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

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I N A S S E M B L Y

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Introduced by M. of A. WEISENBERG, ROBERTS, STEVENSON, GUNTHER, McDONOUGH, RAIA, TITUS, SWEENEY, SALADINO, McKEVITT, PERRY -- Multi-Sponsored by -- M. of A. BRENNAN, CERETTO, THIELE -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, the executive law, the penal law and the criminal procedure law, in relation to driving while intoxicated and ignition interlock devices

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

Section 1. Paragraphs (b) and (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:

(b) 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; misdemeanor offenses. (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 dollars nor more than one thousand dollars, or by imprisonment in a penitentiary or county jail for not more than one year, 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.

(ii) 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] OR ADJUDICATED A YOUTHFUL OFFENDER FOR a violation of subdivision two, two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION FOUR-A 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 NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, NOT TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL

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

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CONCENTRATION ABOVE THE SETPOINT OF THE IGNITION INTERLOCK DEVICE AND 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 TITLED, REGISTERED OR OTHERWISE owned or operated by such person OR, IF SUCH PERSON DOES NOT OWN A MOTOR VEHICLE, IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR IN AT LEAST ONE VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD 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 less than six months. THE PERIOD OF INTERLOCK RESTRICTION SHALL COMMENCE FROM THE DATE OF SENTENCING OR, IN THE CASE OF A PLEA DISPOSITION, MAY COMMENCE FROM THE DATE OF INSTALLATION OF AN IGNITION INTERLOCK DEVICE AT A DATE IN ADVANCE OF SENTENCING. THE IGNITION INTERLOCK DEVICE SHALL BE INSTALLED FOR NO LESS THAN SIX MONTHS, REGARDLESS OF THE COMMENCEMENT DATE. IN THE EVENT THAT THE COURT MAKES A DETERMINATION OF GOOD CAUSE FOR NOT INSTALLING AN IGNITION INTERLOCK DEVICE PURSUANT TO SUBDIVISION FOUR OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE ON THE BASIS THAT SUCH PERSON DOES NOT OWN AND WILL NOT OPERATE A MOTOR VEHICLE, THE IGNITION INTERLOCK RESTRICTION SHALL REMAIN IN EFFECT FOR THE FULL PERIOD OF SUCH PERSON'S CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO ARTICLE SIXTY-FIVE OF THE PENAL LAW AND THE COURT SHALL SENTENCE SUCH PERSON TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE FOR A PERIOD OF NOT LESS THAN SIX MONTHS. UNDER NO CIRCUMSTANCES SHALL A CONDITIONAL LICENSE BE ISSUED, OR A LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE BE GRANTED OR RESTORED UNTIL SUCH PERSON CAN DEMONSTRATE COMPLIANCE WITH EITHER THE IGNITION INTERLOCK OR TRANSDERMAL ALCOHOL MONITORING PROVISIONS OF THIS SECTION PURSUANT TO SUBDIVISION NINE OF SECTION FIVE HUNDRED TEN OF THIS CHAPTER. FOR THE PURPOSES OF OBTAINING A CONDITIONAL LICENSE WHILE UNDER THE PERIOD OF RESTRICTION, SUCH COMPLIANCE CAN BE DEMONSTRATED BY PROVIDING PROOF AT THE TIME OF APPLICATION FOR A CONDITIONAL LICENSE OF THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE TO BE MONITORED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE FOR A PERIOD OF NO LESS THAN THE FIRST SIX MONTHS AFTER THE CONDITIONAL LICENSE IS GRANTED. THE PROOF WILL BE PROVIDED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER. [Provided, however, the] 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.

(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, 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 thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, 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 thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, 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] OR ADJUDICATED A YOUTHFUL OFFENDER FOR a violation of subdivision two, two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION FOUR-A 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 NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, NOT TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL CONCENTRATION ABOVE THE SETPOINT OF THE IGNITION INTERLOCK DEVICE, AND 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 TITLED, REGISTERED OR OTHERWISE owned or operated by such person OR, IF SUCH PERSON DOES NOT OWN A MOTOR VEHICLE, IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR IN AT LEAST ONE VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD 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. THE PERIOD OF INTERLOCK RESTRICTION SHALL COMMENCE FROM THE DATE OF SENTENCING OR IN THE CASE OF A PLEA DISPOSITION, MAY COMMENCE FROM THE DATE OF INSTALLATION OF AN IGNITION INTERLOCK DEVICE AT A DATE IN ADVANCE OF SENTENCING. THE IGNITION INTERLOCK DEVICE SHALL BE INSTALLED FOR NO LESS THAN SIX MONTHS, REGARDLESS OF THE COMMENCEMENT DATE. IN THE EVENT THAT THE COURT MAKES A DETERMINATION OF GOOD CAUSE FOR NOT INSTALLING AN IGNITION INTERLOCK DEVICE PURSUANT TO SUBDIVISION FOUR OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE ON THE BASIS THAT SUCH PERSON DOES NOT OWN AND WILL NOT OPERATE A MOTOR VEHICLE, THE IGNITION INTERLOCK RESTRICTION SHALL REMAIN IN EFFECT FOR THE FULL PERIOD OF SUCH PERSON'S CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO ARTICLE SIXTY-FIVE OF THE PENAL LAW AND THE COURT SHALL SENTENCE SUCH PERSON TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE FOR A PERIOD OF NOT LESS THAN SIX MONTHS. UNDER NO CIRCUMSTANCES SHALL A CONDITIONAL LICENSE BE ISSUED, OR A LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE BE GRANTED OR RESTORED UNTIL SUCH PERSON CAN DEMONSTRATE COMPLIANCE WITH EITHER THE IGNITION INTERLOCK OR TRANSDERMAL ALCOHOL MONITORING PROVISIONS OF THIS SECTION PURSUANT TO SUBDIVISION NINE OF SECTION FIVE HUNDRED TEN OF THIS CHAPTER. FOR THE PURPOSES OF OBTAINING A CONDITIONAL LICENSE WHILE UNDER THE PERIOD OF RESTRICTION, SUCH COMPLIANCE CAN BE DEMONSTRATED BY PROVIDING PROOF AT THE TIME OF APPLICATION FOR A CONDITIONAL LICENSE PROOF OF THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE TO BE MONITORED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE FOR A PERIOD OF NO LESS THAN THE

