

1941

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sens. FUSCHILLO, DILAN, BONACIC, GOLDEN, LARKIN, LAVALLE, MAZIARZ, RANZENHOFER -- 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, the executive law, the penal law and the criminal procedure law, in relation to driving while intoxicated and ignition interlock devices

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

1     Section 1. Paragraphs (b) and (c) of subdivision 1 of section 1193 of  
2     the vehicle and traffic law, as amended by chapter 496 of the laws of  
3     2009, are amended to read as follows:  
4     (b) Driving while intoxicated or while ability impaired by drugs or  
5     while ability impaired by the combined influence of drugs or of alcohol  
6     and any drug or drugs; aggravated driving while intoxicated; misdemeanor  
7     offenses. (i) A violation of subdivision two, three, four or four-a of  
8     section eleven hundred ninety-two of this article shall be a misdemeanor  
9     and shall be punishable by a fine of not less than five hundred dollars  
10    nor more than one thousand dollars, or by imprisonment in a penitentiary  
11    or county jail for not more than one year, or by both such fine and  
12    imprisonment. A violation of paragraph (a) of subdivision two-a of  
13    section eleven hundred ninety-two of this article shall be a misdemeanor  
14    and shall be punishable by a fine of not less than one thousand dollars  
15    nor more than two thousand five hundred dollars or by imprisonment in a  
16    penitentiary or county jail for not more than one year, or by both such  
17    fine and imprisonment.  
18    (ii) In addition to the imposition of any fine or period of imprison-  
19    ment set forth in this paragraph, the court shall also sentence such  
20    person convicted [of] OR ADJUDICATED A YOUTHFUL OFFENDER FOR a violation  
21    of subdivision two, two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION  
22    FOUR-A of section eleven hundred ninety-two of this article to a period

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

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1 of probation or conditional discharge, as a condition of which it shall  
2 order such person NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION  
3 INTERLOCK DEVICE, NOT TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL  
4 CONCENTRATION ABOVE THE SETPOINT OF THE IGNITION INTERLOCK DEVICE AND to  
5 install and maintain, in accordance with the provisions of section eleven  
6 hundred ninety-eight of this article, an ignition interlock device in  
7 any motor vehicle TITLED, REGISTERED OR OTHERWISE owned or operated by  
8 such person OR, IF SUCH PERSON DOES NOT OWN A MOTOR VEHICLE, IN THE  
9 VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE VIOLATION OF SECTION  
10 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR IN AT LEAST ONE VEHICLE  
11 REGISTERED TO SUCH PERSON'S HOUSEHOLD during the term of such probation  
12 or conditional discharge imposed for such violation of section eleven  
13 hundred ninety-two of this article and in no event for less than six  
14 months. THE PERIOD OF INTERLOCK RESTRICTION SHALL COMMENCE FROM THE DATE  
15 OF SENTENCING OR, IN THE CASE OF A PLEA DISPOSITION, MAY COMMENCE FROM  
16 THE DATE OF INSTALLATION OF AN IGNITION INTERLOCK DEVICE AT A DATE IN  
17 ADVANCE OF SENTENCING. THE IGNITION INTERLOCK DEVICE SHALL BE INSTALLED  
18 FOR NO LESS THAN SIX MONTHS, REGARDLESS OF THE COMMENCEMENT DATE. IN THE  
19 EVENT THAT THE COURT MAKES A DETERMINATION OF GOOD CAUSE FOR NOT  
20 INSTALLING AN IGNITION INTERLOCK DEVICE PURSUANT TO SUBDIVISION FOUR OF  
21 SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE ON THE BASIS THAT  
22 SUCH PERSON DOES NOT OWN AND WILL NOT OPERATE A MOTOR VEHICLE, THE  
23 IGNITION INTERLOCK RESTRICTION SHALL REMAIN IN EFFECT FOR THE FULL PERI-  
24 OD OF SUCH PERSON'S CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO ARTI-  
25 CLE SIXTY-FIVE OF THE PENAL LAW AND THE COURT SHALL SENTENCE SUCH PERSON  
26 TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE FOR A PERIOD OF NOT LESS  
27 THAN SIX MONTHS. UNDER NO CIRCUMSTANCES SHALL A CONDITIONAL LICENSE BE  
28 ISSUED, OR A LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE BE GRANTED  
29 OR RESTORED UNTIL SUCH PERSON CAN DEMONSTRATE COMPLIANCE WITH EITHER THE  
30 IGNITION INTERLOCK OR TRANSDERMAL ALCOHOL MONITORING PROVISIONS OF THIS  
31 SECTION PURSUANT TO SUBDIVISION NINE OF SECTION FIVE HUNDRED TEN OF THIS  
32 CHAPTER. FOR THE PURPOSES OF OBTAINING A CONDITIONAL LICENSE WHILE UNDER  
33 THE PERIOD OF RESTRICTION, SUCH COMPLIANCE CAN BE DEMONSTRATED BY  
34 PROVIDING PROOF AT THE TIME OF APPLICATION FOR A CONDITIONAL LICENSE OF  
35 THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE TO BE MONITORED PURSU-  
36 ANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE FOR A PERIOD  
37 OF NO LESS THAN THE FIRST SIX MONTHS AFTER THE CONDITIONAL LICENSE IS  
38 GRANTED. THE PROOF WILL BE PROVIDED TO THE DEPARTMENT IN A FORM  
39 PRESCRIBED BY THE COMMISSIONER. [Provided, however, the] THE court may  
40 not authorize the operation of a motor vehicle by any person whose  
41 license or privilege to operate a motor vehicle has been revoked pursu-  
42 ant to the provisions of this section.

43 (c) Felony offenses. (i) A person who operates a vehicle (A) in  
44 violation of subdivision two, two-a, three, four or four-a of section  
45 eleven hundred ninety-two of this article after having been convicted of  
46 a violation of subdivision two, two-a, three, four or four-a of such  
47 section or of vehicular assault in the second or first degree, as  
48 defined, respectively, in sections 120.03 and 120.04 and aggravated  
49 vehicular assault as defined in section 120.04-a of the penal law or of  
50 vehicular manslaughter in the second or first degree, as defined,  
51 respectively, in sections 125.12 and 125.13 and aggravated vehicular  
52 homicide as defined in section 125.14 of such law, within the preceding  
53 ten years, or (B) in violation of paragraph (b) of subdivision two-a of  
54 section eleven hundred ninety-two of this article shall be guilty of a  
55 class E felony, and shall be punished by a fine of not less than one  
56 thousand dollars nor more than five thousand dollars or by a period of

1 imprisonment as provided in the penal law, or by both such fine and  
2 imprisonment.

