

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. MAZIARZ, ALESI, BONACIC, DeFRANCISCO, FLANAGAN, FUSCHILLO -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the navigation law, in relation to suspension of vessel operation privileges and motor vehicle licenses for the operation of a vessel while under the influence of alcohol or drugs

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 the "Guy Kyler Act".
3 S 2. Section 1193 of the vehicle and traffic law is amended by adding
4 a new subdivision 3 to read as follows:
5 3. SUSPENSION OF PRIVILEGE TO OPERATE A VESSEL. IN ADDITION TO ANY
6 OTHER SANCTION IMPOSED PURSUANT TO THIS SECTION, A PERSON'S PRIVILEGE TO
7 OPERATE A VESSEL SHALL BE SUSPENDED, AND A VESSEL REGISTRATION MAY BE
8 SUSPENDED, FOLLOWING A CONVICTION UNDER SECTION ELEVEN HUNDRED
9 NINETY-TWO OF THIS ARTICLE IN ACCORDANCE WITH THE PROVISIONS OF SUBPARA-
10 GRAPHS FOUR, FIVE AND SIX OF PARAGRAPH (A) OF SUBDIVISION THREE OF
11 SECTION FORTY-NINE-A OF THE NAVIGATION LAW.
12 S 3. Paragraph (a) of subdivision 3 of section 49-a of the navigation
13 law, as added by chapter 805 of the laws of 1992, subparagraph 1 as
14 amended by chapter 599 of the laws of 2008, is amended to read as
15 follows:
16 (a) The court shall suspend a person's privilege to operate a vessel
17 and may suspend a vessel registration for:
18 (1) a period of at least six but less than twelve months where an
19 operator is convicted of a violation of paragraph (a) of subdivision two
20 of this section. In determining the length of such suspension or suspen-
21 sions, the court may take into consideration the seriousness of the

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

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1 offense and may impose a period of suspension whereby such suspension
2 may be in effect during a portion of the current or subsequent boating
3 season;

4 (2) a period of twelve months where an operator is convicted of a
5 violation of paragraph (b), (c), (d) or (e) of subdivision two of this
6 section;

7 (3) a period of twenty-four months where a person is convicted of a
8 violation of paragraph (b), (c), (d) or (e) of subdivision two of this
9 section after having been convicted of a violation of paragraph (b),
10 (c), (d) or (e) of subdivision two of this section or of operating a
11 vessel or public vessel while intoxicated or under the influence of
12 drugs within the preceding ten years[.];

13 (4) A PERIOD OF NINETY DAYS, WHERE SUCH PERSON IS CONVICTED OF A
14 VIOLATION OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE
15 VEHICLE AND TRAFFIC LAW. WHERE THE COURT DETERMINES THAT THE PERIOD OF
16 SUSPENSION IMPOSED PURSUANT TO THIS SUBPARAGRAPH WOULD EXTEND BEYOND THE
17 CURRENT BOATING SEASON, THE COURT MAY DIRECT THAT ANY PORTION OF SUCH
18 SUSPENSION PERIOD TAKE EFFECT DURING THE FOLLOWING BOATING SEASON;

19 (5) A PERIOD OF SIX MONTHS, WHERE SUCH PERSON IS CONVICTED OF A
20 VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION
21 ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW. WHERE THE
22 COURT DETERMINES THAT THE PERIOD OF SUSPENSION IMPOSED PURSUANT TO THIS
23 SUBPARAGRAPH WOULD EXTEND BEYOND THE CURRENT BOATING SEASON, THE COURT
24 MAY DIRECT THAT ANY PORTION OF SUCH SUSPENSION PERIOD TAKE EFFECT DURING
25 THE FOLLOWING BOATING SEASON; OR

26 (6) A PERIOD OF ONE YEAR, WHERE SUCH PERSON IS CONVICTED OF A
27 VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION
28 ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW COMMITTED WITH-
29 IN TEN YEARS OF A CONVICTION FOR A VIOLATION OF SUBDIVISION TWO, TWO-A,
30 THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHI-
31 CLE AND TRAFFIC LAW. WHERE THE COURT DETERMINES THAT THE PERIOD OF
32 SUSPENSION IMPOSED PURSUANT TO THIS SUBPARAGRAPH WOULD EXTEND BEYOND THE
33 CURRENT BOATING SEASON, THE COURT MAY DIRECT THAT ANY PORTION OF SUCH
34 SUSPENSION PERIOD TAKE EFFECT DURING THE FOLLOWING BOATING SEASON.