FIRST SIX MONTHS FROM THE DATE OF ISSUANCE OF THE CONDITIONAL LICENSE. THE PROOF WILL BE PROVIDED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER. [Provided, however, the] 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. Paragraph (g) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by section 57 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

(g) The office of probation and correctional alternatives shall recommend to the commissioner of the division of criminal justice services regulations governing the monitoring of compliance by persons ordered NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, NOT TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL CONCENTRATION ABOVE THE SETPOINT OF THE IGNITION INTERLOCK DEVICE AND to install and maintain ignition interlock devices IN ANY MOTOR VEHICLE TITLED, REGISTERED OR OTHERWISE OWNED OR OPERATED BY SUCH PERSON, OR IF SUCH PERSON DOES NOT OWN A MOTOR VEHICLE, IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR IN AT LEAST ONE VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD, OR IN THE ALTERNATIVE TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE, to provide standards for monitoring by departments of probation, and options for monitoring of compliance by such persons, that counties may adopt as an alternative to monitoring by a department of probation.

S 3. Subdivisions 1, 2, 3, 4 and paragraph (a) of subdivision 5 of section 1198 of the vehicle and traffic law, as amended by chapter 496 of the laws of 2009, are amended to read as follows:

1. Applicability. The provisions of this section shall apply throughout the state to each person required or otherwise ordered by a court as a condition of probation or conditional discharge NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, NOT TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL CONCENTRATION ABOVE THE SETPOINT OF THE IGNITION INTERLOCK DEVICE AND to install and [operate] MAINTAIN an ignition interlock device in any vehicle FOR which he or she HAS TITLE, REGISTRATION, OR OTHERWISE owns or operates, OR IF SUCH PERSON DOES NOT OWN A MOTOR VEHICLE, IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR IN AT LEAST ONE VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD, OR IN THE ALTERNATIVE ORDERED TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE.

2. Requirements. (a) In addition to any other penalties prescribed by law, the court shall require that any person who has been convicted [of] OR ADJUDICATED A YOUTHFUL OFFENDER FOR a violation of subdivision two, two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION FOUR-A of section eleven hundred ninety-two of this article, or any crime defined by this chapter or the penal law of which an alcohol-related violation of any provision of section eleven hundred ninety-two of this article is an essential element, [to] SHALL NOT OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, OR WITH A BLOOD ALCOHOL CONCENTRATION ABOVE THE SETPOINT OF THE IGNITION INTERLOCK DEVICE AND SHALL install and maintain, as a condition of probation or conditional discharge, a functioning ignition interlock device OR SHALL IN THE ALTERNATIVE WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE in accordance with the provisions of this section and, as applicable, in accordance with the provisions of subdivisions one and one-a of section eleven hundred ninety-three of this article; 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 except as provided herein. For any such individual subject to a sentence of probation, installation and maintenance of such ignition interlock device shall be a condition of probation.

(b) Nothing contained in this section shall prohibit a court, upon application by a probation department, from modifying the conditions of probation of any person convicted of any violation set forth in paragraph (a) of this subdivision prior to the effective date of this section, to require the installation and maintenance of a functioning ignition interlock device, and such person shall thereafter be subject to the provisions of this section.

[(c) Nothing contained in this section shall authorize a court to sentence any person to a period of probation or conditional discharge for the purpose of subjecting such person to the provisions of this section, unless such person would have otherwise been so eligible for a sentence of probation or conditional discharge.]

3. Conditions. (a) Notwithstanding any other provision of law, the commissioner may grant a [post-revocation] conditional license[, as set forth in paragraph (b) of this subdivision, to a person who has been convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article and who has been sentenced to a period of probation or conditional discharge, provided the person has satisfied the minimum period of license revocation established by law and the commissioner has been notified that such person may operate only a motor vehicle equipped with a functioning ignition interlock device] IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTICLE.

(B) No such request shall be made nor shall such a license be granted, however, if such person has been found by a court to have [committed a] BEEN CHARGED WITH A violation of section five hundred eleven of this chapter during the license revocation period, OR A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR FOR OPERATION OF A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN REQUIRED TO HAVE ONE PURSUANT TO THIS SECTION, or deemed by a court to have violated any condition of probation or conditional discharge set forth by the court relating to the operation of a motor vehicle or the consumption of alcohol. [In exercising discretion relating to the issuance of a post-revocation conditional license pursuant to this subdivision, the commissioner shall not deny such issuance based solely upon the number of convictions for violations of any subdivision of section eleven hundred ninety-two of this article committed by such person within the ten years prior to application for such license.] IN ORDER FOR THE REQUEST FOR A CONDITIONAL LICENSE TO BE DENIED ON THE BASIS OF HAVING BEEN CHARGED WITH THE ENUMERATED VIOLATIONS, THE COURT MUST FIND PRIOR TO THE CONCLUSION OF THE PROCEEDINGS FOR ARRAIGNMENT THAT THE ACCUSATORY INSTRUMENT CONFORMS TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT SUCH PERSON VIOLATED THE PROVISIONS OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER OR OPERATED A MOTOR VEHICLE IN VIOLATION OF SUBDIVISION ONE, TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE OR OPERATED A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN REQUIRED TO HAVE ONE PURSUANT TO THIS SECTION. THE COURT SHALL MAKE A FINDING AND SET IT FORTH UPON THE RECORD, OR OTHERWISE SET IT FORTH IN WRITING. THE FINDING SHALL BE FILED WITH THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER. AT SUCH TIME THE LICENSEE SHALL BE ENTITLED TO AN OPPORTUNITY TO MAKE A STATEMENT REGARDING THE CHARGES AND

