

650

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the executive law, in relation to the possession of a firearm 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. Legislative intent. The legislature hereby finds and
2 declares that the serious and dangerous consequences which may result
3 when persons otherwise lawfully in possession of a firearm are under the
4 influence of alcohol or a controlled substance demand immediate and
5 forthwith state action. There is no compelling reason to permit such a
6 person to retain the privilege to carry and possess a firearm, knowing
7 full well the dire consequences which may occur when alcohol or drugs
8 and firearms are combined. Therefore, in enacting the provisions of
9 this act, the state takes the extraordinary step of suspending the
10 license to carry and possess a firearm of any person found to be under
11 the influence of alcohol or a controlled substance while actually carry-
12 ing a loaded firearm on his or her person in a public place, or who if
13 charged with such activity refuses to submit to a chemical test to
14 determine the alcohol or drug content of his or her blood.

15 S 2. Subdivision 1 of section 400.00 of the penal law, as amended by
16 chapter 189 of the laws of 2000, is amended to read as follows:

17 1. Eligibility. No license shall be issued or renewed pursuant to this
18 section except by the licensing officer, and then only after investi-
19 gation and finding that all statements in a proper application for a
20 license are true. No license shall be issued or renewed except for an
21 applicant (a) twenty-one years of age or older, provided, however, that
22 where such applicant has been honorably discharged from the United
23 States army, navy, marine corps, air force or coast guard, or the
24 national guard of the state of New York, no such age restriction shall

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

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1 apply; (b) of good moral character; (c) who has not been convicted
2 anywhere of a felony or a serious offense; (d) who has stated whether he
3 or she has ever suffered any mental illness or been confined to any
4 hospital or institution, public or private, for mental illness; (e) who
5 has not had a license revoked or who is not under a suspension or inel-
6 igibility order issued pursuant to the provisions of SUBDIVISION
7 ELEVEN-A OF THIS SECTION, section 530.14 of the criminal procedure law
8 or section eight hundred forty-two-a of the family court act; (f) in the
9 county of Westchester, who has successfully completed a firearms safety
10 course and test as evidenced by a certificate of completion issued in
11 his or her name and endorsed and affirmed under the penalties of perjury
12 by a duly authorized instructor, except that: (i) persons who are honor-
13 ably discharged from the United States army, navy, marine corps or coast
14 guard, or of the national guard of the state of New York, and produce
15 evidence of official qualification in firearms during the term of
16 service are not required to have completed those hours of a firearms
17 safety course pertaining to the safe use, carrying, possession, mainte-
18 nance and storage of a firearm; and (ii) persons who were licensed to
19 possess a pistol or revolver prior to the effective date of this para-
20 graph are not required to have completed a firearms safety course and
21 test; and (g) concerning whom no good cause exists for the denial of the
22 license. No person shall engage in the business of gunsmith or dealer in
23 firearms unless licensed pursuant to this section. An applicant to
24 engage in such business shall also be a citizen of the United States,
25 more than twenty-one years of age and maintain a place of business in
26 the city or county where the license is issued. For such business, if
27 the applicant is a firm or partnership, each member thereof shall comply
28 with all of the requirements set forth in this subdivision and if the
29 applicant is a corporation, each officer thereof shall so comply.

30 S 3. Subdivision 11 of section 400.00 of the penal law, as amended by
31 chapter 210 of the laws of 1999, is amended to read as follows:

32 11. License: revocation and suspension. The conviction of a licensee
33 anywhere of a felony or serious offense shall operate as a revocation of
34 the license. A license may be revoked or suspended as provided for in
35 section 530.14 of the criminal procedure law or section eight hundred
36 forty-two-a of the family court act. Except for a license issued pursu-
37 ant to section 400.01 of this article, a license may be revoked and
38 cancelled at any time in the city of New York, and in the counties of
39 Nassau and Suffolk, by the licensing officer, and elsewhere than in the
40 city of New York by any judge or justice of a court of record; a license
41 issued pursuant to section 400.01 of this article may be revoked and
42 cancelled at any time by the licensing officer or any judge or justice
43 of a court of record. The official revoking a license shall give written
44 notice thereof without unnecessary delay to the executive department,
45 division of state police, Albany, and shall also notify immediately the
46 duly constituted police authorities of the locality. FOR PURPOSES OF
47 THIS SUBDIVISION, THE TERM "SERIOUS OFFENSE" SHALL INCLUDE, BUT NOT BE
48 LIMITED TO, A SECOND VIOLATION OF SUBDIVISION ELEVEN-A OF THIS SECTION
49 WITHIN TEN YEARS OF A PRIOR VIOLATION OF SUCH SUBDIVISION.