35 S 4. Section 49-a of the navigation law is amended by adding a new
36 subdivision 3-a to read as follows:

37 3-A. ADDITIONAL SANCTIONS; SUSPENSION OF MOTOR VEHICLE DRIVER'S
38 LICENSE AND MOTOR VEHICLE REGISTRATION. IN ADDITION TO ANY OTHER SANC-
39 TION IMPOSED PURSUANT TO THIS SECTION, A COURT MAY SUSPEND A LICENSE TO
40 DRIVE A MOTOR VEHICLE, AND A MOTOR VEHICLE REGISTRATION MAY ALSO BE
41 SUSPENDED, WHERE (A) A PERSON IS CONVICTED OF A VIOLATION OF SUBDIVISION
42 TWO OF THIS SECTION AFTER HAVING BEEN CONVICTED OF A VIOLATION OF SUBDI-
43 VISION TWO OF THIS SECTION, NOT ARISING OUT OF THE SAME INCIDENT, WITHIN
44 THE PRECEDING TEN YEARS, OR (B) A PERSON IS CONVICTED OF A VIOLATION OF
45 SUBDIVISION TWO OF THIS SECTION AND, AS A RESULT OF SUCH VIOLATION, A
46 PERSON OTHER THAN THE PERSON SO CONVICTED WAS KILLED OR SUFFERED SERIOUS
47 PHYSICAL INJURY. ANY SUSPENSION IMPOSED PURSUANT TO THIS SUBDIVISION
48 SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPHS L AND M OF
49 SUBDIVISION THREE OF SECTION FIVE HUNDRED TEN OF THE VEHICLE AND TRAFFIC
50 LAW.

51 S 5. Subdivision 3 of section 510 of the vehicle and traffic law is
52 amended by adding two new paragraphs l and m to read as follows:

53 1. FOR A PERIOD OF FORTY-FIVE DAYS WHERE THE HOLDER IS CONVICTED OF A
54 VIOLATION OF PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION FORTY-NINE-A
55 OF THE NAVIGATION LAW AND SUCH SUSPENSION IS ORDERED PURSUANT TO SUBDI-
56 VISION THREE-A OF SECTION FORTY-NINE-A OF THE NAVIGATION LAW;

1 M. FOR A PERIOD OF NINETY DAYS WHERE THE HOLDER IS CONVICTED OF A
2 VIOLATION OF PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION TWO OF
3 SECTION FORTY-NINE-A OF THE NAVIGATION LAW AND SUCH SUSPENSION IS
4 ORDERED PURSUANT TO SUBDIVISION THREE-A OF SECTION FORTY-NINE-A OF THE
5 NAVIGATION LAW;

6 S 6. Subdivision 4 of section 1196 of the vehicle and traffic law, as
7 amended by chapter 196 of the laws of 1996, is amended to read as
8 follows:

9 4. Eligibility. Participation in the program shall be limited to those
10 persons convicted of alcohol or drug-related traffic offenses or persons
11 who have been adjudicated youthful offenders for alcohol or drug-related
12 traffic offenses, or persons found to have been operating a motor vehi-
13 cle after having consumed alcohol in violation of section eleven hundred
14 ninety-two-a of this article, OR PERSONS CONVICTED OF ALCOHOL OR
15 DRUG-RELATED NAVIGATION OFFENSES IN VIOLATION OF SUBDIVISION TWO OF
16 SECTION FORTY-NINE-A OF THE NAVIGATION LAW AND WHOSE DRIVERS' LICENSES
17 WERE SUSPENDED AS A RESULT OF SUCH CONVICTION, who choose to participate
18 and who satisfy the criteria and meet the requirements for participation
19 as established by this section and the regulations promulgated there-
20 under; provided, however, in the exercise of discretion, the judge
21 imposing sentence may prohibit the defendant from enrolling in such
22 program. The commissioner or deputy may exercise discretion, to reject
23 any person from participation referred to such program and nothing here-
24 in contained shall be construed as creating a right to be included in
25 any course or program established under this section. In addition, no
26 person shall be permitted to take part in such program if, during the
27 five years immediately preceding commission of an alcohol or drug-relat-
28 ed traffic offense or a finding of a violation of section eleven hundred
29 ninety-two-a of this article, such person has participated in a program
30 established pursuant to this article or been convicted of a violation of
31 any subdivision of section eleven hundred ninety-two of this article, OR
32 THE COMMISSION OF AN ALCOHOL OR DRUG-RELATED NAVIGATION OFFENSE IN
33 VIOLATION OF SUBDIVISION TWO OF SECTION FORTY-NINE-A OF THE NAVIGATION
34 LAW FOR WHICH THE DRIVER'S LICENSE WAS SUSPENDED other than a violation
35 committed prior to November first, nineteen hundred eighty-eight, for
36 which such person did not participate in such program. In the exercise
37 of discretion, the commissioner or a deputy shall have the right to
38 expel any participant from the program who fails to satisfy the require-
39 ments for participation in such program or who fails to satisfactorily
40 participate in or attend any aspect of such program. Notwithstanding any
41 contrary provisions of this chapter, satisfactory participation in and
42 completion of a course in such program shall result in the termination
43 of any sentence of imprisonment that may have been imposed by reason of
44 a conviction therefor; provided, however, that nothing contained in this
45 section shall delay the commencement of such sentence.

46 S 7. This act shall take effect on the first of November next succeed-
47 ing the date on which it shall have become a law.