ISSUES AND TO PRESENT EVIDENCE TENDING TO REBUT THE COURT'S FINDINGS. THE LICENSEE MAY PRESENT MATERIAL AND RELEVANT EVIDENCE, HOWEVER, HE OR SHE MAY NOT CAUSE THE LAW ENFORCEMENT OFFICERS INVOLVED IN THE UNDERLYING ARREST OR ARRESTS TO BE CALLED TO TESTIFY UNLESS THE LICENSEE FIRST DEMONSTRATES TO THE SATISFACTION OF THE COURT A GOOD FAITH BASIS TO BELIEVE SUCH OFFICERS WILL PROVIDE TESTIMONY INCONSISTENT WITH THE FACTUAL PORTION OF THE ACCUSATORY INSTRUMENT WHICH FORMED THE BASIS OF THE COURT'S FINDING OF COMPLIANCE WITH SECTION 100.40 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE HOLDER VIOLATED THE SECTIONS CHARGED. IN NO EVENT SHALL THE ARRAIGNMENT BE ADJOURNED OR OTHERWISE DELAYED MORE THAN THREE BUSINESS DAYS SOLELY FOR THE PURPOSE OF ALLOWING THE LICENSEE TO REBUT THE COURT'S FINDING. Upon the termination of the period of probation or conditional discharge set by the court, the person may apply to the commissioner for restoration of a license or privilege to operate a motor vehicle in accordance with this chapter.

[(b) Notwithstanding any inconsistent provision of this chapter, a post-revocation conditional license granted pursuant to paragraph (a) of this subdivision shall be valid only for use by the holder thereof, (1) enroute to and from the holder's place of employment, (2) if the holder's employment requires the operation of a motor vehicle then during the hours thereof, (3) enroute to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training, (4) to and from court ordered probation activities, (5) to and from a motor vehicle office for the transaction of business relating to such license, (6) for a three hour consecutive daytime period, chosen by the department, on a day during which the participant is not engaged in usual employment or vocation, (7) enroute to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of the participant's household, as evidenced by a written statement to that effect from a licensed medical practitioner, (8) enroute to and from a class or an activity which is an authorized part of the alcohol and drug rehabilitation program and at which participant's attendance is required, and (9) enroute to and from a place, including a school, at which a child or children of the participant are cared for on a regular basis and which is necessary for the participant to maintain such participant's employment or enrollment at an accredited school, college or university or at a state approved institution of vocational or technical training.]

(c) The [post-revocation] conditional license described in [this subdivision] SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTICLE, may be revoked by the commissioner for sufficient cause including but not limited to, failure to comply with the terms of the condition of probation or conditional discharge set forth by the court, conviction of any traffic offense other than one involving parking, stopping or standing [or conviction of] AND SHALL BE REVOKED BY THE COMMISSIONER WHERE SUCH PERSON IS FOUND BY THE COURT TO HAVE BEEN CHARGED WITH any alcohol or drug related offense, misdemeanor or felony, ANY VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, ANY VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS ARTICLE, OR WITH OPERATING A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN REQUIRED TO DO SO, or failure to install or maintain a court ordered ignition interlock device.

(d) [Nothing contained herein shall prohibit the court from requiring, as a condition of probation or conditional discharge, the installation of a functioning ignition interlock device in any vehicle owned or oper-

ated by a person sentenced for a violation of subdivision two, two-a, or three of section eleven hundred ninety-two of this chapter, or any crime defined by this chapter or the penal law of which an alcohol-related violation of any provision of section eleven hundred ninety-two of this chapter is an essential element, if the court in its discretion, determines that such a condition is necessary to ensure the public safety.] Imposition of an ignition interlock condition shall in no way limit the effect of any period of license suspension or revocation set forth by the commissioner or the court.

(e) Nothing contained herein shall prevent the court from applying any other conditions of probation or conditional discharge allowed by law, including treatment for alcohol or drug abuse, restitution and community service.

(f) The commissioner shall note on the operator's record of any person restricted pursuant to this section UPON SENTENCING OR DATE OF PLEA DISPOSITION IN ADVANCE OF SENTENCING that, in addition to any other restrictions, conditions or limitations, such person may operate only a motor vehicle equipped with an ignition interlock device.

