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

1299

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. GANTT, GABRYSZAK, JAFFEE -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the permanent disqualification of school bus drivers for failing a random alcohol or drug test

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

Section 1. Paragraph (a) of subdivision 1 of section 509-cc of the vehicle and traffic law is amended by adding a new subparagraph (iv) to read as follows:

(IV) WAS FOUND TO HAVE .04 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN SUCH PERSON'S BLOOD OR A POSITIVE TEST FOR A CONTROLLED SUBSTANCE AS SHOWN BY A RANDOM ALCOHOL AND CONTROLLED SUBSTANCES TEST ADMINISTERED IN ACCORDANCE WITH PART 382 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE AMENDED; AND

(1) SUCH PERSON WAS FOUND WITHIN THE PRECEDING FIVE YEARS TO HAVE .04 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN SUCH PERSON'S BLOOD OR A POSITIVE TEST FOR A CONTROLLED SUBSTANCE AS SHOWN BY A RANDOM ALCOHOL AND CONTROLLED SUBSTANCES TEST ADMINISTERED IN ACCORDANCE WITH PART 382 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE AMENDED; OR

(2) SUCH PERSON HAS HAD A PRIOR REVOCATION OF THEIR DRIVER'S LICENSE RESULTING FROM REFUSAL TO SUBMIT TO A CHEMICAL TEST PURSUANT TO SUBDIVISION TWO OF SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER WITHIN THE PRECEDING FIVE YEARS; OR

(3) SUCH PERSON HAS BEEN CONVICTED OF A VIOLATION OF ANY SUBDIVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER NOT ARISING FROM THE SAME INCIDENT, WITHIN THE PRECEDING FIVE YEARS. PROVIDED, HOWEVER, THE COMMISSIONER MAY WAIVE SUCH DISQUALIFICATION AS PROVIDED FOR IN THIS

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

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SUBPARAGRAPH AFTER A PERIOD OF FIVE YEARS HAS EXPIRED FROM THE DATE OF SUCH DISQUALIFICATION PROVIDED:

(A) THAT DURING SUCH FIVE YEAR PERIOD SUCH PERSON HAS NOT BEEN FOUND TO HAVE REFUSED A CHEMICAL TEST PURSUANT TO SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER AND HAS NOT BEEN CONVICTED OF ANY VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER; AND

(B) THAT SUCH PERSON PROVIDES ACCEPTABLE DOCUMENTATION TO THE COMMISSIONER THAT SUCH PERSON IS NOT IN NEED OF ALCOHOL OR DRUG TREATMENT OR HAS SATISFACTORILY COMPLETED A PRESCRIBED COURSE OF SUCH TREATMENT; OR

S 2. Subdivision 2 of section 509-cc of the vehicle and traffic law is amended by adding a new paragraph (b-1) to read as follows:

(B-1) PERMANENTLY, IF THAT PERSON WAS FOUND TO HAVE .04 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN SUCH PERSON'S BLOOD OR A POSITIVE TEST FOR A CONTROLLED SUBSTANCE AS SHOWN BY A RANDOM ALCOHOL AND CONTROLLED SUBSTANCES TEST ADMINISTERED IN ACCORDANCE WITH PART 382 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE AMENDED; AND

(I) SUCH PERSON WAS FOUND WITHIN THE PRECEDING FIVE YEARS TO HAVE .04 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN SUCH PERSON'S BLOOD OR A POSITIVE TEST FOR A CONTROLLED SUBSTANCE AS SHOWN BY A RANDOM ALCOHOL AND CONTROLLED SUBSTANCES TEST ADMINISTERED IN ACCORDANCE WITH PART 382 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE AMENDED; OR

(II) SUCH PERSON HAS HAD A PRIOR REVOCATION OF THEIR DRIVER'S LICENSE RESULTING FROM REFUSAL TO SUBMIT TO A CHEMICAL TEST PURSUANT TO SUBDIVISION TWO OF SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER WITHIN THE PRECEDING FIVE YEARS; OR

(III) SUCH PERSON HAS BEEN CONVICTED OF A VIOLATION OF ANY SUBDIVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER NOT ARISING FROM THE SAME INCIDENT, WITHIN THE PRECEDING FIVE YEARS. PROVIDED, HOWEVER, THE COMMISSIONER MAY WAIVE SUCH DISQUALIFICATION AS PROVIDED IN THIS PARAGRAPH AFTER A PERIOD OF FIVE YEARS HAS EXPIRED FROM THE DATE OF SUCH DISQUALIFICATION PROVIDED:

(A) THAT DURING SUCH FIVE YEAR PERIOD SUCH PERSON HAS NOT BEEN FOUND TO HAVE REFUSED A CHEMICAL TEST PURSUANT TO SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER AND HAS NOT BEEN CONVICTED OF ANY VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER; AND

(B) THAT SUCH PERSON PROVIDES ACCEPTABLE DOCUMENTATION TO THE COMMISSIONER THAT SUCH PERSON IS NOT IN NEED OF ALCOHOL OR DRUG TREATMENT OR HAS SATISFACTORILY COMPLETED A PRESCRIBED COURSE OF SUCH TREATMENT.

S 3. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.