of paragraph (a) of this subdivision,
56 the sentence of the court must be: (i) a fine of not less than five

1 hundred dollars; and (ii) a term of imprisonment not to exceed one
2 hundred eighty days; or (iii) where appropriate a sentence of probation
3 as provided in subdivision six of this section; or (iv) a term of impri-
4 sonment as a condition of a sentence of probation as provided in the
5 penal law and consistent with this section. When a person is convicted
6 of this crime under subparagraph (ii), (iii) or (iv) of paragraph (a) of
7 this subdivision, the sentence of the court must be: (i) a fine of not
8 less than five hundred dollars nor more than one thousand dollars; and
9 (ii) a term of imprisonment of not less than seven days nor more than
10 one hundred eighty days, or (iii) where appropriate a sentence of
11 probation as provided in subdivision six of this section; or (iv) a term
12 of imprisonment as a condition of a sentence of probation as provided in
13 the penal law and consistent with this section.

14 S 10. Subparagraph (ii) of paragraph (a) of subdivision 3 of section
15 511 of the vehicle and traffic law, as amended by chapter 732 of the
16 laws of 2006, is amended to read as follows:

17 (ii) commits the offense of aggravated unlicensed operation of a motor
18 vehicle in the third degree as defined in subdivision one of this
19 section; and is operating a motor vehicle while such person has in
20 effect [ten] FIVE or more suspensions, imposed on at least [ten] FIVE
21 separate dates for failure to answer, appear or pay a fine, pursuant to
22 subdivision three of section two hundred twenty-six of this chapter or
23 subdivision four-a of section five hundred ten of this article; or

24 S 11. Paragraph (b) of subdivision 3 of section 511 of the vehicle and
25 traffic law, as separately amended by chapters 786 and 892 of the laws
26 of 1990, is amended to read as follows:

27 (b) Aggravated unlicensed operation of a motor vehicle in the first
28 degree is a class [E] D felony. When a person is convicted of this
29 crime, the sentence of the court must be: (i) a fine in an amount not
30 less than five hundred dollars nor more than five thousand dollars; and
31 (ii) a term of imprisonment as provided in the penal law, or (iii) where
32 appropriate and a term of imprisonment is not required by the penal law,
33 a sentence of probation as provided in subdivision six of this section,
34 or (iv) a term of imprisonment as a condition of a sentence of probation
35 as provided in the penal law.

36 S 12. This act shall take effect on the first of November next
37 succeeding the date on which it shall have become a law.