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

3367

2011-2012 Regular Sessions

I N S E N A T E

February 17, 2011

Introduced by Sens. JOHNSON, GOLDEN, GRIFFO, LARKIN, LAVALLE, MARTINS, SEWARD -- 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, in relation to limiting options for plea bargaining for certain repeat driving under the influence of alcohol or drugs offenders

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

Section 1. Subdivision 10 of section 1192 of the vehicle and traffic law is amended by adding two new paragraphs (e) and (f) to read as follows:

(E) IN ANY CASE WHEREIN THE CHARGE LAID BEFORE THE COURT ALLEGES A VIOLATION OF SUBDIVISION ONE OF THIS SECTION AND THE PERSON SO CHARGED HAS BEEN CONVICTED OF A VIOLATION OF ANY SUBDIVISION OF THIS SECTION WITHIN THE PRECEDING TEN YEARS, ANY PLEA OF GUILTY THEREAFTER ENTERED IN SATISFACTION OF SUCH CHARGE MUST INCLUDE AT LEAST A PLEA OF GUILTY TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION AND NO OTHER DISPOSITION BY PLEA OF GUILTY TO ANY OTHER CHARGE IN SATISFACTION OF SUCH CHARGE SHALL BE AUTHORIZED, PROVIDED, HOWEVER, IF THE DISTRICT ATTORNEY UPON REVIEWING THE AVAILABLE EVIDENCE DETERMINES THAT THE CHARGE OF A VIOLATION OF THIS SECTION IS NOT WARRANTED, SUCH DISTRICT ATTORNEY MAY CONSENT, AND THE COURT MAY ALLOW A DISPOSITION BY PLEA OF GUILTY TO ANOTHER CHARGE IN SATISFACTION OF SUCH CHARGE; PROVIDED, HOWEVER, IN ALL SUCH CASES, THE COURT SHALL SET FORTH UPON THE RECORD THE BASIS FOR SUCH DISPOSITION.

(F) IN ANY CASE WHEREIN THE CHARGE LAID BEFORE THE COURT ALLEGES A VIOLATION OF SUBDIVISION TWO, THREE OR FOUR OF THIS SECTION AND THE PERSON SO CHARGED HAS BEEN CONVICTED OF A VIOLATION OF ANY SUBDIVISION OF THIS SECTION WITHIN THE PRECEDING TEN YEARS, ANY PLEA OF GUILTY THEREAFTER ENTERED IN SATISFACTION OF SUCH CHARGE MUST INCLUDE AT LEAST A PLEA OF GUILTY TO THE PROVISIONS OF SUBDIVISION TWO, THREE OR FOUR OF

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

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THIS SECTION AND NO OTHER DISPOSITION BY PLEA OF GUILTY TO ANY OTHER CHARGE IN SATISFACTION OF SUCH CHARGE SHALL BE AUTHORIZED, PROVIDED, HOWEVER, IF THE DISTRICT ATTORNEY UPON REVIEWING THE AVAILABLE EVIDENCE DETERMINES THAT THE CHARGE OF A VIOLATION OF THIS SECTION IS NOT WARRANTED, SUCH DISTRICT ATTORNEY MAY CONSENT, AND THE COURT MAY ALLOW A DISPOSITION BY PLEA OF GUILTY TO ANOTHER CHARGE IN SATISFACTION OF SUCH CHARGE; PROVIDED, HOWEVER, IN ALL SUCH CASES, THE COURT SHALL SET FORTH UPON THE RECORD THE BASIS FOR SUCH DISPOSITION.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.