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

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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. DINOWITZ, HOOPER -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to requiring persistent alcohol offenders to surrender their registration and number plates and be issued distinctive registrations and number plates for such offenders, imposing mandatory motor vehicle registration suspensions for aggravated unlicensed operation of a motor vehicle, enhancing the penalties for violating the conditions of a conditional license, and directing the seizure of the registration and number plates of certain persons arrested for an alcohol offense

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

Section 1. Paragraph a of subdivision 3 of section 401 of the vehicle and traffic law, as amended by section 1 of part H of chapter 59 of the laws of 2003, is amended to read as follows:

a. (I) Upon filing of such application and the payment of the fee hereinafter provided, the commissioner shall assign to such motor vehicle a distinctive number and, without expense to the applicant, issue and deliver in such manner as the commissioner may select to the owner a certificate of registration, in such form as the commissioner shall prescribe, and two number plates at a place within the state of New York named by the applicant in his or her application. A number plate, within the meaning of this chapter, may, in the discretion of the commissioner, be a plate of a permanent nature, treated with reflectorized material according to specifications prescribed by the commissioner, and with a date tag attached to such plate or to the vehicle as prescribed by regulations of the commissioner indicating the validity of the plate during a certain period and the issuance of such a number plate with such date tag to a person possessing such a number plate shall be deemed the issuance of a number plate. An additional fee, not to exceed twenty-five

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

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dollars, shall be paid to the commissioner whenever a set of reflectorized number plates is issued for any vehicle for which a registration fee is normally charged except that, with respect to any number plate which is specifically requested by the applicant, such fee shall be paid to the commissioner upon approval of such request. In the event of the loss, mutilation or destruction of any certificate of registration, any number plate or set of number plates whether with or without a date tag or tags, or any date tag or set of date tags provided for in this article, the owner of a registered motor vehicle may file such statement and proof of the facts as the commissioner shall require, with a fee of three dollars, in the office of the commissioner, or, unless and until the commissioner shall otherwise direct, in the office of the agent who issued the certificate, plate, plates, tag or tags and the commissioner or his or her agent, as the case may be, shall issue a duplicate or substitute. It shall be the duty of every owner holding a certificate of registration to notify the commissioner in writing of any change of residence of such person within ten days after such change occurs, and to inscribe on such certificate, in the place provided by the commissioner, a record of such change of residence.

(II) (A) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, UPON THE SURRENDER OR SEIZURE OF THE NUMBER PLATES AND CERTIFICATE OF REGISTRATION ISSUED PURSUANT TO ANY OTHER PROVISION OF THIS ARTICLE FOR EVERY MOTOR VEHICLE REGISTERED BY A PERSISTENT ALCOHOL OFFENDER, AS DEFINED IN SUBDIVISION THREE OF SECTION ELEVEN HUNDRED NINETY-THREE OF THIS CHAPTER, AND UPON FILING AN APPLICATION FOR REGISTRATION BY SUCH OFFENDER, AT A TIME HE OR SHE IS AUTHORIZED TO REGISTER A MOTOR VEHICLE, AND THE PAYMENT OF THE REGULAR REGISTRATION FEE PRESCRIBED BY THIS SECTION AND A FEE OF ONE HUNDRED DOLLARS, THE COMMISSIONER SHALL ASSIGN THE MOTOR VEHICLE TO BE REGISTERED A DISTINCTIVE NUMBER RESERVED FOR PERSISTENT ALCOHOL OFFENDERS AND SHALL ISSUE TO SUCH OFFENDER A DISTINCTIVE CERTIFICATE OF REGISTRATION FOR PERSISTENT ALCOHOL OFFENDERS, IN SUCH FORM AS THE COMMISSIONER SHALL PRESCRIBE, AND TO DISTINCTIVE NUMBER PLATES FOR PERSISTENT ALCOHOL OFFENDERS, OF SUCH DESIGN AS THE COMMISSIONER SHALL PRESCRIBE. EVERY SUCH CERTIFICATE OF REGISTRATION AND NUMBER PLATE SHALL BE OF SUCH A DESIGN AND IN SUCH A FORM SO AS TO BE EASILY IDENTIFIED BY POLICE OFFICERS AND PEACE OFFICERS AS THOSE OF A PERSISTENT ALCOHOL OFFENDER. EVERY CERTIFICATE OF REGISTRATION ISSUED PURSUANT TO THIS SUBPARAGRAPH SHALL REMAIN IN EFFECT FOR TWO YEARS AFTER A PERSISTENT ALCOHOL OFFENDER'S MOST RECENT CONVICTION OF A VIOLATION OF SUBDIVISION ONE, TWO, TWO-A OR THREE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER. UPON THE EXPIRATION THEREOF SUCH OFFENDER MAY APPLY TO THE COMMISSIONER FOR A CERTIFICATE OF REGISTRATION AND NUMBER PLATES PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(B) THE COMMISSIONER SHALL MAINTAIN AN ACCURATE AND TIMELY DATA BASE OF ALL PERSONS WHO HAVE BEEN DESIGNATED AS PERSISTENT ALCOHOL OFFENDERS PURSUANT TO SUBDIVISION THREE OF SECTION ELEVEN HUNDRED NINETY-THREE OF THIS CHAPTER. UNDER NO CIRCUMSTANCES SHALL A CERTIFICATE OF REGISTRATION AND NUMBER PLATES BE ISSUED TO ANY SUCH OFFENDER OTHER THAN THOSE PROVIDED FOR BY THIS SUBPARAGRAPH, UNTIL TWO YEARS AFTER THE OFFENDER'S MOST RECENT CONVICTION OF VIOLATING SUBDIVISION ONE, TWO, TWO-A OR THREE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER.