4. Proof of compliance and recording of condition. (a) Following imposition by the court of the use of an ignition interlock device as a condition of probation or conditional discharge it shall require the person to provide proof of compliance with this section to the court and the probation department OR OTHER MONITOR where such person is under probation, SUPERVISION, or conditional discharge [supervision] MONITORING. A CLAIM BY SUCH PERSON THAT HE OR SHE HAS GOOD CAUSE FOR NOT INSTALLING AN IGNITION INTERLOCK DEVICE SHALL BE MADE TO THE COURT AT OR BEFORE SENTENCING, IN WRITING IN THE FORM OF A SWORN AFFIDAVIT SIGNED BY SUCH PERSON ASSERTING UNDER OATH THAT SUCH PERSON IS NOT THE REGISTERED OR TITLED OWNER OF ANY MOTOR VEHICLE AND WILL NOT OPERATE ANY MOTOR VEHICLE DURING THE PERIOD OF RESTRICTION, OR THAT SUCH PERSON DOES NOT HAVE ACCESS TO THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR THAT THE REGISTERED OWNER OF THAT VEHICLE OR ANY VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD WILL NOT GIVE CONSENT FOR THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE ON HIS OR HER VEHICLE. IN ADDITION, THE AFFIDAVIT MUST ALSO INCLUDE A STATEMENT REGARDING WHETHER SUCH PERSON OWNED ANY MOTOR VEHICLE ON THE DATE OF THE UNDERLYING VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE AND WHETHER OWNERSHIP OF ANY OF THOSE VEHICLES HAS BEEN TRANSFERRED TO ANOTHER PARTY BY SALE, GIFT OR ANY OTHER MEANS SINCE THE DATE OF SAID VIOLATION. THE AFFIDAVIT MUST INCLUDE A STATEMENT FROM SUCH PERSON THAT HE OR SHE HAS NOT AND WILL NOT TRANSFER OWNERSHIP OF ANY VEHICLE TO EVADE INSTALLATION OF AN IGNITION INTERLOCK DEVICE. THE AFFIDAVIT MUST ALSO INCLUDE THE ADDRESS OF SUCH PERSON'S EMPLOYMENT (IF ANY) AND HOW SUCH PERSON INTENDS TO TRAVEL TO THAT LOCATION DURING THE PERIOD OF RESTRICTION. THE PERSON MAY ALSO INCLUDE ANY OTHER FACTS AND CIRCUMSTANCES SUCH PERSON BELIEVES TO BE RELEVANT TO THE CLAIM OF GOOD CAUSE. THE COURT MUST MAKE A FINDING WHETHER GOOD CAUSE EXISTS ON THE RECORD AND, IF GOOD CAUSE IS FOUND, ISSUE SUCH FINDING IN WRITING TO BE FILED BY SUCH PERSON WITH PROBATION OR THE IGNITION INTERLOCK MONITOR, AS APPROPRIATE. IN THE EVENT THE COURT DENIES SUCH PERSON'S CLAIM OF GOOD CAUSE ON THE BASIS OF THE AFFIDAVIT FILED WITH THE COURT, SUCH PERSON MUST BE GIVEN AN OPPORTUNITY TO BE HEARD. SUCH PERSON MAY ALSO WAIVE THE OPPORTUNITY TO BE HEARD. WHERE THE COURT FINDS GOOD CAUSE FOR SUCH PERSON NOT TO INSTALL AN IGNITION INTERLOCK DEVICE, THE PERIOD OF INTERLOCK RESTRICTION ON SUCH PERSON'S OPERATING RECORD SHALL REMAIN IN EFFECT FOR THE FULL PERIOD OF SUCH

PERSON'S CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO ARTICLE SIXTY-FIVE OF THE PENAL LAW AND THE COURT SHALL SENTENCE SUCH PERSON TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE FOR A PERIOD OF NOT LESS THAN SIX MONTHS. IN THE EVENT THE COURT ALSO SENTENCES SUCH PERSON TO ABSTAIN OR RESTRICT HIS OR HER CONSUMPTION OF ALCOHOL DURING THE TRANSDERMAL ALCOHOL MONITORING PERIOD, THE DETECTION OF ALCOHOL BY THE TRANSDERMAL DEVICE SHALL BE REPORTED BY PROBATION OR THE MONITOR TO THE COURT. WHERE NO SUCH RESTRICTION IS IMPOSED BY THE COURT, THE TRANSDERMAL DATA WILL BE REPORTED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER FOR CONSIDERATION DURING RELICENSING. If [the] A person IS ORDERED TO INSTALL AND MAINTAIN AN IGNITION INTERLOCK DEVICE AND SUCH PERSON fails to provide [for such] proof of installation TO PROBATION OR THE MONITOR, AS APPROPRIATE, absent a finding by the court of good cause for that failure which is entered in the record, the court may revoke, modify, or terminate the person's sentence of probation or conditional discharge as provided under law.

(b) When a court imposes the condition specified in subdivision one of this section, the court shall notify the commissioner in such manner as the commissioner may prescribe, and the commissioner shall note such condition on the operating record of the person subject to such conditions.

(a) The cost of installing and maintaining the ignition interlock device OR TRANSDERMAL ALCOHOL MONITORING DEVICE shall be borne by the person subject to such condition unless the court determines such person is financially unable to afford such cost whereupon such cost [may] SHALL be imposed pursuant to a payment plan or, IF NO PAYMENT PLAN CAN BE ESTABLISHED, THE COURT MUST STATE THE REASONS WHY A PAYMENT PLAN IS NOT FEASIBLE ON THE RECORD AND MAY ORDER THE COST TO BE waived. In the event of such waiver, the cost of the device shall be borne in accordance with regulations issued under paragraph (g) of subdivision one of section eleven hundred ninety-three of this article or pursuant to such other agreement as may be entered into for provision of the device. Such cost shall be considered a fine for the purposes of subdivision five of section 420.10 of the criminal procedure law. Such cost shall not replace, but shall instead be in addition to, any fines, surcharges, or other costs imposed pursuant to this chapter or other applicable laws.

S 4. Subdivision 8 of section 1198 of the vehicle and traffic law, as amended by chapter 496 of the laws of 2009, is amended to read as follows:

8. Employer vehicle. Notwithstanding the provisions of subdivision one and paragraph (d) of subdivision nine of this section, if a person is required to operate a motor vehicle owned by said person's employer in the course and scope of his or her employment, the person may operate that vehicle without installation of an approved ignition interlock device only in the course and scope of such employment and only if the employer has been notified that the person's driving privilege has been restricted under the provisions of this article or the penal law and the person whose privilege has been so restricted has provided the court and probation department with written documentation indicating the employer has knowledge of the restriction imposed and has granted permission for the person to operate the employer's vehicle without the device only for business purposes. The person shall notify the court and the probation department, OR THE INTERLOCK MONITOR, AS APPROPRIATE, of his or her intention to so operate the employer's vehicle. THE COURT MAY GRANT OR DENY SUCH PERSON'S REQUEST TO OPERATE A MOTOR VEHICLE, OWNED BY SAID PERSON'S EMPLOYER, IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT

WITHOUT INSTALLATION OF AN APPROVED IGNITION INTERLOCK DEVICE. WHERE THE COURT GRANTS THE REQUEST, IT MUST BE GRANTED IN WRITING IN A FORM PRESCRIBED BY THE COMMISSIONER TO BE FILED WITH PROBATION OR THE MONITOR, AS APPROPRIATE, AND TO BE CARRIED BY SUCH PERSON WHENEVER SAID PERSON IS OPERATING THE EMPLOYER'S VEHICLE IN ACCORDANCE WITH THIS SECTION AND SUCH PERSON MUST PRODUCE SAID DOCUMENT TO A LAW ENFORCEMENT OFFICER UPON REQUEST. ADDITIONALLY, THE COMMISSIONER SHALL NOTE ON THE OPERATOR'S RECORD OF ANY PERSON AUTHORIZED TO OPERATE AN EMPLOYER VEHICLE PURSUANT TO THIS SUBDIVISION THAT SUCH PERSON IS ONLY AUTHORIZED TO OPERATE WITHOUT AN IGNITION INTERLOCK DEVICE WHILE DRIVING AN EMPLOYER VEHICLE WITHIN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT. A motor vehicle owned by a business entity which business entity is all or partly owned or controlled by a person otherwise subject to the provisions of this article or the penal law is not a motor vehicle owned by the employer for purposes of the exemption provided in this subdivision. The provisions of this subdivision shall apply only to the operation of such vehicle in the scope of such employment.

S 5. Subdivision 15-a of section 259-c of the executive law, as amended by section 38-b of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

15-a. Notwithstanding any other provision of law, where a person is serving a sentence for a violation of section 120.03, 120.04, 120.04-a, 125.12, 125.13 or 125.14 of the penal law, or a felony as defined in paragraph (c) of subdivision one of section eleven hundred ninety-three of the vehicle and traffic law, if such person is released on parole or conditional release the board shall require as a mandatory condition of such release, that such person install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of the vehicle and traffic law, an ignition interlock device in any motor vehicle TITLED, REGISTERED OR OTHERWISE owned or operated by such person during the term of such parole or conditional release for such crime. THIS MANDATORY INSTALLATION OF AN IGNITION INTERLOCK DEVICE AS A CONDITION OF RELEASE SHALL RUN CONCURRENTLY WITH ANY REQUIRED INSTALLATION OF AN IGNITION INTERLOCK DEVICE ORDERED BY THE COURT AS A CONDITION OF A CONSECUTIVE PERIOD OF CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO SECTION 60.21 OF THE PENAL LAW. MONITORING DURING THE PERIOD OF PAROLE SHALL BE PROVIDED BY THE DIVISION OF PAROLE. IF THERE IS AN ADDITIONAL PERIOD OF PROBATION EXTENDING BEYOND THE PERIOD OF PAROLE, MONITORING OF ANY REMAINING PERIOD OF IGNITION INTERLOCK RESTRICTION SHALL BE TRANSFERRED FROM THE DIVISION OF PAROLE TO PROBATION AT THE CONCLUSION OF PAROLE. Provided further, however, the board may not otherwise 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 the vehicle and traffic law.

S 6. Section 60.36 of the penal law, as added by chapter 496 of the laws of 2009, is amended to read as follows:

S 60.36 Authorized dispositions; driving while intoxicated offenses.

Where a court is imposing a sentence for a violation of subdivision two, two-a, [or] three, OR PARAGRAPH (B) OF SUBDIVISION FOUR-A of section eleven hundred ninety-two of the vehicle and traffic law OR FOR A VIOLATION OF SECTION 120.03, 120.04, 120.04-A, 125.12, 125.13 OR 125.14 OF THIS CHAPTER, OR A FELONY AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-THREE OF THE VEHICLE AND TRAFFIC LAW, pursuant to sections 65.00 or 65.05 of this title and, as a condition of such sentence, orders the installation and maintenance of an ignition interlock device, the court may impose any other penalty

authorized pursuant to section eleven hundred ninety-three of the vehicle and traffic law.

S 7. Section 60.21 of the penal law, as added by chapter 496 of the laws of 2009, is amended to read as follows:

S 60.21 Authorized dispositions; driving while intoxicated or aggravated driving while intoxicated.

Notwithstanding paragraph (d) of subdivision two of section 60.01 of this article, when a person is to be sentenced upon a conviction for a violation of subdivision two, two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION FOUR-A of section eleven hundred ninety-two of the vehicle and traffic law, OR FOR A VIOLATION OF SECTION 120.03, 120.04, 120.04-A, 125.12, 125.13 OR 125.14 OF THIS CHAPTER, OR A FELONY AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-THREE OF THE VEHICLE AND TRAFFIC LAW, OR ANY FELONY FOR WHICH A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, PARAGRAPH (B) OF SUBDIVISION FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW IS AN ESSENTIAL ELEMENT the court may sentence such person to a period of imprisonment authorized by article seventy of this title and shall sentence such person to a period of probation or conditional discharge in accordance with the provisions of section 65.00 of this title and shall order the installation and maintenance of a functioning ignition interlock device. Such period of probation or conditional discharge shall run consecutively to any period of imprisonment and shall commence immediately upon such person's release from imprisonment NOTWITHSTANDING, SUCH PERSON ALSO HAVING BEEN CONVICTED OF FELONY CHARGES THAT DO NOT CONTAIN A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW AS AN ESSENTIAL ELEMENT. WHERE A PERSON IS SENTENCED TO THE MAXIMUM TERM OF INCARCERATION WITH A CONSECUTIVE PERIOD OF CONDITIONAL DISCHARGE OR PROBATION, AND THE COURT FINDS SUCH PERSON TO HAVE VIOLATED THE CONDITIONS OF DISCHARGE OR PROBATION, THE COURT IN ITS DISCRETION MAY SENTENCE THE DEFENDANT TO AN ADDITIONAL PERIOD OF INCARCERATION NOT TO EXCEED NINETY DAYS FOR EACH VIOLATION. NOTHING CONTAINED IN THIS SECTION SHALL PROHIBIT A COURT FROM IMPOSING ANY OTHER SENTENCE OR MODIFICATION PERMITTED BY LAW.

