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

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I N S E N A T E

March 7, 2012

Introduced by Sen. BONACIC -- (at request of the Department of Motor Vehicles) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to admissibility of certain certified business records of the department of motor vehicles

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

Section 1. Rule 4518 of the civil practice law and rules is amended by adding a new subdivision (h) to read as follows:

(H) 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ABSTRACTS OF OPERATING RECORDS FURNISHED BY THE COMMISSIONER OF MOTOR VEHICLES PURSUANT TO SECTION THREE HUNDRED FIFTY-FOUR OF THE VEHICLE AND TRAFFIC LAW, OTHER ABSTRACTS OR SUMMARIES OF RECORDS ON FILE WITH THE DEPARTMENT OF MOTOR VEHICLES AND, EXCEPT AS PROVIDED IN PARAGRAPH TWO OF THIS SUBDIVISION, ANY NOTICE OR ORDER ISSUED BY SUCH DEPARTMENT, ARE ADMISSIBLE IN EVIDENCE UNDER THIS RULE, PROVIDED THAT THEY INCLUDE OR ARE ACCOMPANIED BY A CERTIFICATION OF THE COMMISSIONER OR OF AN EMPLOYEE OF SUCH DEPARTMENT DESIGNATED BY THE COMMISSIONER ATTESTING THAT SUCH ABSTRACT, SUMMARY, NOTICE OR ORDER IS A TRUE AND COMPLETE COPY OF A RECORD ON FILE WITH SUCH DEPARTMENT. IF SO CERTIFIED, SUCH ABSTRACT, SUMMARY, NOTICE OR ORDER SHALL BE ADMITTED INTO EVIDENCE UNDER THIS RULE WITHOUT THE NEED FOR ADDITIONAL FOUNDATION TESTIMONY.

2. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION OR OF ANY OTHER LAW, A COPY OF ANY NOTICE OR ORDER, ISSUED BY THE COMMISSIONER OF MOTOR VEHICLES, OF THE SUSPENSION, REVOCATION OR WITHDRAWAL OF ANY LICENSE, NON-RESIDENT PRIVILEGE TO OPERATE A MOTOR VEHICLE IN THIS STATE, PRIVILEGE OF OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE OR MOTOR VEHICLE REGISTRATION, TOGETHER WITH A PROOF OF MAILING RECORD ISSUED BY THE COMMISSIONER OR AN EMPLOYEE OF THE DEPARTMENT OF MOTOR VEHICLES DESIGNATED BY THE COMMISSIONER, SHALL BE ADMITTED INTO EVIDENCE UNDER THIS RULE WITHOUT THE NEED FOR ADDITIONAL FOUNDATION TESTIMONY; PROVIDED, HOWEVER, THAT (I) THE NOTICE OR ORDER OF SUSPENSION, REVOCATION OR WITHDRAWAL INCLUDES OR IS ACCOMPANIED BY A CERTIF-

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

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ICATION OF THE COMMISSIONER OR OF AN EMPLOYEE DESIGNATED BY THE COMMISSIONER ATTESTING THAT THE NOTICE OR ORDER IS A TRUE AND COMPLETE COPY OF A RECORD ON FILE WITH THE DEPARTMENT; AND (II) THE PROOF OF MAILING RECORD INCLUDES A CERTIFICATION ISSUED BY THE COMMISSIONER OR AN EMPLOYEE OF THE DEPARTMENT DESIGNATED BY THE COMMISSIONER DESCRIBING THE MAILING PROCEDURES USED BY THE DEPARTMENT IN MAILING SUCH NOTICES OR ORDERS OF SUSPENSION, REVOCATION OR WITHDRAWAL, AND MAILING DATA SUPPLIED TO THE DEPARTMENT BY THE UNITED STATES POSTAL SERVICE UNDER CONTRACT TO THE DEPARTMENT.

S 2. This act shall take effect immediately.