50 S 4. Section 400.00 of the penal law is amended by adding a new subdi-
51 vision 11-a to read as follows:

52 11-A. LICENSE; SUSPENSION FOR POSSESSION WHILE UNDER THE INFLUENCE OF
53 ALCOHOL OR A CONTROLLED SUBSTANCE. (A) NO LICENSEE SHALL POSSESS ANY
54 LOADED FIREARM, AS DEFINED IN SUBDIVISION FIFTEEN OF SECTION 265.00 OF
55 THIS CHAPTER, ON HIS OR HER PERSON IN A PUBLIC PLACE WHILE SUCH LICENSEE
56 IS EITHER UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF A

1 CONTROLLED SUBSTANCE, AS DEFINED IN SECTIONS THIRTY-THREE HUNDRED TWO
2 AND THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW. FOR PURPOSES OF
3 THIS SUBDIVISION, A PERSON IS CONSIDERED TO BE UNDER THE INFLUENCE OF
4 ALCOHOL OR UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE WHERE SUCH
5 PERSON HAS VOLUNTARILY CONSUMED ALCOHOL OR VOLUNTARILY USED ONE OR MORE
6 CONTROLLED SUBSTANCES, OR BOTH, TO THE EXTENT THAT HIS OR HER ABILITY TO
7 SAFELY HANDLE OR USE A LOADED FIREARM HAS BEEN SIGNIFICANTLY DIMINISHED.
8 FOR PURPOSES OF THIS SUBDIVISION, "PUBLIC PLACE" SHALL HAVE THE SAME
9 MEANING AS IN SUBDIVISION ONE OF SECTION 240.00 OF THIS CHAPTER,
10 PROVIDED HOWEVER, THAT FOR PURPOSES OF THIS SUBDIVISION, "PUBLIC PLACE"
11 SHALL ALSO INCLUDE THE INTERIOR OF A MOTOR VEHICLE. AS USED IN THIS
12 SUBDIVISION, "ON HIS OR HER PERSON" SHALL HAVE ITS ORDINARY MEANING,
13 PROVIDED, HOWEVER, THAT FOR PURPOSES OF THIS SUBDIVISION, A PERSON SHALL
14 ALSO BE DEEMED TO POSSESS A FIREARM "ON HIS OR HER PERSON" WHERE A
15 FIREARM LICENSED TO SUCH PERSON IS FOUND IN A MOTOR VEHICLE AT THE SAME
16 TIME SUCH PERSON IS AN OCCUPANT OF SUCH VEHICLE.

17 (B) THE LICENSE TO CARRY OR POSSESS A FIREARM OF ANY PERSON WHO IS
18 CHARGED WITH A VIOLATION OF ANY OF THE PROVISIONS OF PARAGRAPH (A) OF
19 THIS SUBDIVISION OR WHO REFUSES TO SUBMIT TO A CHEMICAL TEST OF HIS OR
20 HER BREATH, BLOOD, URINE OR SALIVA FOR THE PURPOSE OF DETERMINING THE
21 ALCOHOLIC AND/OR DRUG CONTENT OF HIS OR HER BLOOD SHALL BE DEEMED
22 SUSPENDED, WITH RESPECT TO THE FIREARM OR FIREARMS FORMING THE BASIS OF
23 SUCH CHARGE OR REFUSAL, PENDING A HEARING HELD PURSUANT TO THIS SUBDIVI-
24 SION AND SUCH FIREARM OR FIREARMS, TOGETHER WITH ANY AMMUNITION
25 POSSESSED THEREWITH, SHALL BE CONFISCATED AND HELD BY THE POLICE PENDING
26 SUCH HEARING.