S 8. Subparagraph 10 of paragraph b of subdivision 2 of section 1193 of the vehicle and traffic law, as added by chapter 173 of the laws of 1990, is amended to read as follows:

(10) Action required by commissioner. Where a court fails to impose, or incorrectly imposes, a suspension or revocation required by this subdivision, OR AN INTERLOCK RESTRICTION REQUIRED BY SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE, the commissioner shall, upon receipt of a certificate of conviction filed pursuant to section five hundred fourteen of this chapter OR UPON NOTICE OF AN IGNITION INTERLOCK REQUIREMENT BEFORE THE SENTENCE DATE AS PART OF A PLEA DISPOSITION, impose such mandated suspension [or], revocation[,] OR RESTRICTION which shall supersede any such order which the court may have imposed.

S 9. Section 510 of the vehicle and traffic law is amended by adding a new subdivision 8-a to read as follows:

8-A. PROOF OF COMPLIANCE. A LICENSE OR REGISTRATION MAY BE RESTORED BY DIRECTION OF THE COMMISSIONER BUT NOT OTHERWISE. WHERE THE SUSPENSION, REVOCATION OR RESTRICTION IS THE RESULT OF A CRIMINAL CONVICTION, NO LICENSE SHALL BE RESTORED AND NO RESTRICTION SHALL BE REMOVED UNTIL PROOF OF COMPLIANCE WITH EACH OF THE CONDITIONS OF THE OPERATOR'S SENTENCE HAS BEEN PROVIDED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER.

S 10. Paragraph (h) of subdivision 2 of section 503 of the vehicle and traffic law, as amended by section 1 of part PP of chapter 59 of the laws of 2009, is amended to read as follows:

(h) An applicant whose driver's license has been RESTRICTED PURSUANT TO (I) PARAGRAPHS (B) AND (C) OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-THREE OF THIS CHAPTER AND (II) SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER OR revoked pursuant to (i) section five hundred ten of this title, (ii) section eleven hundred ninety-three of this chapter, [and] (iii) section eleven hundred ninety-four of this chapter OR, (IV) A FINDING OF DRIVING AFTER HAVING CONSUMED ALCOHOL PURSUANT TO THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-TWO-A OF THIS CHAPTER, shall, upon application for issuance of a driver's license OR REMOVAL OF THE RESTRICTION, pay to the commissioner a fee of one hundred dollars. [When the basis for the revocation is a finding of driving after having consumed alcohol pursuant to the provisions of section eleven hundred ninety-two-a of this chapter, the fee to be paid to the commissioner shall be one hundred dollars.] Such fee is not refundable and shall not be returned to the applicant regardless of the action the commissioner may take on such person's application for reinstatement of such driving license. Such fee shall be in addition to any other fees presently levied [but shall not apply to an applicant whose driver's license was revoked for failure to pass a reexamination or to an applicant who has been issued a conditional or restricted use license under the provisions of article twenty-one-A or thirty-one of this chapter].

S 11. Subdivision 4-a of section 1192 of the vehicle and traffic law, as added by chapter 732 of the laws of 2006, is amended to read as follows:

4-a. Driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. (A) No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the combined influence of drugs [or].

(B) NO PERSON SHALL OPERATE A MOTOR VEHICLE WHILE THE PERSON'S ABILITY TO OPERATE SUCH MOTOR VEHICLE IS IMPAIRED BY THE COMBINED INFLUENCE of alcohol and any drug or drugs.

S 12. Paragraph (k-1) of subdivision 2 of section 65.10 of the penal law, as amended by chapter 669 of the laws of 2007, is amended to read as follows:

(k-1) Install and maintain a functioning ignition interlock device, as that term is defined in section one hundred nineteen-a of the vehicle and traffic law, in any vehicle owned or operated by the defendant [if the court in its discretion determines that such a condition is necessary to ensure the public safety. The court may require such condition only where a person has been convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of the vehicle and traffic law, or any crime defined by the vehicle and traffic law or this chapter of which an alcohol-related violation of any provision of section eleven hundred ninety-two of the vehicle and traffic law is an essential element]. The offender shall be required to install and operate the ignition interlock device [only] in accordance with section eleven hundred ninety-eight of the vehicle and traffic law.

S 13. Paragraph (d) of subdivision 2 of section 1193 of the vehicle and traffic law, as added by chapter 47 of the laws of 1988 and subparagraph 1 as amended by section 34 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(d) Suspension or revocation; sentencing. [(1)] Notwithstanding anything to the contrary contained in a certificate of relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, where a suspension or revocation, other than a revocation required to be issued by the commissioner, is mandatory pursuant to paragraph (a) or (b) of this subdivision, the magistrate, justice or judge shall issue an order suspending or revoking such license upon sentencing, and the license holder shall surrender such license to the court. [Except as hereinafter provided, such suspension or revocation shall take effect immediately.

(2) Except where the license holder has been charged with a violation of article one hundred twenty or one hundred twenty-five of the penal law arising out of the same incident or convicted of such violation or a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding five years, the judge, justice or magistrate may issue an order making said license suspension or revocation take effect twenty days after the date of sentencing. The license holder shall be given a copy of said order permitting the continuation of driving privileges for twenty days after sentencing, if granted by the court. The court shall forward to the commissioner the certificates required in sections five hundred thirteen and five hundred fourteen of this chapter, along with a copy of any order issued pursuant to this paragraph and the license, within ninety-six hours of sentencing.]

