

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

7451--B

2011-2012 Regular Sessions

I N A S S E M B L Y

May 4, 2011

Introduced by M. of A. MAGNARELLI, WEISENBERG, JAFFEE, SCHIMMINGER, ROBERTS, LAVINE, ZEBROWSKI, GUNTHER, ROSENTHAL, GALEF, LINARES, SCHIMMEL, HOOPER -- Multi-Sponsored by -- M. of A. BOYLAND, GOTTFRIED, HEVESI, REILLY, P. RIVERA, SWEENEY -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Transportation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the navigation law, in relation to the effect of prior conviction for operation of certain vehicles while intoxicated upon imposition of penalties for boating while intoxicated

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

1 Section 1. Short title. This act shall be known and may be cited as
2 "Tiffany Heitkamp's law".
3 S 2. Paragraphs (a) and (f) of subdivision 2 of section 49-a of the
4 navigation law, as amended by chapter 151 of the laws of 2006, are
5 amended to read as follows:
6 (a) No person shall operate a vessel upon the waters of the state
7 while his ability to operate such vessel is impaired by the consumption
8 of alcohol. A violation of this subdivision shall be an offense and
9 shall be punishable by a fine of not less than three hundred dollars nor
10 more than five hundred dollars, or by imprisonment in a penitentiary or
11 county jail for not more than fifteen days, or by both such fine and
12 imprisonment. A person who operates a vessel in violation of this subdivi-
13 sion after being convicted of a violation of any subdivision of this
14 section OR OF ANY SUBDIVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF
15 THE VEHICLE AND TRAFFIC LAW within the preceding five years shall be
16 punished by a fine of not less than five hundred dollars nor more than
17 seven hundred fifty dollars, or by imprisonment of not more than thirty

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

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1 days in a penitentiary or county jail or by both such fine and imprison-
2 ment. A person who operates a vessel in violation of this subdivision
3 after being convicted two or more times of a violation of any subdivi-
4 sion of this section, OR OF A VIOLATION OF ANY SUBDIVISION OF SECTION
5 ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW, OR OF ANY
6 COMBINATION OF TWO OR MORE SUCH CONVICTIONS NOT ARISING OUT OF THE SAME
7 INCIDENT within the preceding ten years shall be guilty of a misdemea-
8 nor, and shall be punished by a fine of not less than seven hundred
9 fifty dollars nor more than fifteen hundred dollars, or by imprisonment
10 of not more than one hundred eighty days in a penitentiary or county
11 jail or by both such fine and imprisonment.

12 (f) A violation of paragraph (b), (c), (d) or (e) of this subdivision
13 shall be a misdemeanor and shall be punishable by imprisonment in a
14 penitentiary or county jail for not more than one year, or by a fine of
15 not less than five hundred dollars nor more than one thousand dollars,
16 or by both such fine and imprisonment. A person who operates a vessel in
17 violation of paragraph (b), (c), (d) or (e) of this subdivision after
18 having been convicted of a violation of paragraph (b), (c), (d) or (e)
19 of this subdivision, or of operating a vessel or public vessel while
20 intoxicated or while under the influence of drugs, OR OF SUBDIVISION
21 TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO
22 OF THE VEHICLE AND TRAFFIC LAW within the preceding ten years, shall be
23 guilty of a class E felony and shall be punished by a period of impris-
24 onment as provided in the penal law, or by a fine of not less than one
25 thousand dollars nor more than five thousand dollars, or by both such
26 fine and imprisonment. A person who operates a vessel in violation of
27 paragraph (b), (c), (d) or (e) of this subdivision after having been
28 twice convicted of a violation of any of such paragraph (b), (c), (d) or
29 (e) of this subdivision or of operating a vessel or public vessel while
30 intoxicated or under the influence of drugs, OR OF A VIOLATION OF SUBDI-
31 VISION TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINE-
32 TY-TWO OF THE VEHICLE AND TRAFFIC LAW, OR OF ANY COMBINATION OF TWO SUCH
33 CONVICTIONS NOT ARISING OUT OF THE SAME INCIDENT within the preceding
34 ten years, shall be guilty of a class D felony and shall be punished by
35 a fine of not less than two thousand dollars nor more than ten thousand
36 dollars or by a period of imprisonment as provided in the penal law, or
37 by both such fine and imprisonment.

38 S 3. Subparagraph 3 of paragraph (a) of subdivision 3 of section 49-a
39 of the navigation law, as added by chapter 805 of the laws of 1992, is
40 amended to read as follows:

41 (3) a period of twenty-four months where a person is convicted of a
42 violation of paragraph (b), (c), (d) or (e) of subdivision two of this
43 section after having been convicted of a violation of paragraph (b),
44 (c), (d) or (e) of subdivision two of this section or of operating a
45 vessel or public vessel while intoxicated or under the influence of
46 drugs OR OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A
47 OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW
48 within the preceding ten years.

49 S 4. This act shall take effect on the first of November next succeed-
50 ing the date on which it shall have become a law.