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

4313

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

Introduced by M. of A. GABRYSZAK, GUNTHER, SPANO, M. MILLER, HOOPER, LAVINE -- Multi-Sponsored by -- M. of A. BURLING, CROUCH, GIBSON, HIKIND, MAYERSOHN, McDONOUGH, SWEENEY, THIELE, WEISENBERG -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to increasing the penalties and sentences for driving while ability impaired by the combined influence of alcohol and drugs

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

Section 1. Subparagraph (i) of paragraph (b) and paragraph (c) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 496 of the laws of 2009, are amended to read as follows:

(i) A violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than [five hundred] ONE THOUSAND dollars nor more than [one] TWO thousand dollars, or by imprisonment in a penitentiary or county jail for not more than [one year] TWO YEARS, or by both such fine and imprisonment. A violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than one thousand dollars nor more than two thousand five hundred dollars or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment.

(c) Felony offenses. (i) A person who operates a vehicle (A) in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined,

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

LBD08634-01-1

respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, within the preceding ten years, or (B) in violation of paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article shall be guilty of a class E felony, and shall be punished by a fine of not less than [one] TWO thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law WHICH SHALL NOT EXCEED FIVE YEARS, or by both such fine and imprisonment.

(ii) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, twice within the preceding ten years, shall be guilty of a class D felony, and shall be punished by a fine of not less than [two] FOUR thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law WHICH SHALL NOT EXCEED EIGHT YEARS, or by both such fine and imprisonment.

(iii) In addition to the imposition of any fine or period of imprisonment set forth in this paragraph, the court shall also sentence such person convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article to a period of probation or conditional discharge, as a condition of which it shall order such person to install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of this article, an ignition interlock device in any motor vehicle owned or operated by such person during the term of such probation or conditional discharge imposed for such violation of section eleven hundred ninety-two of this article and in no event for a period of less than six months. Provided, however, the court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked pursuant to the provisions of this section.

S 2. Subparagraphs 2 and 3 of paragraph (b) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by chapter 732 of the laws of 2006, are amended to read as follows:

(2) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated. [Six months] ONE YEAR, where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article. One year where the holder is convicted of a violation of subdivision two-a of section eleven hundred ninety-two of this article.

(3) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; prior offense. [One year] EIGHTEEN MONTHS, where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article. [Eighteen] TWENTY-FOUR months, where the holder is convicted of a violation of

subdivision two-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article; or where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two-a of section eleven hundred ninety-two of this article.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.