S 14. Paragraphs (b) and (d) of subdivision 1 of section 160.10 of the criminal procedure law, paragraph (b) as amended by chapter 762 of the laws of 1971, paragraph (d) as amended by chapter 232 of the laws of 2010, are amended and a new paragraph (e) is added to read as follows:

(b) A misdemeanor defined in the penal law OR THE VEHICLE AND TRAFFIC LAW; or

(d) Loitering for the purpose of engaging in a prostitution offense as defined in subdivision two of section 240.37 of the penal law[.]; OR

(E) AN OFFENSE WHICH WOULD CONSTITUTE A MISDEMEANOR IF SUCH PERSON HAD A PREVIOUS JUDGMENT OR CONVICTION FOR THE SAME OFFENSE.

S 15. Paragraphs (e) and (f) of subdivision 7 of section 1196 of the vehicle and traffic law, paragraph (e) as added by chapter 47 of the laws of 1988 and paragraph (f) as added by chapter 420 of the laws of 1989, are amended and a new paragraph (i) is added to read as follows:

(e) The conditional license or privileges described in this subdivision may be revoked by the commissioner, for sufficient cause including, but not limited to, failure to register in the program, failure to attend or satisfactorily participate in the sessions, conviction of any traffic infraction other than one involving parking, stopping or standing or conviction of any alcohol or drug-related traffic offense, misdemeanor or felony. THE CONDITIONAL LICENSE OR PRIVILEGES DESCRIBED IN THIS SUBDIVISION SHALL BE REVOKED BY THE COMMISSIONER WHEN THERE HAS BEEN A FINDING BY A COURT, FILED WITH THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER, THAT THE ACCUSATORY INSTRUMENT CONFORMS TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE OPERATOR HAS COMMITTED A VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING A LICENSE SUSPENSION OR REVOCATION PERIOD, HAS COMMITTED A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, HAS OPERATED A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN ONE WAS REQUIRED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE, OR HAS VIOLATED ANY CONDITION OF PROBATION OR CONDITIONAL DISCHARGE SET FORTH BY THE COURT RELATING TO THE OPERATION OF A MOTOR VEHICLE OR THE

CONSUMPTION OF ALCOHOL. THE COURT'S FINDING MUST CONFORM TO THE PROCEDURES SET FORTH IN PARAGRAPH (C) OF SUBDIVISION THREE OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE DENYING A REQUEST FOR A CONDITIONAL LICENSE. A REVOCATION OF THE CONDITIONAL LICENSE PURSUANT TO THIS SECTION SHALL REINSTATE THE UNDERLYING ALCOHOL-RELATED SUSPENSION OR REVOCATION FROM WHICH THE CONDITIONAL LICENSE WAS DERIVED. In addition, the commissioner shall have the right, after a hearing, to revoke the conditional license or privilege upon receiving notification or evidence that the offender is not attempting in good faith to accept rehabilitation. In the event of such revocation, the fee described in subdivision six of this section shall not be refunded.

(f) It shall be a traffic infraction 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, UNLESS THE OPERATION RESULTS IN A CHARGE FOR A VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING A LICENSE SUSPENSION OR REVOCATION PERIOD, FOR A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR FOR OPERATION OF A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN ONE IS REQUIRED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE AND A COURT, PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION HAS ISSUED A FINDING, FILED WITH THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER, THAT THE ACCUSATORY INSTRUMENT CONFORMS TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE OPERATOR HAS COMMITTED THE VIOLATION OR VIOLATIONS CHARGED. WHEN SUCH CHARGES ARE FILED AND SUCH A FINDING BY THE COURT IS MADE, THE CONDITIONAL LICENSE SHALL BE IMMEDIATELY REVOKED. When a [person] HOLDER OF A CONDITIONAL LICENSE OR PRIVILEGE is convicted of [this] THE offense OF OPERATING A MOTOR VEHICLE UPON A PUBLIC HIGHWAY FOR ANY USE OTHER THAN THOSE AUTHORIZED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, 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.

(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER MAY GRANT A POST-REVOCATION CONDITIONAL LICENSE TO A PERSON WHO IS OTHERWISE INELIGIBLE TO RECEIVE A CONDITIONAL LICENSE WHEN THAT PERSON HAS BEEN CONVICTED OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE OR PARAGRAPH (B) OF SUBDIVISION FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE AND WHO HAS BEEN SENTENCED TO A PERIOD OF PROBATION, PROVIDED THAT PROBATION CONSENTS TO THE ISSUANCE OF A POST-REVOCATION CONDITIONAL LICENSE AND THE PERSON HAS SATISFIED THE MINIMUM PERIOD OF LICENSE REVOCATION ESTABLISHED BY LAW AND THE COMMISSIONER HAS BEEN NOTIFIED THAT SUCH PERSON MAY OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH A FUNCTIONING IGNITION INTERLOCK DEVICE. NO SUCH REQUEST SHALL BE MADE NOR SHALL SUCH A LICENSE BE GRANTED, HOWEVER, IF SUCH PERSON HAS BEEN DEEMED BY A COURT TO HAVE VIOLATED ANY CONDITION OF PROBATION OR CONDITIONAL DISCHARGE SET FORTH BY THE COURT RELATING TO THE OPERATION OF A MOTOR VEHICLE OR THE CONSUMPTION OF ALCOHOL OR IF SUCH PERSON HAS BEEN CHARGED WITH A VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING A LICENSE SUSPENSION OR REVOCATION PERIOD, FOR A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, HAS OPERATED A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN ONE WAS REQUIRED PURSUANT TO

SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE AND A COURT, PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION HAS ISSUED A FINDING, FILED WITH THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER, THAT THE ACCUSATORY INSTRUMENT CONFORMS TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE OPERATOR HAS COMMITTED THE VIOLATION OR VIOLATIONS CHARGED.

