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

(PREFILED)

January 9, 2013

Introduced by M. of A. MALLIOTAKIS, CROUCH, RAIA, GALEF, GABRYSZAK, MARKEY, McKEVITT, BLANKENBUSH, MILLER, JOHNS, FINCH -- Multi-Sponsored by -- M. of A. BARCLAY, CERETTO, THIELE -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to revocation of drivers' licenses and registrations for driving while intoxicated convictions

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

Section 1. Subparagraph 12 of paragraph (b) of subdivision 2 of section 1193 of the vehicle and traffic law, as added by chapter 732 of the laws of 2006, item (ii) of clause (b) as amended by section 32 and item (iii) of clause (e) as amended by section 33 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(12) Permanent revocation. (a) Notwithstanding any other provision of this chapter to the contrary, whenever a revocation is imposed upon a person for the refusal to submit to a chemical test pursuant to the provisions of section eleven hundred ninety-four of this article or conviction for any violation of section eleven hundred ninety-two of this article [for which a sentence of imprisonment may be imposed], and such person has: (i) [within the previous four years] been twice convicted of any provisions of section eleven hundred ninety-two of this article or a violation of the penal law for which a violation of such section eleven hundred ninety-two is an essential element and at least one such conviction was for a crime, or has twice been found to have refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this article, or has any combination of two such convictions and findings of refusal not arising out of the same incident; or (ii) [within the previous eight years] been convicted [three times of any provision] TWO TIMES OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A of section eleven hundred ninety-two of this article for [which a sentence of imprisonment may be imposed or] a violation of the penal law for which a violation of such section eleven

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

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hundred ninety-two is an essential element and at least two such convictions were for crimes, or has been found, on three separate occasions, to have refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this article, or has any combination of such convictions and findings of refusal not arising out of the same incident, such revocation shall be permanent.

(b) The permanent driver's license revocation required by clause (a) of this subparagraph shall be waived by the commissioner after a period of [five] TEN years has expired since the imposition of such permanent revocation, provided that during such [five-year] TEN-YEAR period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this article while operating a motor vehicle and has not been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or section five hundred eleven of this chapter or a violation of the penal law for which a violation of any subdivision of such section eleven hundred ninety-two is an essential element and either:

(i) that such person provides acceptable documentation to the commissioner that such person has voluntarily enrolled in and successfully completed an appropriate rehabilitation program; or

(ii) that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

Provided, however, that the commissioner may, on a case by case basis, refuse to restore a license which otherwise would be restored pursuant to this item, in the interest of the public safety and welfare.

(c) For revocations imposed pursuant to clause (a) of this subparagraph, the commissioner may adopt rules to permit conditional or restricted operation of a motor vehicle by any such person after a mandatory revocation period of not less than three years subject to such criteria, terms and conditions as established by the commissioner.

(d) Upon (i) a finding of refusal after having been convicted three times [within four years] of a violation of any subdivision of section eleven hundred ninety-two of this article or of the penal law for which a violation of any subdivision of such section eleven hundred ninety-two is an essential element or any combination of three such convictions not arising out of the same incident [within four years] or (ii) a [fourth] THIRD conviction of any subdivision of section eleven hundred ninety-two of this article after having been convicted of any such subdivision of such section eleven hundred ninety-two or of the penal law for which a violation of any of such subdivisions of such section eleven hundred ninety-two is an essential element or any combination of three such convictions not arising out of the same incident [within four years] or (iii) a finding of refusal after having been convicted [four] THREE times [within eight years] of a violation of any subdivision of section eleven hundred ninety-two of this article or of the penal law for which a violation of any of such subdivisions of such section eleven hundred ninety-two is an essential element or any combination of [four] such convictions not arising out of the same incident [within eight years] or (iv) a [fifth] THIRD conviction of any subdivision of section eleven hundred ninety-two of this article after having been convicted of such subdivision or of the penal law for which a violation of any of such subdivisions of such section eleven hundred ninety-two is an essential element or any combination of [four] such convictions not arising out of the same incident [within eight years], such revocation shall be permanent.

(e) The permanent driver's license revocation required by clause (d) of this subparagraph may be waived by the commissioner after a period of [eight] TEN years has expired since the imposition of such permanent revocation provided:

(i) that during such [eight-year] TEN-YEAR period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this article while operating a motor vehicle and has not been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or section five hundred eleven of this chapter or a violation of the penal law for which a violation of any such subdivisions of such section eleven hundred ninety-two is an essential element; and

(ii) that such person provides acceptable documentation to the commissioner that such person has voluntarily enrolled in and successfully completed an appropriate rehabilitation program; and

(iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

Notwithstanding the provisions of this clause, nothing contained in this clause shall be deemed to require the commissioner to restore a license to an applicant who otherwise has complied with the requirements of this item, in the interest of the public safety and welfare.

(f) Nothing contained in this subparagraph shall be deemed to reduce a license revocation period imposed pursuant to any other provision of law.

S 2. Section 401 of the vehicle and traffic law is amended by adding a new subdivision 5-b to read as follows:

5-B. REVOCATION AND DENIAL OF REGISTRATION BASED ON SUSPENDED OR REVOKED DRIVER'S LICENSE OR PRIVILEGE. THE REGISTRATION OF ANY MOTOR VEHICLE REGISTERED TO A PERSON WHO HAS HAD THEIR DRIVER'S LICENSE SUSPENDED OR REVOKED AS A RESULT OF A CONVICTION OR CRIMINAL PENALTY FOR AN OFFENSE AS PURSUANT TO SECTION ELEVEN HUNDRED NINETY-THREE OF THIS CHAPTER SHALL BE REVOKED AND THE NUMBER PLATES OF ANY SUCH VEHICLES SHALL BE SURRENDERED. IF AT THE TIME OF APPLICATION FOR A REGISTRATION, THE RECORDS OF THE DEPARTMENT INDICATE THAT THE REGISTRANT'S LICENSE OR PRIVILEGE OF OPERATING A MOTOR VEHICLE IN THIS STATE OR PRIVILEGE OF OBTAINING A LICENSE TO OPERATE SUCH MOTOR VEHICLE ISSUED BY THE COMMISSIONER IS SUSPENDED, REVOKED OR OTHERWISE WITHDRAWN BY THE COMMISSIONER, THE COMMISSIONER MAY, PURSUANT TO REGULATION, DENY SUCH REGISTRATION. SUCH REVOCATION OR DENIAL SHALL ONLY REMAIN IN EFFECT AS LONG AS THE SUSPENSION, REVOCATION OR WITHDRAWAL OF THE DRIVER'S LICENSE HAS NOT BEEN TERMINATED.

S 3. Section 1193 of the vehicle and traffic law is amended by adding a new subdivision 3 to read as follows:

3. REGISTRATION SANCTIONS. ANY PERSON WHO HAS HAD THEIR LICENSE SUSPENDED OR REVOKED PURSUANT TO ANY PROVISION OF SUBDIVISION TWO OF THIS SECTION SHALL SURRENDER THE CERTIFICATES OF REGISTRATION AND NUMBER PLATES OF ALL MOTOR VEHICLES WHICH SUCH PERSON HAS REGISTERED PURSUANT TO ARTICLE FOURTEEN OF THIS CHAPTER. UPON RECEIPT OF SUCH CERTIFICATES OF REGISTRATION AND NUMBER PLATES, THE COURT SHALL RETURN SUCH TO THE COMMISSIONER. SUCH REVOCATION OF REGISTRATION SHALL REMAIN IN EFFECT AS LONG AS THE SUSPENSION, REVOCATION OR WITHDRAWAL OF SUCH DRIVER'S LICENSE.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.