27 (C) (I) ANY PERSON WHO HOLDS A LICENSE TO CARRY OR POSSESS A FIREARM
28 IN THIS STATE SHALL BE DEEMED TO HAVE GIVEN HIS OR HER CONSENT TO A
29 CHEMICAL TEST OF HIS OR HER BREATH, BLOOD, URINE OR SALIVA FOR THE
30 PURPOSE OF DETERMINING THE ALCOHOLIC AND/OR DRUG CONTENT OF HIS OR HER
31 BLOOD; PROVIDED, THAT SUCH TEST IS ADMINISTERED BY OR AT THE DIRECTION
32 OF A POLICE OFFICER WITH RESPECT TO A CHEMICAL TEST OF BREATH, URINE OR
33 SALIVA OR, WITH RESPECT TO A CHEMICAL TEST OF BLOOD, AT THE DIRECTION OF
34 A POLICE OFFICER HAVING REASONABLE GROUNDS TO BELIEVE SUCH PERSON
35 POSSESSES A FIREARM IN VIOLATION OF THIS SUBDIVISION.

36 (II) IF SUCH LICENSEE, HAVING BEEN REQUESTED TO SUBMIT TO SUCH CHEMI-
37 CAL TEST AND HAVING BEEN INFORMED THAT HIS OR HER LICENSE TO CARRY OR
38 POSSESS A FIREARM SHALL BE SUSPENDED FOR A REFUSAL TO SUBMIT TO SUCH
39 CHEMICAL TEST, REFUSES TO SUBMIT TO SUCH TEST OR IS ADMINISTERED SUCH
40 TEST, A WRITTEN REPORT OF SUCH REFUSAL OR TEST RESULT SHALL BE IMME-
41 DIATELY MADE BY THE POLICE OFFICER BEFORE WHOM SUCH REFUSAL OR TEST WAS
42 MADE. SUCH REPORT MAY BE VERIFIED BY HAVING THE REPORT SWORN TO, OR
43 AFFIXING TO SUCH REPORT A FORM NOTICE THAT FALSE STATEMENTS MADE THEREIN
44 ARE PUNISHABLE AS A CLASS A MISDEMEANOR, PURSUANT TO SECTION 210.45 OF
45 THIS CHAPTER, AND SUCH FORM NOTICE TOGETHER WITH THE SUBSCRIPTION OF THE
46 DEPONENT SHALL CONSTITUTE A VERIFICATION OF THE REPORT. THE REPORT OF
47 THE POLICE OFFICER SHALL STATE THAT HE OR SHE HAD REASONABLE GROUNDS TO
48 BELIEVE SUCH LICENSEE TO HAVE BEEN IN VIOLATION OF THIS SUBDIVISION AND,
49 IF APPROPRIATE, THAT SAID PERSON HAD REFUSED TO SUBMIT TO SUCH CHEMICAL
50 TEST. COPIES OF SUCH REPORT SHALL BE FORWARDED BY THE POLICE OFFICER TO
51 THE LICENSING OFFICER WITHIN FORTY-EIGHT HOURS.

52 (D) (I) ANY LICENSEE WHOSE LICENSE TO CARRY OR POSSESS A FIREARM HAS
53 BEEN DEEMED SUSPENDED PURSUANT TO THE TERMS OF THIS SUBDIVISION, IS
54 ENTITLED TO A HEARING BY THE LICENSING OFFICER, NO LATER THAN SEVEN DAYS
55 AFTER THE DATE ON WHICH HE OR SHE ALLEGEDLY VIOLATED THIS SUBDIVISION.
56 SUCH HEARING SHALL BE CONDUCTED BY THE LICENSING OFFICER, OR IF SUCH

1 POSSESSION ALLEGEDLY OCCURRED IN THE CITY OF NEW YORK, BY THE POLICE
2 COMMISSIONER OF SUCH CITY. IF THE LICENSING OFFICER FAILS TO PROVIDE FOR
3 SUCH HEARING WITHIN THE TIME PRESCRIBED HEREIN, THE LICENSE OF SUCH
4 PERSON SHALL BE REINSTATED PENDING A HEARING PURSUANT TO THIS SUBDIVI-
5 SION AND ANY LAWFULLY POSSESSED FIREARM AND AMMUNITION CONFISCATED
6 PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE IMMEDIATELY
7 RETURNED TO THE LICENSEE. THE BURDEN OF PROOF AT A HEARING CONDUCTED
8 PURSUANT TO THIS SUBDIVISION SHALL BE ON THE POLICE OFFICER TO PROVE THE
9 ISSUES BY A PREPONDERANCE OF THE EVIDENCE. THE HEARING SHALL BE LIMITED
10 TO THE FOLLOWING ISSUES: (1) DID THE PERSON POSSESS A LOADED FIREARM ON
11 HIS OR HER PERSON IN A PUBLIC PLACE WHILE UNDER THE INFLUENCE OF ALCOHOL
12 OR DRUGS IN VIOLATION OF THIS SUBDIVISION AND DID THE POLICE OFFICER
13 HAVE REASONABLE GROUNDS FOR BELIEVING SUCH VIOLATION HAD OCCURRED; AND
14 (2) IF SUSPENSION IS BASED UPON A REFUSAL TO SUBMIT TO A CHEMICAL TEST,
15 DID THE POLICE OFFICER HAVE REASONABLE GROUNDS FOR BELIEVING THE LICEN-
16 SEE POSSESSED A FIREARM IN VIOLATION OF THIS SUBDIVISION, WAS SUCH
17 PERSON GIVEN SUFFICIENT WARNING, IN CLEAR AND UNEQUIVOCAL LANGUAGE,
18 PRIOR TO SUCH REFUSAL THAT SUCH REFUSAL TO SUBMIT TO SUCH CHEMICAL TEST
19 WOULD RESULT IN THE SUSPENSION OF HIS OR HER LICENSE WHETHER OR NOT HE
20 OR SHE IS FOUND GUILTY OF THE CHARGE AND DID SUCH PERSON REFUSE TO
21 SUBMIT TO SUCH CHEMICAL TEST. IF, AFTER SUCH HEARING, THE LICENSING
22 OFFICER FINDS ON BOTH OF SAID ISSUES IN THE NEGATIVE, HE OR SHE SHALL
23 IMMEDIATELY REINSTATE SUCH LICENSE SUBJECT TO ANY EXISTING RESTRICTION,
24 REVOCATION, OR SUSPENSION OF SUCH LICENSE AND ANY LAWFULLY POSSESSED
25 FIREARM AND AMMUNITION CONFISCATED PURSUANT TO PARAGRAPH (B) OF THIS
26 SUBDIVISION SHALL BE IMMEDIATELY RETURNED TO THE LICENSEE. IF, AFTER
27 SUCH HEARING, THE LICENSING OFFICER FINDS EITHER OF THE ISSUES IN THE
28 AFFIRMATIVE, HE OR SHE SHALL IMMEDIATELY SUSPEND THE LICENSE. THE
29 FIREARM LICENSE SHALL BE SUSPENDED FOR A PERIOD OF ONE YEAR. THE LICENS-
30 ING OFFICER, UPON SUSPENDING A LICENSE, SHALL INSTRUCT THE PERSON THAT
31 ALL OUTSTANDING FIREARMS HELD PURSUANT TO SUCH LICENSE, AND ANY AMEND-
32 MENTS THERETO, SHALL BE SURRENDERED TO THE DULY ENTITLED POLICE AUTHORI-
33 TIES WITHIN TWENTY-FOUR HOURS OF THE CONCLUSION OF SUCH HEARING. THE
34 LICENSING OFFICER SHALL INSTRUCT SUCH PERSON THAT ALL WEAPONS SURREN-
35 DERED PURSUANT TO THIS PARAGRAPH AND PARAGRAPH (B) OF THIS SUBDIVISION
36 SHALL BE RETURNED TO SUCH PERSON UPON THE REINSTATEMENT OF SUCH LICENSE.
37 ANY PERSON MAY WAIVE HIS OR HER RIGHT TO A HEARING UNDER THIS PARAGRAPH.
38 FAILURE BY SUCH PERSON TO APPEAR FOR HIS OR HER SCHEDULED HEARING SHALL
39 CONSTITUTE A WAIVER OF SUCH HEARING, PROVIDED, HOWEVER, THAT SUCH PERSON
40 MAY PETITION THE LICENSING OFFICER FOR A NEW HEARING WHICH, IF GRANTED,
41 SHALL BE HELD AS SOON AS PRACTICABLE.

42 (II) EVIDENCE OF A REFUSAL TO SUBMIT TO SUCH CHEMICAL TEST SHALL BE
43 ADMISSIBLE IN ANY HEARING HELD PURSUANT TO THE PROVISIONS OF THIS SUBDI-
44 VISION BUT ONLY UPON SHOWING THAT THE PERSON WAS GIVEN SUFFICIENT WARN-
45 ING, IN CLEAR AND UNEQUIVOCAL LANGUAGE, OF THE EFFECT OF SUCH REFUSAL.

46 (III) UPON THE REQUEST OF THE PERSON WHO WAS TESTED, THE RESULTS OF
47 SUCH TEST SHALL BE MADE AVAILABLE TO HIM OR HER.

48 (IV) THE CHEMICAL TEST PROVIDED FOR IN SUBPARAGRAPH (I) OF PARAGRAPH
49 (C) OF THIS SUBDIVISION SHALL BE CONDUCTED IN THE SAME MANNER AS
50 PROVIDED IN SUBDIVISION FOUR OF SECTION ELEVEN HUNDRED NINETY-FOUR OF
51 THE VEHICLE AND TRAFFIC LAW.

52 (V) ANY PERSON WHOSE LICENSE IS SUSPENDED FOR A VIOLATION OF THIS
53 SUBDIVISION SHALL, AS A CONDITION FOR REINSTATEMENT OF SUCH LICENSE,
54 SUCCESSFULLY COMPLETE THE ALCOHOL AND DRUG REHABILITATION PROGRAM
55 PROVIDED FOR IN SECTION EIGHT HUNDRED THIRTY-SEVEN-S OF THE EXECUTIVE
56 LAW. THE LICENSING OFFICER SHALL NOT REINSTATE SUCH LICENSE UNTIL THE

1 COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES CERTIFIES SUCH
2 PERSON HAS SUCCESSFULLY COMPLETED THE ALCOHOL AND DRUG REHABILITATION
3 PROGRAM.

4 (VI) DURING THE PERIOD OF SUSPENSION PROVIDED FOR IN THIS PARAGRAPH
5 SUCH PERSON SHALL NOT BE PERMITTED TO APPLY FOR ANY LICENSE, OR AN
6 AMENDMENT TO AN EXISTING LICENSE, PROVIDED FOR IN THIS SECTION.

7 (E) THE LICENSING OFFICER SUSPENDING A LICENSE SHALL GIVE WRITTEN
8 NOTICE THEREOF, WITHOUT UNNECESSARY DELAY, TO THE EXECUTIVE DEPARTMENT,
9 DIVISION OF STATE POLICE, ALBANY, AND SHALL ALSO NOTIFY IMMEDIATELY THE
10 DULY CONSTITUTED POLICE AUTHORITIES OF THE LOCALITY.

11 (F) IN ANY HEARING PURSUANT TO THIS SUBDIVISION, THE LICENSING OFFICER
12 SHALL ADMIT EVIDENCE OF THE AMOUNT OF ALCOHOL OR DRUGS IN THE PERSON'S
13 BLOOD AS SHOWN BY A TEST ADMINISTERED PURSUANT TO THE PROVISIONS OF THIS
14 SUBDIVISION.

15 THE FOLLOWING EFFECT SHALL BE GIVEN TO EVIDENCE OF BLOOD-ALCOHOL
16 CONTENT, AS DETERMINED BY SUCH TESTS, OF A PERSON CHARGED WITH A
17 VIOLATION OF THIS SUBDIVISION:

18 (I) EVIDENCE THAT THERE WAS LESS THAN .10 OF ONE PER CENTUM BY WEIGHT
19 OF ALCOHOL IN SUCH PERSON'S BLOOD SHALL BE PRIMA FACIE EVIDENCE THAT
20 SUCH PERSON WAS NOT UNDER THE INFLUENCE OF ALCOHOL;

21 (II) EVIDENCE THAT THERE WAS .10 OF ONE PER CENTUM OR MORE BY WEIGHT
22 OF ALCOHOL IN SUCH PERSON'S BLOOD SHALL BE PRIMA FACIE EVIDENCE THAT
23 SUCH PERSON WAS UNDER THE INFLUENCE OF ALCOHOL.

24 (G) EXCEPT AS HEREIN SPECIFICALLY PROVIDED, THE HEARING CONDUCTED
25 PURSUANT TO THIS SUBDIVISION SHALL BE DEEMED TO BE AN ADJUDICATORY
26 PROCEEDING SUBJECT TO THE PROVISIONS OF ARTICLE THREE OF THE STATE
27 ADMINISTRATIVE PROCEDURE ACT.

28 (H) ANY PERSON AGGRIEVED BY A DECISION AFTER THE HEARING PROVIDED FOR
29 IN THIS SUBDIVISION MAY APPEAL SUCH DECISION PURSUANT TO THE PROVISIONS
30 OF ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

31 (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO
32 PERSON SHALL BE ARRESTED SOLELY FOR AN ALLEGED VIOLATION OF THIS SUBDI-
33 VISION. HOWEVER, A PERSON FOR WHOM A CHEMICAL TEST IS AUTHORIZED PURSU-
34 ANT TO THIS SUBDIVISION MAY BE TEMPORARILY DETAINED BY THE POLICE SOLELY
35 FOR THE PURPOSE OF REQUESTING OR ADMINISTERING SUCH CHEMICAL TEST WHEN-
36 EVER ARREST WITHOUT WARRANT FOR A PETTY OFFENSE WOULD BE AUTHORIZED IN
37 ACCORDANCE WITH THE PROVISIONS OF SECTION 140.10 OF THE CRIMINAL PROCE-
38 DURE LAW.

39 (J) NOTHING CONTAINED IN THIS SUBDIVISION SHALL BE DEEMED TO IN ANY
40 WAY REDUCE OR LIMIT THE EXISTING AUTHORITY OF A LICENSING OFFICER TO
41 REVOKE OR SUSPEND A LICENSE ISSUED PURSUANT TO THIS SECTION. NOTHING
42 CONTAINED IN THIS SUBDIVISION SHALL BE DEEMED TO LIMIT, REDUCE OR IN ANY
43 WAY EFFECT THE CRIMINAL LIABILITY OF A LICENSEE FOR ANY FIREARM OR OTHER
44 OFFENSE DEFINED IN THIS CHAPTER OR ANY OTHER PROVISION OF LAW.

45 S 5. Subdivision 15 of section 400.00 of the penal law is amended to
46 read as follows:

47 15. Any violation by any person of any provision of this section,
48 OTHER THAN A VIOLATION OF PARAGRAPH (A) OF SUBDIVISION ELEVEN-A OF THIS
49 SECTION, is a class A misdemeanor.

50 S 6. The executive law is amended by adding a new section 837-s to
51 read as follows:

52 S 837-S. ALCOHOL AND DRUG REHABILITATION PROGRAM. 1. PROGRAM ESTAB-
53 LISHMENT. THERE IS HEREBY ESTABLISHED AN ALCOHOL AND DRUG REHABILITATION
54 PROGRAM WITHIN THE DIVISION. THE COMMISSIONER SHALL ESTABLISH, BY REGU-
55 LATION, THE INSTRUCTIONAL AND REHABILITATIVE ASPECTS OF THE PROGRAM.
56 SUCH PROGRAM SHALL CONSIST OF AT LEAST FIFTEEN AND NOT MORE THAN THIRTY

1 HOURS AND INCLUDE, BUT NEED NOT BE LIMITED TO, CLASSROOM INSTRUCTION IN
2 AREAS DEEMED SUITABLE BY THE COMMISSIONER.

3 2. CURRICULUM. THE FORM, CONTENT AND METHOD OF PRESENTATION OF THE
4 VARIOUS ASPECTS OF SUCH PROGRAM SHALL BE ESTABLISHED BY THE COMMISSION-
5 ER. IN THE DEVELOPMENT OF THE FORM, CURRICULUM AND CONTENT OF SUCH
6 PROGRAM, THE COMMISSIONER MAY CONSULT WITH THE COMMISSIONER OF MENTAL
7 HEALTH, THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE
8 SERVICES AND ANY OTHER STATE DEPARTMENT OR AGENCY AND REQUEST AND
9 RECEIVE ASSISTANCE FROM THEM. THE COMMISSIONER IS ALSO AUTHORIZED TO
10 DEVELOP MORE THAN ONE CURRICULUM AND COURSE CONTENT FOR SUCH PROGRAM IN
11 ORDER TO MEET THE VARYING REHABILITATIVE NEEDS OF THE PARTICIPANTS.

12 3. WHERE AVAILABLE. A COURSE IN SUCH PROGRAM SHALL BE AVAILABLE IN AT
13 LEAST EVERY COUNTY IN THE STATE, EXCEPT WHERE THE COMMISSIONER DETER-
14 MINES THAT THERE IS NOT A SUFFICIENT NUMBER OF ALCOHOL OR DRUG-RELATED
15 OFFENSES IN A COUNTY TO MANDATE THE ESTABLISHMENT OF SAID COURSE, AND
16 THAT PROVISIONS BE MADE FOR THE RESIDENTS OF SAID COUNTY TO ATTEND A
17 COURSE IN ANOTHER COUNTY WHERE A COURSE EXISTS.

18 4. ELIGIBILITY. PARTICIPATION IN THE PROGRAM SHALL BE LIMITED TO THOSE
19 PERSONS HAVING VIOLATED THE PROVISIONS OF SUBDIVISION ELEVEN-A OF
20 SECTION 400.00 OF THE PENAL LAW.

21 5. EFFECT OF COMPLETION. UPON SUCCESSFUL COMPLETION OF A COURSE IN
22 SUCH PROGRAM AS CERTIFIED BY ITS ADMINISTRATOR, THE COMMISSIONER SHALL,
23 ON A FORM PROVIDED FOR SUCH PURPOSE, NOTIFY THE APPROPRIATE LICENSING
24 OFFICER HAVING ISSUED THE ORDER OF SUSPENSION OF SUCH LICENSEE'S
25 SUCCESSFUL COMPLETION OF THE COURSE PROVIDED FOR IN THIS SECTION.

26 6. FEES. THE COMMISSIONER SHALL ESTABLISH A SCHEDULE OF FEES TO BE
27 PAID BY OR ON BEHALF OF EACH PARTICIPANT IN THE PROGRAM, AND MAY, FROM
28 TIME TO TIME, MODIFY SAME. SUCH FEES SHALL DEFRAY THE ONGOING EXPENSES
29 OF THE PROGRAM, PROVIDED, HOWEVER, THAT PURSUANT TO AN AGREEMENT WITH
30 THE DIVISION A MUNICIPALITY, DEPARTMENT THEREOF, OR OTHER AGENCY MAY
31 CONDUCT A COURSE IN SUCH PROGRAM WITH ALL OR PART OF THE EXPENSE OF SUCH
32 COURSE AND PROGRAM BEING BORNE BY SUCH MUNICIPALITY, DEPARTMENT OR AGEN-
33 CY. IN NO EVENT SHALL SUCH FEE BE REFUNDABLE, EITHER FOR REASONS OF THE
34 PARTICIPANT'S WITHDRAWAL OR EXPULSION FROM SUCH PROGRAM OR OTHERWISE.

35 S 7. This act shall take effect on the first of November next succeed-
36 ing the date on which it shall have become a law; provided however, that
37 effective immediately, the addition, amendment and/or repeal of any rule
38 or regulation necessary for the implementation of the foregoing sections
39 of this act on their effective date is authorized and directed to be
40 made and completed within 180 days after the date on which this act
41 becomes a law.