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

526

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. FUSCHILLO, LITTLE, DIAZ -- 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 sanctions for driving while ability impaired while holding a conditional license

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

Section 1. Clauses d and e of subparagraph 7 of paragraph (e) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by chapter 251 of the laws of 2007, are amended to read as follows:

d. Notwithstanding any contrary provision of this chapter, if any suspension occurring under this subparagraph has been in effect for a period of thirty days, [the holder may be issued] THE DEPARTMENT MAY, WITH THE CONSENT OF THE COURT, ISSUE a conditional license, in accordance with section eleven hundred ninety-six of this article, provided the holder of such license is otherwise eligible to receive such conditional license. A conditional license issued pursuant to this subparagraph shall not be valid for the operation of a commercial motor vehicle. The commissioner shall prescribe by regulation the procedures for the issuance of such conditional license.

e. If the court finds that the suspension imposed pursuant to this subparagraph will result in extreme hardship, the court must issue such suspension, but may grant a hardship privilege, IN CONJUNCTION WITH THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE, which shall be issued on a form prescribed by the commissioner. For the purposes of this clause, "extreme hardship" shall mean the inability to obtain alternative means of travel to or from the licensee's employment, or to or from necessary medical treatment for the licensee or a member of the licensee's household, or if the licensee is a matriculating student enrolled in an accredited school, college or university travel to or from such

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

licensee's school, college or university if such travel is necessary for the completion of the educational degree or certificate. The burden of proving extreme hardship shall be on the licensee who may present material and relevant evidence. A finding of extreme hardship may not be based solely upon the testimony of the licensee. In no event shall arraignment be adjourned or otherwise delayed more than three business days solely for the purpose of allowing the licensee to present evidence of extreme hardship. The court shall set forth upon the record, or otherwise set forth in writing, the factual basis for such finding. The hardship privilege shall permit the operation of a vehicle only for travel to or from the licensee's employment, or to or from necessary medical treatment for the licensee or a member of the licensee's household, or if the licensee is a matriculating student enrolled in an accredited school, college or university travel to or from such licensee's school, college or university if such travel is necessary for the completion of the educational degree or certificate. A hardship privilege shall not be valid for the operation of a commercial motor vehicle. A PRE-CONVICTION IGNITION INTERLOCK DEVICE INSTALLED PURSUANT TO THIS CLAUSE SHALL BE INSTALLED AND MAINTAINED IN THE SAME MANNER AS PRESCRIBED IN THIS ARTICLE.

S 2. This act shall take effect one year after it shall have become a law; provided, however, that the amendments to clauses d and e of subparagraph 7 of paragraph (e) of subdivision 2 of section 1193 of the vehicle and traffic law made by section one of this act shall not affect the repeal of such subparagraph and shall be deemed repealed therewith.