S 16. Subdivision 7 and paragraph (e) of subdivision 9 of section 1198 of the vehicle and traffic law, subdivision 7 as amended by chapter 669 of the laws of 2007 and paragraph (e) of subdivision 9 as amended by chapter 496 of the laws of 2009, are amended to read as follows:

7. [Use of other vehicles. (a) Any requirement of this article or the penal law that a person operate a vehicle only if it is equipped with an ignition interlock device shall apply to every motor vehicle operated by that person including, but not limited to, vehicles that are leased, rented or loaned.

(b) No person shall knowingly rent, lease, or lend a motor vehicle to a person known to have had his or her driving privilege restricted to vehicles equipped with an ignition interlock device unless the vehicle is so equipped. Any person whose driving privilege is so restricted shall notify any other person who rents, leases, or loans a motor vehicle to him or her of such driving restriction.

(c) A violation of paragraph (a) or (b) of this subdivision shall be a misdemeanor.]

VIOLATIONS. (A) ANY FAILED TASK INCLUDING FAILING TO INSTALL A DEVICE, FAILURE TO APPEAR FOR A SERVICE VISIT OR FAILURE TO COMPLY WITH SERVICE INSTRUCTIONS, CIRCUMVENTIONS OR TAMPERINGS, IN ACCORDANCE WITH THE OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES (OPCA) REGULATIONS UNDER 9 NYCRR 358 SHALL CONSTITUTE A VIOLATION OF THE CONDITIONS OF A PERSON'S SENTENCE AND MAY ALSO CONSTITUTE A SEPARATE CRIME. SUCH VIOLATIONS WILL BE ADJUDICATED BY THE SENTENCING COURT IN ITS DISCRETION.

(B) A FAILED TEST INCLUDING A FAILED START-UP RE-TEST, A MISSED START-UP RE-TEST, A FAILED ROLLING RE-TEST, A MISSED ROLLING RE-TEST, THE DEVICE ENTERING LOCKOUT MODE, AND ANY TEST OR RE-TEST WHERE THE OPERATOR REGISTERS .05 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN SUCH PERSON'S BLOOD SHALL CONSTITUTE A VIOLATION OF THE CONDITIONS OF A PERSON'S SENTENCE IN ACCORDANCE WITH THE OPCA REGULATIONS UNDER 9 NYCRR 358 AND ALSO MAY CONSTITUTE A SEPARATE CRIME. SUCH VIOLATIONS WILL BE ADJUDICATED BY THE SENTENCING COURT IN ITS DISCRETION.

(C) A FAILED TRANSDERMAL ALCOHOL MONITORING REPORT SHALL CONSTITUTE A VIOLATION OF THE OFFENDER'S SENTENCE WHERE THE COURT HAS ORDERED THE OFFENDER TO ABSTAIN FROM THE CONSUMPTION OF ALCOHOL OR RESTRICT THE CONSUMPTION OF ALCOHOL TO LEVELS BELOW A CERTAIN BLOOD ALCOHOL LEVEL DESIGNATED BY THE COURT. ABSTINENCE REQUIRED BY A TREATMENT PROVIDER AS A RESULT OF COURT-ORDERED TREATMENT SHALL BE CONSTRUED FOR THE PURPOSES OF THIS SECTION AS COURT-ORDERED ABSTINENCE. AT THE CONCLUSION OF THE COURT-ORDERED TRANSDERMAL ALCOHOL MONITORING PERIOD, THE TRANSDERMAL ALCOHOL REPORT OR A SUMMARY OF ITS CONTENTS SHALL BE FORWARDED TO THE DEPARTMENT BY THE MONITOR IN A FORM PRESCRIBED BY THE COMMISSIONER.

(e) NO PERSON SHALL KNOWINGLY RENT, LEASE, OR LEND A MOTOR VEHICLE TO A PERSON KNOWN TO HAVE HAD HIS OR HER DRIVING PRIVILEGE RESTRICTED TO VEHICLES EQUIPPED WITH AN IGNITION INTERLOCK DEVICE UNLESS THE VEHICLE IS SO EQUIPPED. ANY PERSON WHOSE DRIVING PRIVILEGE IS SO RESTRICTED SHALL NOTIFY ANY OTHER PERSON WHO RENTS, LEASES, OR LOANS A MOTOR VEHICLE TO HIM OR HER OF SUCH DRIVING RESTRICTION.

(F) In addition to any other provisions of law, any person convicted of a violation of paragraph (a), (b), (c), [or] (d), OR (E) of this subdivision shall be guilty of a Class A misdemeanor.

S 17. Subparagraph (i) of paragraph (a) of subdivision 3 of section 511 of the vehicle and traffic law, as amended by chapter 732 of the laws of 2006, is amended to read as follows:

(i) commits the offense of aggravated unlicensed operation of a motor vehicle in the second degree as provided in subparagraph (ii), (iii) or (iv) of paragraph (a) of subdivision two of this section OR HAS A CONDITIONAL LICENSE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER and is operating a motor vehicle while under the influence of alcohol or a drug in violation of subdivision one, two, two-a, three, four, four-a or five of section eleven hundred ninety-two of this chapter; or

S 18. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that the amendments to subdivisions 1, 2, 3 and 4 and paragraph (a) of subdivision 5 of section 1198 of the vehicle and traffic law made by section three of this act, the amendments to subdivision 8 of section 1198 of the vehicle and traffic law made by section four of this act and the amendments to subdivision 7 and paragraph (e) of subdivision 9 of section 1198 of the vehicle and traffic law made by section sixteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith.