

S T A T E O F N E W Y O R K

5567--A

Cal. No. 1058

2011-2012 Regular Sessions

I N S E N A T E

June 2, 2011

Introduced by Sens. DILAN, FUSCHILLO -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the vehicle and traffic law, in relation to maintenance and installation of ignition interlock devices

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

1 Section 1. Subparagraph (ii) of paragraph (b) 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 (ii) In addition to the imposition of any fine or period of imprison-
5 ment set forth in this paragraph, the court shall also sentence such
6 person convicted of a violation of subdivision two, two-a or three of
7 section eleven hundred ninety-two of this article to a period of
8 probation or conditional discharge, as a condition of which it shall
9 order such person to install and maintain, in accordance with the
10 provisions of section eleven hundred ninety-eight of this article, an
11 ignition interlock device in any motor vehicle owned or operated by such
12 person during the term of such probation or conditional discharge
13 imposed for such violation of section eleven hundred ninety-two of this
14 article [and in no event for less than six months]. THE CONDITION OF
15 MAINTENANCE AND INSTALLATION OF AN IGNITION INTERLOCK DEVICE SHALL
16 TERMINATE AT THE END OF A PERIOD OF CONTINUOUS MAINTENANCE OF SIX
17 MONTHS, OR MORE AS DETERMINED BY THE COURT, OR THE END OF THE PERIOD OF
18 PROBATION OR CONDITIONAL DISCHARGE, WHICHEVER IS EARLIER. Provided,
19 however, the court may not authorize the operation of a motor vehicle by
20 any person whose license or privilege to operate a motor vehicle has
21 been revoked pursuant to the provisions of this section.

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

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1 S 2 Subparagraph (iii) of paragraph (c) of subdivision 1 of section
2 1193 of the vehicle and traffic law, as amended by chapter 496 of the
3 laws of 2009, is amended to read as follows:

4 (iii) In addition to the imposition of any fine or period of imprison-
5 ment set forth in this paragraph, the court shall also sentence such
6 person convicted of a violation of subdivision two, two-a or three of
7 section eleven hundred ninety-two of this article to a period of
8 probation or conditional discharge, as a condition of which it shall
9 order such person to install and maintain, in accordance with the
10 provisions of section eleven hundred ninety-eight of this article, an
11 ignition interlock device in any motor vehicle owned or operated by such
12 person during the term of such probation or conditional discharge
13 imposed for such violation of section eleven hundred ninety-two of this
14 article [and in no event for a period of less than six months]. THE
15 CONDITION OF MAINTENANCE AND INSTALLATION OF AN IGNITION INTERLOCK
16 DEVICE SHALL TERMINATE AT THE END OF A PERIOD OF CONTINUOUS MAINTENANCE
17 OF SIX MONTHS, OR MORE AS DETERMINED BY THE COURT, OR THE END OF THE
18 PERIOD OF PROBATION OR CONDITIONAL DISCHARGE, WHICHEVER IS EARLIER.
19 Provided, however, the court may not authorize the operation of a motor
20 vehicle by any person whose license or privilege to operate a motor
21 vehicle has been revoked pursuant to the provisions of this section.

22 S 3. Paragraph (a) of subdivision 3 of section 1198 of the vehicle and
23 traffic law, as amended by chapter 496 of the laws of 2009, is amended
24 to read as follows:

25 (a) Notwithstanding any other provision of law, the commissioner may
26 grant a post-revocation conditional license, as set forth in paragraph
27 (b) of this subdivision, to a person who has been convicted of a
28 violation of subdivision two, two-a or three of section eleven hundred
29 ninety-two of this article and who has been sentenced to a period of
30 probation or conditional discharge, provided the person has satisfied
31 the minimum period of license revocation established by law and the
32 commissioner has been notified that such person may operate only a motor
33 vehicle equipped with a functioning ignition interlock device AND HAS
34 BEEN NOTIFIED BY THE SENTENCING COURT THAT SUCH PERSON HAS INSTALLED AN
35 IGNITION INTERLOCK DEVICE. No such request shall be made nor shall such
36 a license be granted, however, if such person has been found by a court
37 to have committed a violation of section five hundred eleven of this
38 chapter during the license revocation period or deemed by a court to
39 have violated any condition of probation or conditional discharge set
40 forth by the court relating to the operation of a motor vehicle or the
41 consumption of alcohol. In exercising discretion relating to the issu-
42 ance of a post-revocation conditional license pursuant to this subdivi-
43 sion, the commissioner shall not deny such issuance based solely upon
44 the number of convictions for violations of any subdivision of section
45 eleven hundred ninety-two of this article committed by such person with-
46 in the ten years prior to application for such license. Upon the termi-
47 nation of the period of probation or conditional discharge set by the
48 court, the person may apply to the commissioner for restoration of a
49 license or privilege to operate a motor vehicle in accordance with this
50 chapter.

51 S 4. This act shall take effect on the ninetieth day after it shall
52 have become a law; provided, however, that the amendments to section
53 1198 of the vehicle and traffic law made by section three of this act
54 shall not affect the repeal of such section and shall be deemed repealed
55 therewith.