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

2852

2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. PRETLOW, WRIGHT, CLARK, GALEF, BRENNAN, HOOPER -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to the seizure of vehicles after driving while intoxicated convictions; and to amend the vehicle and traffic law, in relation to the revocation of licenses for driving while intoxicated offenses and the denial of vehicle registration after three driving while intoxicated offenses

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

Section 1. Section 1310 of the civil practice law and rules is amended by adding a new subdivision 15 to read as follows:

15. "INTOXICATION OFFENSE" MEANS A CONVICTION FOR A VIOLATION OF SUBDIVISION TWO, TWO-A OR THREE OF SECTION ONE THOUSAND ONE HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW.

S 2. Subdivision 1 of section 1311 of the civil practice law and rules is amended by adding a new paragraph (c) to read as follows:

(C) AN ACTION RELATING TO AN INTOXICATION OFFENSE MUST BE GROUNDED UPON A CONVICTION OF AN INTOXICATED OFFENSE, AS PROVIDED FOR BY THIS PARAGRAPH. IF A DEFENDANT HAS BEEN CONVICTED OF HIS OR HER SECOND INTOXICATION OFFENSE, ANY AND ALL VEHICLES REGISTERED TO HIM OR HER SHALL BE FORFEITED FOR A PERIOD OF SIX MONTHS. IF SUCH VEHICLE IS ALSO USED BY A MEMBER OF THE DEFENDANT'S HOUSEHOLD, THE HOUSEHOLD MEMBER SHALL POST A BOND OF NOT LESS THAN ONE THOUSAND DOLLARS TO BE SURRENDERED IN THE EVENT THAT THE DEFENDANT IS FOUND TO BE DRIVING SUCH VEHICLE. IF A DEFENDANT HAS BEEN CONVICTED OF HIS OR HER THIRD INTOXICATION OFFENSE, ANY AND ALL VEHICLES REGISTERED TO HIM OR HER SHALL BE FORFEITED AND NOTWITHSTANDING THE PROVISIONS OF SECTION ONE THOUSAND THREE HUNDRED FORTY-NINE OF THIS ARTICLE, SUCH VEHICLE OR VEHICLES SHALL BE SOLD WITH THE PROCEEDS OF SUCH SALE GOING TO THE COUNTY OF JURISDICTION'S DRIVING WHILE INTOXICATED PROGRAM.

S 3. Paragraph (c) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by section 1 of chapter 312 of the laws of 1994 and subparagraph 3 as amended by chapter 732 of the laws of 2006, is amended to read as follows:

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

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(c) Reissuance of licenses; restrictions. (1) Except as otherwise provided in this paragraph, where a license is revoked pursuant to paragraph (b) of this subdivision, no new license shall be issued after the expiration of the minimum period specified in such paragraph, except in the discretion of the commissioner.

(2) Where a license is revoked pursuant to subparagraph two, three or eight of paragraph (b) of this subdivision for a violation of subdivision four of section eleven hundred ninety-two of this article, and where the individual does not have a driver's license or the individual's license was suspended at the time of conviction or youthful offender or other juvenile adjudication, the commissioner shall not issue a new license nor restore the former license for a period of six months after such individual would otherwise have become eligible to obtain a new license or to have the former license restored; provided, however, that during such delay period the commissioner may issue a restricted use license pursuant to section five hundred thirty of this chapter.

(3) In no event shall a new license be issued where a person has been twice convicted of a violation of subdivision TWO, TWO-A, three, four or four-a of section eleven hundred ninety-two of this article or of driving while intoxicated or of driving while ability is impaired by the use of a drug or of driving while ability is impaired by the combined influence of drugs or of alcohol and any drug or drugs where physical injury, as defined in section 10.00 of the penal law, has resulted from such offense in each instance.

S 4. Paragraph (c) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by section 8 of chapter 732 of the laws of 2006, is amended to read as follows:

(c) Reissuance of licenses; restrictions. Where a license is revoked pursuant to paragraph (b) of this subdivision, no new license shall be issued after the expiration of the minimum period specified in such paragraph, except in the discretion of the commissioner; provided, however, that in no event shall a new license be issued where a person has been twice convicted of a violation of subdivision TWO, TWO-A, three, four or four-a of section eleven hundred ninety-two of this article or of driving while intoxicated or of driving while ability is impaired by the use of a drug or of driving while ability is impaired by the combined influence of drugs or of alcohol and any drug or drugs where physical injury, as defined in section 10.00 of the penal law, has resulted from such offense in each instance.

S 5. Section 401 of the vehicle and traffic law is amended by adding a new subdivision 22 to read as follows:

22. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION OR ANY OTHER LAW, NO VEHICLE MAY BE REGISTERED BY AN INDIVIDUAL WHO HAS BEEN CONVICTED THREE TIMES OF A VIOLATION OF SUBDIVISIONS TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER.

S 6. This act shall take effect immediately; provided, however, that sections one, two and five of this act shall take effect on the first of November next succeeding the date on which it shall have become a law and shall apply to offenses committed on or after such date; provided further however, that the amendment to paragraph (c) of subdivision 2 of section 1193 of the vehicle and traffic law made by section three of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 9 of chapter 533 of the laws of 1993, as amended, when upon such date the provisions of section four of this act shall take effect.