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

4101

2013-2014 Regular Sessions

I N S E N A T E

March 8, 2013

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the alcoholic beverage control law, in relation to penalties for the purchase or attempt to purchase an alcoholic beverage by a person under twenty-one years of age

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

Section 1. Paragraphs (a), (b) and (c) of subdivision 3 of section 65-b of the alcoholic beverage control law, as amended by chapter 519 of the laws of 1999, are amended to read as follows:

(a) For a first violation, the court shall order payment of a fine of not LESS THAN ONE HUNDRED DOLLARS, NOR more than [one] FIVE hundred dollars and/or an appropriate amount of community service not to exceed thirty hours. In addition, the court may order completion of an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law.

(b) For a second violation, the court shall order payment of a fine of not less than TWO HUNDRED fifty dollars nor more than [three] SEVEN hundred fifty dollars and/or an appropriate amount of community service not to exceed [thirty] SIXTY hours. The court also shall order completion of an alcohol awareness program as referenced in paragraph (a) of this subdivision if such program has not previously been completed by the offender, unless the court determines that attendance at such program is not feasible due to the lack of availability of such program within a reasonably close proximity to the locality in which the offender resides or matriculates, as appropriate.

(c) For third and subsequent violations, the court shall order payment of a fine of not less than [fifty] FIVE HUNDRED dollars nor more than [seven hundred fifty] ONE THOUSAND dollars and/or an appropriate amount of community service not to exceed [thirty] NINETY hours. The court also shall order that such person submit to an evaluation by an appropriate

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

LBD00973-02-3

agency certified or licensed by the office of alcoholism and substance abuse services to determine whether the person suffers from the disease of alcoholism or alcohol abuse, unless the court determines that under the circumstances presented such an evaluation is not necessary, in which case the court shall state on the record the basis for such determination. Payment for such evaluation shall be made by such person. If, based on such evaluation, a need for treatment is indicated, such person may choose to participate in a treatment plan developed by an agency certified or licensed by the office of alcoholism and substance abuse services. If such person elects to participate in recommended treatment, the court shall order that payment of such fine and community service be suspended pending the completion of such treatment.

S 2. Subdivision 6 of section 65-b of the alcoholic beverage control law, as amended by chapter 519 of the laws of 1999 and the opening paragraph as amended by chapter 503 of the laws of 2000, is amended to read as follows:

6. In addition to the penalties otherwise provided in subdivision three of this section, if a determination is made sustaining a charge of illegally purchasing or attempting to illegally purchase an alcoholic beverage, the court may suspend such person's license to drive a motor vehicle and the privilege of an unlicensed person of obtaining such license, in accordance with the following and for the following periods, if it is found that a driver's license, FALSE IDENTIFICATION CARD OR OTHER FORGED INSTRUMENT, AS DEFINED IN SUBDIVISION SEVEN OF SECTION 170.00 OF THE PENAL LAW, was used for the purpose of such illegal purchase or attempt to illegally purchase; provided, however, that where a person is sentenced pursuant to paragraph (b) or (c) of subdivision three of this section, the court shall impose such license suspension if it is found that a driver's license, FALSE IDENTIFICATION CARD OR OTHER FORGED INSTRUMENT, AS DEFINED IN SUBDIVISION SEVEN OF SECTION 170.00 OF THE PENAL LAW, was used for the purpose of such illegal purchase or attempt to illegally purchase:

(a) For a first violation of paragraph (a) of subdivision two of this section, a [three] FIVE month suspension[.]; AND

(b) [For a second violation of paragraph (a) of subdivision two of this section, a six month suspension.

(c)] For a [third] SECOND or subsequent violation of paragraph (a) of subdivision two of this section, a suspension for [one year] TEN MONTHS or until the holder reaches the age of twenty-one, whichever is the greater period of time.

Such person may thereafter apply for and be issued a restricted use license in accordance with the provisions of section five hundred thirty of the vehicle and traffic law.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.