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

6361

2011-2012 Regular Sessions

I N A S S E M B L Y

March 15, 2011

Introduced by M. of A. J. RIVERA, N. RIVERA, P. RIVERA, SPANO, BOYLAND, MAGNARELLI, MILLMAN, STEVENSON -- Multi-Sponsored by -- M. of A. ARROYO, GIBSON, HIKIND, ORTIZ, PHEFFER, REILLY, SCHIMEL, SWEENEY, THIELE -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to requiring participation in an alcohol and drug rehabilitation program for certain first offenders

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

Section 1. Subdivision 1 of section 1193 of the vehicle and traffic law is amended by adding a new paragraph (h) to read as follows:

(H) WHERE THE COURT IMPOSES A SENTENCE FOR A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OR ELEVEN HUNDRED NINETY-TWO-A OF THIS ARTICLE, THE COURT SHALL REQUIRE THE DEFENDANT, AS A PART OR CONDITION OF SUCH SENTENCE, TO PAY FOR AND TO ATTEND AN ALCOHOL AND DRUG REHABILITATION PROGRAM CONDUCTED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTICLE, IN CASES IN WHICH THE DEFENDANT HAS NOT PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OR ELEVEN HUNDRED NINETY-TWO-A OF THIS ARTICLE AND MEETS THE ELIGIBILITY CRITERIA FOR PARTICIPATION IN SUCH PROGRAM SET FORTH IN SUCH SECTION.

S 2. Subdivision 4 of section 1196 of the vehicle and traffic law, as amended by chapter 196 of the laws of 1996, is amended to read as follows:

4. Eligibility. Participation in the program shall be limited to those persons convicted of alcohol or drug-related traffic offenses or persons who have been adjudicated youthful offenders for alcohol or drug-related traffic offenses, or persons found to have been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, who choose OR ARE SENTENCED to participate and who satisfy the criteria and meet the requirements for participation as established by this section and the regulations promulgated there-

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

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under; provided, however, in the exercise of discretion, the judge imposing sentence may prohibit the defendant from enrolling in such program FOR GOOD CAUSE, IN WHICH EVENT THE REASONS THEREFOR SHALL BE STATED UPON THE RECORD. The commissioner or deputy may exercise discretion, FOR GOOD CAUSE, THE REASONS FOR WHICH MUST BE MADE KNOWN TO THE PERSON, to reject any person [from participation] referred OR SENTENCED to such program FROM PARTICIPATING THEREIN, and nothing herein contained shall be construed as creating a right to be included in any course or program established under this section. In addition, no person shall be permitted to take part in such program if, during the five years immediately preceding commission of an alcohol or drug-related traffic offense or a finding of a violation of section eleven hundred ninety-two-a of this article, such person has participated in a program established pursuant to this article or been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article other than a violation committed prior to November first, nineteen hundred eighty-eight, for which such person did not participate in such program. In the exercise of discretion, the commissioner or a deputy shall have the right to expel any participant from the program who fails to satisfy the requirements for participation in such program or who fails to satisfactorily participate in or attend any aspect of such program. Notwithstanding any contrary provisions of this chapter, satisfactory participation in and completion of a course in such program shall result in the termination of any sentence of imprisonment that may have been imposed by reason of a conviction therefor; provided, however, that nothing contained in this section shall delay the commencement of such sentence.

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