S 2. Subdivision 1 of section 511 of the vehicle and traffic law is amended by adding a new paragraph (d) to read as follows:

(D) IN ADDITION, WHEN A PERSON IS CONVICTED OF THIS OFFENSE, THE REGISTRATIONS OF ALL MOTOR VEHICLES REGISTERED IN HIS OR HER NAME SHALL BE SUSPENDED FOR SIXTY DAYS.

S 3. Subdivision 2 of section 511 of the vehicle and traffic law is amended by adding a new paragraph (c) to read as follows:

(C) IN ADDITION, WHEN A PERSON IS CONVICTED OF THIS OFFENSE, THE REGISTRATIONS OF ALL MOTOR VEHICLES REGISTERED IN HIS OR HER NAME SHALL BE SUSPENDED FOR ONE HUNDRED TWENTY DAYS.

S 4. Subdivision 3 of section 511 of the vehicle and traffic law is amended by adding a new paragraph (c) to read as follows:

(C) IN ADDITION, WHEN A PERSON IS CONVICTED OF THIS OFFENSE, THE REGISTRATIONS OF ALL MOTOR VEHICLES REGISTERED IN HIS OR HER NAME SHALL BE SUSPENDED FOR ONE YEAR.

S 5. Section 1193 of the vehicle and traffic law is amended by adding a new subdivision 3 to read as follows:

3. REGISTRATION SANCTIONS. (A) DEFINITION. FOR THE PURPOSES OF THIS SUBDIVISION "PERSISTENT ALCOHOL OFFENDER" MEANS ANY PERSON WHO HAS BEEN CONVICTED OF:

(1) THREE OR MORE VIOLATIONS OF SUBDIVISIONS ONE, TWO, TWO-A AND/OR THREE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE WITHIN A PERIOD OF FIVE YEARS; OR

(2) FIVE OR MORE VIOLATIONS OF SUBDIVISIONS ONE, TWO, TWO-A AND/OR THREE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE WITHIN A PERIOD OF TEN YEARS.

(B) UPON DETERMINATION BY A COURT THAT A PERSON IS A PERSISTENT ALCOHOL OFFENDER, THE COURT SHALL ORDER SUCH PERSON TO SURRENDER THE CERTIFICATES OF REGISTRATION AND NUMBER PLATES OF ALL MOTOR VEHICLES WHICH SUCH PERSON HAS REGISTERED PURSUANT TO ARTICLE FOURTEEN OF THIS CHAPTER. UPON RECEIPT OF SUCH CERTIFICATES OF REGISTRATION AND NUMBER PLATES, THE COURT SHALL RETURN SUCH TO THE COMMISSIONER ALONG WITH NOTIFICATION THAT SUCH PERSON IS A PERSISTENT ALCOHOL OFFENDER.

(C) IN ANY CASE IN WHICH A PERSISTENT ALCOHOL OFFENDER FAILS TO SURRENDER ALL CERTIFICATES OF REGISTRATION AND NUMBER PLATES AS REQUIRED BY PARAGRAPH (B) OF THIS SUBDIVISION, THE COMMISSIONER, AFTER RECEIVING NOTICE THEREOF SHALL TAKE POSSESSION THEREOF OR DIRECT ANY PEACE OFFICER, ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, OR POLICE OFFICER TO TAKE POSSESSION THEREOF AND RETURN THE SAME TO THE OFFICE OF THE COMMISSIONER.

(D) UPON ARREST OF A PERSON FOR ANY VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, THE ARRESTING OFFICER SHALL TAKE POSSESSION OF THE CERTIFICATE OF REGISTRATION AND NUMBER PLATES OF THE MOTOR VEHICLE OPERATED IN VIOLATION OF SUCH SECTION AND RETURN THE SAME TO THE OFFICE OF THE COMMISSIONER WHEN:

(1) SUCH MOTOR VEHICLE IS REGISTERED IN THE NAME OF SUCH PERSON; AND

(2) SUCH PERSON:

(A) REFUSED A CHEMICAL TEST TO BE ADMINISTERED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS ARTICLE;

(B) HAD .20 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN HIS OR HER BLOOD;

(C) WOULD BE A PERSISTENT ALCOHOL OFFENDER UPON CONVICTION OF SUCH VIOLATION; OR

(D) HAD A PERSON UNDER SIXTEEN YEARS OF AGE AS A PASSENGER IN SUCH MOTOR VEHICLE.

S 6. Paragraph (f) of subdivision 7 of section 1196 of the vehicle and traffic law, as added by chapter 420 of the laws of 1989, is amended to read as follows:

(f) It shall be a [traffic infraction] CLASS A MISDEMEANOR, AS DEFINED IN THE PENAL LAW, for the holder of a conditional license or privilege to operate a motor vehicle upon a public highway for any use other than

those authorized pursuant to paragraph (a) of this subdivision. [When a person is convicted of this offense, the sentence of the court must be a fine of not less than two hundred dollars nor more than five hundred dollars or a term of imprisonment of not more than fifteen days or both such fine and imprisonment.] Additionally, the conditional license or privileges described in this subdivision shall be revoked by the commissioner upon receiving notification from the court that the holder thereof has been convicted of this offense. FURTHERMORE, UPON SUCH NOTIFICATION, THE COMMISSIONER SHALL SUSPEND THE REGISTRATION OF SUCH HOLDER FOR A PERIOD OF NINETY DAYS, IN ADDITION TO ANY SUSPENSION OR REVOCATION THEREOF IMPOSED PURSUANT TO SUBDIVISION TWO OF SECTION ELEVEN HUNDRED NINETY-THREE OF THIS ARTICLE.

S 7. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, provided that the commissioner of motor vehicles is authorized and directed to complete any acts, rules and regulations necessary to implement the provisions of this act on its effective date on or before such date.