3 (ii) A person who operates a vehicle in violation of subdivision two,  
4 two-a, three, four or four-a of section eleven hundred ninety-two of  
5 this article after having been convicted of a violation of subdivision  
6 two, two-a, three, four or four-a of such section or of vehicular  
7 assault in the second or first degree, as defined, respectively, in  
8 sections 120.03 and 120.04 and aggravated vehicular assault as defined  
9 in section 120.04-a of the penal law or of vehicular manslaughter in the  
10 second or first degree, as defined, respectively, in sections 125.12 and  
11 125.13 and aggravated vehicular homicide as defined in section 125.14 of  
12 such law, twice within the preceding ten years, shall be guilty of a  
13 class D felony, and shall be punished by a fine of not less than two  
14 thousand dollars nor more than ten thousand dollars or by a period of  
15 imprisonment as provided in the penal law, or by both such fine and  
16 imprisonment.

17 (iii) In addition to the imposition of any fine or period of imprison-  
18 ment set forth in this paragraph, the court shall also sentence such  
19 person convicted [of] OR ADJUDICATED A YOUTHFUL OFFENDER FOR a violation  
20 of subdivision two, two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION  
21 FOUR-A of section eleven hundred ninety-two of this article to a period  
22 of probation or conditional discharge, as a condition of which it shall  
23 order such person NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION  
24 INTERLOCK DEVICE, NOT TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL  
25 CONCENTRATION ABOVE THE SETPOINT OF THE IGNITION INTERLOCK DEVICE, AND  
26 to install and maintain, in accordance with the provisions of section  
27 eleven hundred ninety-eight of this article, an ignition interlock  
28 device in any motor vehicle TITLED, REGISTERED OR OTHERWISE owned or  
29 operated by such person OR, IF SUCH PERSON DOES NOT OWN A MOTOR VEHICLE,  
30 IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE VIOLATION OF  
31 SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR IN AT LEAST ONE  
32 VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD during the term of such  
33 probation or conditional discharge imposed for such violation of section  
34 eleven hundred ninety-two of this article and in no event for a period  
35 of less than six months. THE PERIOD OF INTERLOCK RESTRICTION SHALL  
36 COMMENCE FROM THE DATE OF SENTENCING OR IN THE CASE OF A PLEA DISPOSI-  
37 TION, MAY COMMENCE FROM THE DATE OF INSTALLATION OF AN IGNITION INTER-  
38 LOCK DEVICE AT A DATE IN ADVANCE OF SENTENCING. THE IGNITION INTERLOCK  
39 DEVICE SHALL BE INSTALLED FOR NO LESS THAN SIX MONTHS, REGARDLESS OF THE  
40 COMMENCEMENT DATE. IN THE EVENT THAT THE COURT MAKES A DETERMINATION OF  
41 GOOD CAUSE FOR NOT INSTALLING AN IGNITION INTERLOCK DEVICE PURSUANT TO  
42 SUBDIVISION FOUR OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE  
43 ON THE BASIS THAT SUCH PERSON DOES NOT OWN AND WILL NOT OPERATE A MOTOR  
44 VEHICLE, THE IGNITION INTERLOCK RESTRICTION SHALL REMAIN IN EFFECT FOR  
45 THE FULL PERIOD OF SUCH PERSON'S CONDITIONAL DISCHARGE OR PROBATION  
46 PURSUANT TO ARTICLE SIXTY-FIVE OF THE PENAL LAW AND THE COURT SHALL  
47 SENTENCE SUCH PERSON TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE FOR  
48 A PERIOD OF NOT LESS THAN SIX MONTHS. UNDER NO CIRCUMSTANCES SHALL A  
49 CONDITIONAL LICENSE BE ISSUED, OR A LICENSE OR PRIVILEGE TO OPERATE A  
50 MOTOR VEHICLE BE GRANTED OR RESTORED UNTIL SUCH PERSON CAN DEMONSTRATE  
51 COMPLIANCE WITH EITHER THE IGNITION INTERLOCK OR TRANSDERMAL ALCOHOL  
52 MONITORING PROVISIONS OF THIS SECTION PURSUANT TO SUBDIVISION NINE OF  
53 SECTION FIVE HUNDRED TEN OF THIS CHAPTER. FOR THE PURPOSES OF OBTAINING  
54 A CONDITIONAL LICENSE WHILE UNDER THE PERIOD OF RESTRICTION, SUCH  
55 COMPLIANCE CAN BE DEMONSTRATED BY PROVIDING PROOF AT THE TIME OF APPLI-  
56 CATION FOR A CONDITIONAL LICENSE PROOF OF THE INSTALLATION OF AN

1 IGNITION INTERLOCK DEVICE TO BE MONITORED PURSUANT TO SECTION ELEVEN  
2 HUNDRED NINETY-EIGHT OF THIS ARTICLE FOR A PERIOD OF NO LESS THAN THE  
3 FIRST SIX MONTHS FROM THE DATE OF ISSUANCE OF THE CONDITIONAL LICENSE.  
4 THE PROOF WILL BE PROVIDED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE  
5 COMMISSIONER. [Provided, however, the] THE court may not authorize the  
6 operation of a motor vehicle by any person whose license or privilege to  
7 operate a motor vehicle has been revoked pursuant to the provisions of  
8 this section.

9 S 2. Paragraph (g) of subdivision 1 of section 1193 of the vehicle and  
10 traffic law, as amended by section 57 of part A of chapter 56 of the  
11 laws of 2010, is amended to read as follows:

12 (g) The office of probation and correctional alternatives shall recom-  
13 mend to the commissioner of the division of criminal justice services  
14 regulations governing the monitoring of compliance by persons ordered  
15 NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, NOT  
16 TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL CONCENTRATION ABOVE THE  
17 SETPOINT OF THE IGNITION INTERLOCK DEVICE AND to install and maintain  
18 ignition interlock devices IN ANY MOTOR VEHICLE TITLED, REGISTERED OR  
19 OTHERWISE OWNED OR OPERATED BY SUCH PERSON, OR IF SUCH PERSON DOES NOT  
20 OWN A MOTOR VEHICLE, IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME  
21 OF THE VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE,  
22 OR IN AT LEAST ONE VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD, OR IN  
23 THE ALTERNATIVE TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE, to  
24 provide standards for monitoring by departments of probation, and  
25 options for monitoring of compliance by such persons, that counties may  
26 adopt as an alternative to monitoring by a department of probation.

27 S 3. Subdivisions 1, 2, 3, 4 and paragraph (a) of subdivision 5 of  
28 section 1198 of the vehicle and traffic law, as amended by chapter 496  
29 of the laws of 2009, are amended to read as follows:

30 1. Applicability. The provisions of this section shall apply through-  
31 out the state to each person required or otherwise ordered by a court as  
32 a condition of probation or conditional discharge NOT TO OPERATE A MOTOR  
33 VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, NOT TO OPERATE A MOTOR  
34 VEHICLE WITH A BLOOD ALCOHOL CONCENTRATION ABOVE THE SETPOINT OF THE  
35 IGNITION INTERLOCK DEVICE AND to install and [operate] MAINTAIN an  
36 ignition interlock device in any vehicle FOR which he or she HAS TITLE,  
37 REGISTRATION, OR OTHERWISE owns or operates, OR IF SUCH PERSON DOES NOT  
38 OWN A MOTOR VEHICLE, IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME  
39 OF THE VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE,  
40 OR IN AT LEAST ONE VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD, OR IN  
41 THE ALTERNATIVE ORDERED TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE.

42 2. Requirements. (a) In addition to any other penalties prescribed by  
43 law, the court shall require that any person who has been convicted [of]  
44 OR ADJUDICATED A YOUTHFUL OFFENDER FOR a violation of subdivision two,  
45 two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION FOUR-A of section  
46 eleven hundred ninety-two of this article, or any crime defined by this  
47 chapter or the penal law of which an alcohol-related violation of any  
48 provision of section eleven hundred ninety-two of this article is an  
49 essential element, [to] SHALL NOT OPERATE A MOTOR VEHICLE WITHOUT AN  
50 IGNITION INTERLOCK DEVICE, OR WITH A BLOOD ALCOHOL CONCENTRATION ABOVE  
51 THE SETPOINT OF THE IGNITION INTERLOCK DEVICE AND SHALL install and  
52 maintain, as a condition of probation or conditional discharge, a func-  
53 tioning ignition interlock device OR SHALL IN THE ALTERNATIVE WEAR A  
54 TRANSDERMAL ALCOHOL MONITORING DEVICE in accordance with the provisions  
55 of this section and, as applicable, in accordance with the provisions of  
56 subdivisions one and one-a of section eleven hundred ninety-three of

1 this article; provided, however, the court may not authorize the opera-  
2 tion of a motor vehicle by any person whose license or privilege to  
3 operate a motor vehicle has been revoked except as provided herein. For  
4 any such individual subject to a sentence of probation, installation and  
5 maintenance of such ignition interlock device shall be a condition of  
6 probation.

7 (b) Nothing contained in this section shall prohibit a court, upon  
8 application by a probation department, from modifying the conditions of  
9 probation of any person convicted of any violation set forth in para-  
10 graph (a) of this subdivision prior to the effective date of this  
11 section, to require the installation and maintenance of a functioning  
12 ignition interlock device, and such person shall thereafter be subject  
13 to the provisions of this section.

14 [(c) Nothing contained in this section shall authorize a court to  
15 sentence any person to a period of probation or conditional discharge  
16 for the purpose of subjecting such person to the provisions of this  
17 section, unless such person would have otherwise been so eligible for a  
18 sentence of probation or conditional discharge.]

19 3. Conditions. (a) Notwithstanding any other provision of law, the  
20 commissioner may grant a [post-revocation] conditional license[, as set  
21 forth in paragraph (b) of this subdivision, to a person who has been  
22 convicted of a violation of subdivision two, two-a or three of section  
23 eleven hundred ninety-two of this article and who has been sentenced to  
24 a period of probation or conditional discharge, provided the person has  
25 satisfied the minimum period of license revocation established by law  
26 and the commissioner has been notified that such person may operate only  
27 a motor vehicle equipped with a functioning ignition interlock device]  
28 IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-SIX  
29 OF THIS ARTICLE.

30 (B) No such request shall be made nor shall such a license be granted,  
31 however, if such person has been found by a court to have [committed a]  
32 BEEN CHARGED WITH A violation of section five hundred eleven of this  
33 chapter during the license revocation period, OR A VIOLATION OF SECTION  
34 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR FOR OPERATION OF A MOTOR  
35 VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN REQUIRED TO HAVE ONE  
36 PURSUANT TO THIS SECTION, or deemed by a court to have violated any  
37 condition of probation or conditional discharge set forth by the court  
38 relating to the operation of a motor vehicle or the consumption of alco-  
39 hol. [In exercising discretion relating to the issuance of a post-revo-  
40 cation conditional license pursuant to this subdivision, the commission-  
41 er shall not deny such issuance based solely upon the number of  
42 convictions for violations of any subdivision of section eleven hundred  
43 ninety-two of this article committed by such person within the ten years  
44 prior to application for such license.] IN ORDER FOR THE REQUEST FOR A  
45 CONDITIONAL LICENSE TO BE DENIED ON THE BASIS OF HAVING BEEN CHARGED  
46 WITH THE ENUMERATED VIOLATIONS, THE COURT MUST FIND PRIOR TO THE CONCLU-  
47 SION OF THE PROCEEDINGS FOR ARRAIGNMENT THAT THE ACCUSATORY INSTRUMENT  
48 CONFORMS TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE  
49 LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT SUCH PERSON  
50 VIOLATED THE PROVISIONS OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER  
51 OR OPERATED A MOTOR VEHICLE IN VIOLATION OF SUBDIVISION ONE, TWO, TWO-A,  
52 THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTI-  
53 CLE OR OPERATED A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE  
54 WHEN REQUIRED TO HAVE ONE PURSUANT TO THIS SECTION. THE COURT SHALL MAKE  
55 A FINDING AND SET IT FORTH UPON THE RECORD, OR OTHERWISE SET IT FORTH IN  
56 WRITING. THE FINDING SHALL BE FILED WITH THE DEPARTMENT IN A FORM

1 PRESCRIBED BY THE COMMISSIONER. AT SUCH TIME THE LICENSEE SHALL BE ENTI-  
2 TLED TO AN OPPORTUNITY TO MAKE A STATEMENT REGARDING THE CHARGES AND  
3 ISSUES AND TO PRESENT EVIDENCE TENDING TO REBUT THE COURT'S FINDINGS.  
4 THE LICENSEE MAY PRESENT MATERIAL AND RELEVANT EVIDENCE, HOWEVER, HE OR  
5 SHE MAY NOT CAUSE THE LAW ENFORCEMENT OFFICERS INVOLVED IN THE UNDERLY-  
6 ING ARREST OR ARRESTS TO BE CALLED TO TESTIFY UNLESS THE LICENSEE FIRST  
7 DEMONSTRATES TO THE SATISFACTION OF THE COURT A GOOD FAITH BASIS TO  
8 BELIEVE SUCH OFFICERS WILL PROVIDE TESTIMONY INCONSISTENT WITH THE  
9 FACTUAL PORTION OF THE ACCUSATORY INSTRUMENT WHICH FORMED THE BASIS OF  
10 THE COURT'S FINDING OF COMPLIANCE WITH SECTION 100.40 OF THE CRIMINAL  
11 PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE  
12 HOLDER VIOLATED THE SECTIONS CHARGED. IN NO EVENT SHALL THE ARRAIGNMENT  
13 BE ADJOURNED OR OTHERWISE DELAYED MORE THAN THREE BUSINESS DAYS SOLELY  
14 FOR THE PURPOSE OF ALLOWING THE LICENSEE TO REBUT THE COURT'S FINDING.  
15 Upon the termination of the period of probation or conditional discharge  
16 set by the court, the person may apply to the commissioner for restora-  
17 tion of a license or privilege to operate a motor vehicle in accordance  
18 with this chapter.

19 [(b) Notwithstanding any inconsistent provision of this chapter, a  
20 post-revocation conditional license granted pursuant to paragraph (a) of  
21 this subdivision shall be valid only for use by the holder thereof, (1)  
22 enroute to and from the holder's place of employment, (2) if the hold-  
23 er's employment requires the operation of a motor vehicle then during  
24 the hours thereof, (3) enroute to and from a class or course at an  
25 accredited school, college or university or at a state approved institu-  
26 tion of vocational or technical training, (4) to and from court ordered  
27 probation activities, (5) to and from a motor vehicle office for the  
28 transaction of business relating to such license, (6) for a three hour  
29 consecutive daytime period, chosen by the department, on a day during  
30 which the participant is not engaged in usual employment or vocation,  
31 (7) enroute to and from a medical examination or treatment as part of a  
32 necessary medical treatment for such participant or member of the  
33 participant's household, as evidenced by a written statement to that  
34 effect from a licensed medical practitioner, (8) enroute to and from a  
35 class or an activity which is an authorized part of the alcohol and drug  
36 rehabilitation program and at which participant's attendance is  
37 required, and (9) enroute to and from a place, including a school, at  
38 which a child or children of the participant are cared for on a regular  
39 basis and which is necessary for the participant to maintain such  
40 participant's employment or enrollment at an accredited school, college  
41 or university or at a state approved institution of vocational or tech-  
42 nical training.]

43 (c) The [post-revocation] conditional license described in [this  
44 subdivision] SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTICLE, may be  
45 revoked by the commissioner for sufficient cause including but not  
46 limited to, failure to comply with the terms of the condition of  
47 probation or conditional discharge set forth by the court, conviction of  
48 any traffic offense other than one involving parking, stopping or stand-  
49 ing [or conviction of] AND SHALL BE REVOKED BY THE COMMISSIONER WHERE  
50 SUCH PERSON IS FOUND BY THE COURT TO HAVE BEEN CHARGED WITH any alcohol  
51 or drug related offense, misdemeanor or felony, ANY VIOLATION OF SECTION  
52 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, ANY VIOLATION OF SECTION FIVE  
53 HUNDRED ELEVEN OF THIS ARTICLE, OR WITH OPERATING A MOTOR VEHICLE WITH-  
54 OUT AN IGNITION INTERLOCK DEVICE WHEN REQUIRED TO DO SO, or failure to  
55 install or maintain a court ordered ignition interlock device.

1 (d) [Nothing contained herein shall prohibit the court from requiring,  
2 as a condition of probation or conditional discharge, the installation  
3 of a functioning ignition interlock device in any vehicle owned or oper-  
4 ated by a person sentenced for a violation of subdivision two, two-a, or  
5 three of section eleven hundred ninety-two of this chapter, or any crime  
6 defined by this chapter or the penal law of which an alcohol-related  
7 violation of any provision of section eleven hundred ninety-two of this  
8 chapter is an essential element, if the court in its discretion, deter-  
9 mines that such a condition is necessary to ensure the public safety.]  
10 Imposition of an ignition interlock condition shall in no way limit the  
11 effect of any period of license suspension or revocation set forth by  
12 the commissioner or the court.

13 (e) Nothing contained herein shall prevent the court from applying any  
14 other conditions of probation or conditional discharge allowed by law,  
15 including treatment for alcohol or drug abuse, restitution and community  
16 service.

17 (f) The commissioner shall note on the operator's record of any person  
18 restricted pursuant to this section UPON SENTENCING OR DATE OF PLEA  
19 DISPOSITION IN ADVANCE OF SENTENCING that, in addition to any other  
20 restrictions, conditions or limitations, such person may operate only a  
21 motor vehicle equipped with an ignition interlock device.

22 4. Proof of compliance and recording of condition. (a) Following impo-  
23 sition by the court of the use of an ignition interlock device as a  
24 condition of probation or conditional discharge it shall require the  
25 person to provide proof of compliance with this section to the court and  
26 the probation department OR OTHER MONITOR where such person is under  
27 probation, SUPERVISION, or conditional discharge [supervision] MONITOR-  
28 ING. A CLAIM BY SUCH PERSON THAT HE OR SHE HAS GOOD CAUSE FOR NOT  
29 INSTALLING AN IGNITION INTERLOCK DEVICE SHALL BE MADE TO THE COURT AT OR  
30 BEFORE SENTENCING, IN WRITING IN THE FORM OF A SWORN AFFIDAVIT SIGNED BY  
31 SUCH PERSON ASSERTING UNDER OATH THAT SUCH PERSON IS NOT THE REGISTERED  
32 OR TITLED OWNER OF ANY MOTOR VEHICLE AND WILL NOT OPERATE ANY MOTOR  
33 VEHICLE DURING THE PERIOD OF RESTRICTION, OR THAT SUCH PERSON DOES NOT  
34 HAVE ACCESS TO THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE  
35 VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR THAT  
36 THE REGISTERED OWNER OF THAT VEHICLE OR ANY VEHICLE REGISTERED TO SUCH  
37 PERSON'S HOUSEHOLD WILL NOT GIVE CONSENT FOR THE INSTALLATION OF AN  
38 IGNITION INTERLOCK DEVICE ON HIS OR HER VEHICLE. IN ADDITION, THE AFFI-  
39 DAVIT MUST ALSO INCLUDE A STATEMENT REGARDING WHETHER SUCH PERSON OWNED  
40 ANY MOTOR VEHICLE ON THE DATE OF THE UNDERLYING VIOLATION OF SECTION  
41 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE AND WHETHER OWNERSHIP OF ANY  
42 OF THOSE VEHICLES HAS BEEN TRANSFERRED TO ANOTHER PARTY BY SALE, GIFT OR  
43 ANY OTHER MEANS SINCE THE DATE OF SAID VIOLATION. THE AFFIDAVIT MUST  
44 INCLUDE A STATEMENT FROM SUCH PERSON THAT HE OR SHE HAS NOT AND WILL NOT  
45 TRANSFER OWNERSHIP OF ANY VEHICLE TO EVADE INSTALLATION OF AN IGNITION  
46 INTERLOCK DEVICE. THE AFFIDAVIT MUST ALSO INCLUDE THE ADDRESS OF SUCH  
47 PERSON'S EMPLOYMENT (IF ANY) AND HOW SUCH PERSON INTENDS TO TRAVEL TO  
48 THAT LOCATION DURING THE PERIOD OF RESTRICTION. THE PERSON MAY ALSO  
49 INCLUDE ANY OTHER FACTS AND CIRCUMSTANCES SUCH PERSON BELIEVES TO BE  
50 RELEVANT TO THE CLAIM OF GOOD CAUSE. THE COURT MUST MAKE A FINDING  
51 WHETHER GOOD CAUSE EXISTS ON THE RECORD AND, IF GOOD CAUSE IS FOUND,  
52 ISSUE SUCH FINDING IN WRITING TO BE FILED BY SUCH PERSON WITH PROBATION  
53 OR THE IGNITION INTERLOCK MONITOR, AS APPROPRIATE. IN THE EVENT THE  
54 COURT DENIES SUCH PERSON'S CLAIM OF GOOD CAUSE ON THE BASIS OF THE AFFI-  
55 DAVIT FILED WITH THE COURT, SUCH PERSON MUST BE GIVEN AN OPPORTUNITY TO  
56 BE HEARD. SUCH PERSON MAY ALSO WAIVE THE OPPORTUNITY TO BE HEARD. WHERE

1 THE COURT FINDS GOOD CAUSE FOR SUCH PERSON NOT TO INSTALL AN IGNITION  
2 INTERLOCK DEVICE, THE PERIOD OF INTERLOCK RESTRICTION ON SUCH PERSON'S  
3 OPERATING RECORD SHALL REMAIN IN EFFECT FOR THE FULL PERIOD OF SUCH  
4 PERSON'S CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO ARTICLE  
5 SIXTY-FIVE OF THE PENAL LAW AND THE COURT SHALL SENTENCE SUCH PERSON TO  
6 WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE FOR A PERIOD OF NOT LESS  
7 THAN SIX MONTHS. IN THE EVENT THE COURT ALSO SENTENCES SUCH PERSON TO  
8 ABSTAIN OR RESTRICT HIS OR HER CONSUMPTION OF ALCOHOL DURING THE TRANS-  
9 DERMAL ALCOHOL MONITORING PERIOD, THE DETECTION OF ALCOHOL BY THE TRANS-  
10 DERMAL DEVICE SHALL BE REPORTED BY PROBATION OR THE MONITOR TO THE  
11 COURT. WHERE NO SUCH RESTRICTION IS IMPOSED BY THE COURT, THE TRANSDER-  
12 MAL DATA WILL BE REPORTED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE  
13 COMMISSIONER FOR CONSIDERATION DURING RELICENSING. If [the] A person IS  
14 ORDERED TO INSTALL AND MAINTAIN AN IGNITION INTERLOCK DEVICE AND SUCH  
15 PERSON fails to provide [for such] proof of installation TO PROBATION OR  
16 THE MONITOR, AS APPROPRIATE, absent a finding by the court of good cause  
17 for that failure which is entered in the record, the court may revoke,  
18 modify, or terminate the person's sentence of probation or conditional  
19 discharge as provided under law.

20 (b) When a court imposes the condition specified in subdivision one of  
21 this section, the court shall notify the commissioner in such manner as  
22 the commissioner may prescribe, and the commissioner shall note such  
23 condition on the operating record of the person subject to such condi-  
24 tions.

25 (a) The cost of installing and maintaining the ignition interlock  
26 device OR TRANSDERMAL ALCOHOL MONITORING DEVICE shall be borne by the  
27 person subject to such condition unless the court determines such person  
28 is financially unable to afford such cost whereupon such cost [may]  
29 SHALL be imposed pursuant to a payment plan or, IF NO PAYMENT PLAN CAN  
30 BE ESTABLISHED, THE COURT MUST STATE THE REASONS WHY A PAYMENT PLAN IS  
31 NOT FEASIBLE ON THE RECORD AND MAY ORDER THE COST TO BE waived. In the  
32 event of such waiver, the cost of the device shall be borne in accord-  
33 ance with regulations issued under paragraph (g) of subdivision one of  
34 section eleven hundred ninety-three of this article or pursuant to such  
35 other agreement as may be entered into for provision of the device. Such  
36 cost shall be considered a fine for the purposes of subdivision five of  
37 section 420.10 of the criminal procedure law. Such cost shall not  
38 replace, but shall instead be in addition to, any fines, surcharges, or  
39 other costs imposed pursuant to this chapter or other applicable laws.

40 S 4. Subdivision 8 of section 1198 of the vehicle and traffic law, as  
41 amended by chapter 496 of the laws of 2009, is amended to read as  
42 follows:

43 8. Employer vehicle. Notwithstanding the provisions of subdivision one  
44 and paragraph (d) of subdivision nine of this section, if a person is  
45 required to operate a motor vehicle owned by said person's employer in  
46 the course and scope of his or her employment, the person may operate  
47 that vehicle without installation of an approved ignition interlock  
48 device only in the course and scope of such employment and only if the  
49 employer has been notified that the person's driving privilege has been  
50 restricted under the provisions of this article or the penal law and the  
51 person whose privilege has been so restricted has provided the court and  
52 probation department with written documentation indicating the employer  
53 has knowledge of the restriction imposed and has granted permission for  
54 the person to operate the employer's vehicle without the device only for  
55 business purposes. The person shall notify the court and the probation  
56 department, OR THE INTERLOCK MONITOR, AS APPROPRIATE, of his or her



1 intention to so operate the employer's vehicle. THE COURT MAY GRANT OR  
2 DENY SUCH PERSON'S REQUEST TO OPERATE A MOTOR VEHICLE, OWNED BY SAID  
3 PERSON'S EMPLOYER, IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT  
4 WITHOUT INSTALLATION OF AN APPROVED IGNITION INTERLOCK DEVICE. WHERE THE  
5 COURT GRANTS THE REQUEST, IT MUST BE GRANTED IN WRITING IN A FORM  
6 PRESCRIBED BY THE COMMISSIONER TO BE FILED WITH PROBATION OR THE MONI-  
7 TOR, AS APPROPRIATE, AND TO BE CARRIED BY SUCH PERSON WHENEVER SAID  
8 PERSON IS OPERATING THE EMPLOYER'S VEHICLE IN ACCORDANCE WITH THIS  
9 SECTION AND SUCH PERSON MUST PRODUCE SAID DOCUMENT TO A LAW ENFORCEMENT  
10 OFFICER UPON REQUEST. ADDITIONALLY, THE COMMISSIONER SHALL NOTE ON THE  
11 OPERATOR'S RECORD OF ANY PERSON AUTHORIZED TO OPERATE AN EMPLOYER VEHI-  
12 CLE PURSUANT TO THIS SUBDIVISION THAT SUCH PERSON IS ONLY AUTHORIZED TO  
13 OPERATE WITHOUT AN IGNITION INTERLOCK DEVICE WHILE DRIVING AN EMPLOYER  
14 VEHICLE WITHIN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT. A motor  
15 vehicle owned by a business entity which business entity is all or part-  
16 ly owned or controlled by a person otherwise subject to the provisions  
17 of this article or the penal law is not a motor vehicle owned by the  
18 employer for purposes of the exemption provided in this subdivision. The  
19 provisions of this subdivision shall apply only to the operation of such  
20 vehicle in the scope of such employment.

21 S 5. Subdivision 15-a of section 259-c of the executive law, as  
22 amended by section 38-b of subpart A of part C of chapter 62 of the laws  
23 of 2011, is amended to read as follows:

24 15-a. Notwithstanding any other provision of law, where a person is  
25 serving a sentence for a violation of section 120.03, 120.04, 120.04-a,  
26 125.12, 125.13 or 125.14 of the penal law, or a felony as defined in  
27 paragraph (c) of subdivision one of section eleven hundred ninety-three  
28 of the vehicle and traffic law, if such person is released on parole or  
29 conditional release the board shall require as a mandatory condition of  
30 such release, that such person install and maintain, in accordance with  
31 the provisions of section eleven hundred ninety-eight of the vehicle and  
32 traffic law, an ignition interlock device in any motor vehicle TITLED,  
33 REGISTERED OR OTHERWISE owned or operated by such person during the term  
34 of such parole or conditional release for such crime. THIS MANDATORY  
35 INSTALLATION OF AN IGNITION INTERLOCK DEVICE AS A CONDITION OF RELEASE  
36 SHALL RUN CONCURRENTLY WITH ANY REQUIRED INSTALLATION OF AN IGNITION  
37 INTERLOCK DEVICE ORDERED BY THE COURT AS A CONDITION OF A CONSECUTIVE  
38 PERIOD OF CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO SECTION 60.21  
39 OF THE PENAL LAW. MONITORING DURING THE PERIOD OF PAROLE SHALL BE  
40 PROVIDED BY THE DIVISION OF PAROLE. IF THERE IS AN ADDITIONAL PERIOD OF  
41 PROBATION EXTENDING BEYOND THE PERIOD OF PAROLE, MONITORING OF ANY  
42 REMAINING PERIOD OF IGNITION INTERLOCK RESTRICTION SHALL BE TRANSFERRED  
43 FROM THE DIVISION OF PAROLE TO PROBATION AT THE CONCLUSION OF PAROLE.  
44 Provided further, however, the board may not otherwise authorize the  
45 operation of a motor vehicle by any person whose license or privilege to  
46 operate a motor vehicle has been revoked pursuant to the provisions of  
47 the vehicle and traffic law.

48 S 6. Section 60.36 of the penal law, as added by chapter 496 of the  
49 laws of 2009, is amended to read as follows:

50 S 60.36 Authorized dispositions; driving while intoxicated offenses.

51 Where a court is imposing a sentence for a violation of subdivision  
52 two, two-a, [or] three, OR PARAGRAPH (B) OF SUBDIVISION FOUR-A of  
53 section eleven hundred ninety-two of the vehicle and traffic law OR FOR  
54 A VIOLATION OF SECTION 120.03, 120.04, 120.04-A, 125.12, 125.13 OR  
55 125.14 OF THIS CHAPTER, OR A FELONY AS DEFINED IN PARAGRAPH (C) OF  
56 SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-THREE OF THE VEHICLE

1 AND TRAFFIC LAW, pursuant to sections 65.00 or 65.05 of this title and,  
2 as a condition of such sentence, orders the installation and maintenance  
3 of an ignition interlock device, the court may impose any other penalty  
4 authorized pursuant to section eleven hundred ninety-three of the vehi-  
5 cle and traffic law.

6 S 7. Section 60.21 of the penal law, as added by chapter 496 of the  
7 laws of 2009, is amended to read as follows:

8 S 60.21 Authorized dispositions; driving while intoxicated or aggravated  
9 driving while intoxicated.

10 Notwithstanding paragraph (d) of subdivision two of section 60.01 of  
11 this article, when a person is to be sentenced upon a conviction for a  
12 violation of subdivision two, two-a [or], three OR PARAGRAPH (B) OF  
13 SUBDIVISION FOUR-A of section eleven hundred ninety-two of the vehicle  
14 and traffic law, OR FOR A VIOLATION OF SECTION 120.03, 120.04, 120.04-A,  
15 125.12, 125.13 OR 125.14 OF THIS CHAPTER, OR A FELONY AS DEFINED IN  
16 PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-THREE  
17 OF THE VEHICLE AND TRAFFIC LAW, OR ANY FELONY FOR WHICH A VIOLATION OF  
18 SUBDIVISION TWO, TWO-A, THREE, PARAGRAPH (B) OF SUBDIVISION FOUR-A OF  
19 SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW IS AN  
20 ESSENTIAL ELEMENT the court may sentence such person to a period of  
21 imprisonment authorized by article seventy of this title and shall  
22 sentence such person to a period of probation or conditional discharge  
23 in accordance with the provisions of section 65.00 of this title and  
24 shall order the installation and maintenance of a functioning ignition  
25 interlock device. Such period of probation or conditional discharge  
26 shall run consecutively to any period of imprisonment and shall commence  
27 immediately upon such person's release from imprisonment NOTWITHSTAND-  
28 ING, SUCH PERSON ALSO HAVING BEEN CONVICTED OF FELONY CHARGES THAT DO  
29 NOT CONTAIN A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE  
30 VEHICLE AND TRAFFIC LAW AS AN ESSENTIAL ELEMENT. WHERE A PERSON IS  
31 SENTENCED TO THE MAXIMUM TERM OF INCARCERATION WITH A CONSECUTIVE PERIOD  
32 OF CONDITIONAL DISCHARGE OR PROBATION, AND THE COURT FINDS SUCH PERSON  
33 TO HAVE VIOLATED THE CONDITIONS OF DISCHARGE OR PROBATION, THE COURT IN  
34 ITS DISCRETION MAY SENTENCE THE DEFENDANT TO AN ADDITIONAL PERIOD OF  
35 INCARCERATION NOT TO EXCEED NINETY DAYS FOR EACH VIOLATION. NOTHING  
36 CONTAINED IN THIS SECTION SHALL PROHIBIT A COURT FROM IMPOSING ANY OTHER  
37 SENTENCE OR MODIFICATION PERMITTED BY LAW.

38 S 8. Subparagraph 10 of paragraph b of subdivision 2 of section 1193  
39 of the vehicle and traffic law, as added by chapter 173 of the laws of  
40 1990, is amended to read as follows:

41 (10) Action required by commissioner. Where a court fails to impose,  
42 or incorrectly imposes, a suspension or revocation required by this  
43 subdivision, OR AN INTERLOCK RESTRICTION REQUIRED BY SECTION ELEVEN  
44 HUNDRED NINETY-EIGHT OF THIS ARTICLE, the commissioner shall, upon  
45 receipt of a certificate of conviction filed pursuant to section five  
46 hundred fourteen of this chapter OR UPON NOTICE OF AN IGNITION INTERLOCK  
47 REQUIREMENT BEFORE THE SENTENCE DATE AS PART OF A PLEA DISPOSITION,  
48 impose such mandated suspension [or], revocation[, ] OR RESTRICTION which  
49 shall supersede any such order which the court may have imposed.

50 S 9. Section 510 of the vehicle and traffic law is amended by adding a  
51 new subdivision 8-a to read as follows:

52 8-A. PROOF OF COMPLIANCE. A LICENSE OR REGISTRATION MAY BE RESTORED  
53 BY DIRECTION OF THE COMMISSIONER BUT NOT OTHERWISE. WHERE THE SUSPEN-  
54 SION, REVOCATION OR RESTRICTION IS THE RESULT OF A CRIMINAL CONVICTION,  
55 NO LICENSE SHALL BE RESTORED AND NO RESTRICTION SHALL BE REMOVED UNTIL  
56 PROOF OF COMPLIANCE WITH EACH OF THE CONDITIONS OF THE OPERATOR'S

1 SENTENCE HAS BEEN PROVIDED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE  
2 COMMISSIONER.

3 S 10. Paragraph (h) of subdivision 2 of section 503 of the vehicle and  
4 traffic law, as amended by section 1 of part PP of chapter 59 of the  
5 laws of 2009, is amended to read as follows:

6 (h) An applicant whose driver's license has been RESTRICTED PURSUANT  
7 TO (I) PARAGRAPHS (B) AND (C) OF SUBDIVISION ONE OF SECTION ELEVEN  
8 HUNDRED NINETY-THREE OF THIS CHAPTER AND (II) SECTION ELEVEN HUNDRED  
9 NINETY-EIGHT OF THIS CHAPTER OR revoked pursuant to (i) section five  
10 hundred ten of this title, (ii) section eleven hundred ninety-three of  
11 this chapter, [and] (iii) section eleven hundred ninety-four of this  
12 chapter OR, (IV) A FINDING OF DRIVING AFTER HAVING CONSUMED ALCOHOL  
13 PURSUANT TO THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-TWO-A OF  
14 THIS CHAPTER, shall, upon application for issuance of a driver's license  
15 OR REMOVAL OF THE RESTRICTION, pay to the commissioner a fee of one  
16 hundred dollars. [When the basis for the revocation is a finding of  
17 driving after having consumed alcohol pursuant to the provisions of  
18 section eleven hundred ninety-two-a of this chapter, the fee to be paid  
19 to the commissioner shall be one hundred dollars.] Such fee is not  
20 refundable and shall not be returned to the applicant regardless of the  
21 action the commissioner may take on such person's application for rein-  
22 statement of such driving license. Such fee shall be in addition to any  
23 other fees presently levied [but shall not apply to an applicant whose  
24 driver's license was revoked for failure to pass a reexamination or to  
25 an applicant who has been issued a conditional or restricted use license  
26 under the provisions of article twenty-one-A or thirty-one of this chap-  
27 ter].

28 S 11. Subdivision 4-a of section 1192 of the vehicle and traffic law,  
29 as added by chapter 732 of the laws of 2006, is amended to read as  
30 follows:

31 4-a. Driving while ability impaired by the combined influence of drugs  
32 or of alcohol and any drug or drugs. (A) No person shall operate a motor  
33 vehicle while the person's ability to operate such motor vehicle is  
34 impaired by the combined influence of drugs [or].

35 (B) NO PERSON SHALL OPERATE A MOTOR VEHICLE WHILE THE PERSON'S ABILITY  
36 TO OPERATE SUCH MOTOR VEHICLE IS IMPAIRED BY THE COMBINED INFLUENCE of  
37 alcohol and any drug or drugs.

38 S 12. Paragraph (k-1) of subdivision 2 of section 65.10 of the penal  
39 law, as amended by chapter 669 of the laws of 2007, is amended to read  
40 as follows:

41 (k-1) Install and maintain a functioning ignition interlock device, as  
42 that term is defined in section one hundred nineteen-a of the vehicle  
43 and traffic law, in any vehicle owned or operated by the defendant [if  
44 the court in its discretion determines that such a condition is neces-  
45 sary to ensure the public safety. The court may require such condition  
46 only where a person has been convicted of a violation of subdivision  
47 two, two-a or three of section eleven hundred ninety-two of the vehicle  
48 and traffic law, or any crime defined by the vehicle and traffic law or  
49 this chapter of which an alcohol-related violation of any provision of  
50 section eleven hundred ninety-two of the vehicle and traffic law is an  
51 essential element]. The offender shall be required to install and oper-  
52 ate the ignition interlock device [only] in accordance with section  
53 eleven hundred ninety-eight of the vehicle and traffic law.

54 S 13. Paragraph (d) of subdivision 2 of section 1193 of the vehicle  
55 and traffic law, as added by chapter 47 of the laws of 1988 and subpara-

graph 1 as amended by section 34 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(d) Suspension or revocation; sentencing. [(1)] Notwithstanding anything to the contrary contained in a certificate of relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, where a suspension or revocation, other than a revocation required to be issued by the commissioner, is mandatory pursuant to paragraph (a) or (b) of this subdivision, the magistrate, justice or judge shall issue an order suspending or revoking such license upon sentencing, and the license holder shall surrender such license to the court. [Except as hereinafter provided, such suspension or revocation shall take effect immediately.

(2) Except where the license holder has been charged with a violation of article one hundred twenty or one hundred twenty-five of the penal law arising out of the same incident or convicted of such violation or a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding five years, the judge, justice or magistrate may issue an order making said license suspension or revocation take effect twenty days after the date of sentencing. The license holder shall be given a copy of said order permitting the continuation of driving privileges for twenty days after sentencing, if granted by the court. The court shall forward to the commissioner the certificates required in sections five hundred thirteen and five hundred fourteen of this chapter, along with a copy of any order issued pursuant to this paragraph and the license, within ninety-six hours of sentencing.]

S 14. Paragraphs (b) and (d) of subdivision 1 of section 160.10 of the criminal procedure law, paragraph (b) as amended by chapter 762 of the laws of 1971, paragraph (d) as amended by chapter 232 of the laws of 2010, are amended and a new paragraph (e) is added to read as follows:

(b) A misdemeanor defined in the penal law OR THE VEHICLE AND TRAFFIC LAW; or

(d) Loitering for the purpose of engaging in a prostitution offense as defined in subdivision two of section 240.37 of the penal law[.]; OR

(E) AN OFFENSE WHICH WOULD CONSTITUTE A MISDEMEANOR IF SUCH PERSON HAD A PREVIOUS JUDGMENT OR CONVICTION FOR THE SAME OFFENSE.

S 15. Paragraphs (e) and (f) of subdivision 7 of section 1196 of the vehicle and traffic law, paragraph (e) as added by chapter 47 of the laws of 1988 and paragraph (f) as added by chapter 420 of the laws of 1989, are amended and a new paragraph (i) is added to read as follows:

(e) The conditional license or privileges described in this subdivision may be revoked by the commissioner, for sufficient cause including, but not limited to, failure to register in the program, failure to attend or satisfactorily participate in the sessions, conviction of any traffic infraction other than one involving parking, stopping or standing or conviction of any alcohol or drug-related traffic offense, misdemeanor or felony. THE CONDITIONAL LICENSE OR PRIVILEGES DESCRIBED IN THIS SUBDIVISION SHALL BE REVOKED BY THE COMMISSIONER WHEN THERE HAS BEEN A FINDING BY A COURT, FILED WITH THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER, THAT THE ACCUSATORY INSTRUMENT CONFORMS TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE OPERATOR HAS COMMITTED A VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING A LICENSE SUSPENSION OR REVOCATION PERIOD, HAS COMMITTED A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, HAS OPERATED A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN ONE WAS REQUIRED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE, OR HAS

1 VIOLATED ANY CONDITION OF PROBATION OR CONDITIONAL DISCHARGE SET FORTH  
2 BY THE COURT RELATING TO THE OPERATION OF A MOTOR VEHICLE OR THE  
3 CONSUMPTION OF ALCOHOL. THE COURT'S FINDING MUST CONFORM TO THE PROCE-  
4 DURES SET FORTH IN PARAGRAPH (C) OF SUBDIVISION THREE OF SECTION ELEVEN  
5 HUNDRED NINETY-EIGHT OF THIS ARTICLE DENYING A REQUEST FOR A CONDITIONAL  
6 LICENSE. A REVOCATION OF THE CONDITIONAL LICENSE PURSUANT TO THIS  
7 SECTION SHALL REINSTATE THE UNDERLYING ALCOHOL-RELATED SUSPENSION OR  
8 REVOCATION FROM WHICH THE CONDITIONAL LICENSE WAS DERIVED. In addition,  
9 the commissioner shall have the right, after a hearing, to revoke the  
10 conditional license or privilege upon receiving notification or evidence  
11 that the offender is not attempting in good faith to accept rehabili-  
12 tation. In the event of such revocation, the fee described in subdivi-  
13 sion six of this section shall not be refunded.

14 (f) It shall be a traffic infraction for the holder of a conditional  
15 license or privilege to operate a motor vehicle upon a public highway  
16 for any use other than those authorized pursuant to paragraph (a) of  
17 this subdivision, UNLESS THE OPERATION RESULTS IN A CHARGE FOR A  
18 VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING A  
19 LICENSE SUSPENSION OR REVOCATION PERIOD, FOR A VIOLATION OF SECTION  
20 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR FOR OPERATION OF A MOTOR  
21 VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN ONE IS REQUIRED PURSU-  
22 ANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE AND A COURT,  
23 PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION HAS ISSUED A FINDING,  
24 FILED WITH THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER, THAT  
25 THE ACCUSATORY INSTRUMENT CONFORMS TO THE REQUIREMENTS OF SECTION 100.40  
26 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO  
27 BELIEVE THAT THE OPERATOR HAS COMMITTED THE VIOLATION OR VIOLATIONS  
28 CHARGED. WHEN SUCH CHARGES ARE FILED AND SUCH A FINDING BY THE COURT IS  
29 MADE, THE CONDITIONAL LICENSE SHALL BE IMMEDIATELY REVOKED. When a  
30 [person] HOLDER OF A CONDITIONAL LICENSE OR PRIVILEGE is convicted of  
31 [this] THE offense OF OPERATING A MOTOR VEHICLE UPON A PUBLIC HIGHWAY  
32 FOR ANY USE OTHER THAN THOSE AUTHORIZED PURSUANT TO PARAGRAPH (A) OF  
33 THIS SUBDIVISION, the sentence of the court must be a fine of not less  
34 than two hundred dollars nor more than five hundred dollars or a term of  
35 imprisonment of not more than fifteen days or both such fine and impri-  
36 sonment. Additionally, the conditional license or privileges described  
37 in this subdivision shall be revoked by the commissioner upon receiving  
38 notification from the court that the holder thereof has been convicted  
39 of this offense.

40 (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER MAY  
41 GRANT A POST-REVOCATION CONDITIONAL LICENSE TO A PERSON WHO IS OTHERWISE  
42 INELIGIBLE TO RECEIVE A CONDITIONAL LICENSE WHEN THAT PERSON HAS BEEN  
43 CONVICTED OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE OR PARAGRAPH  
44 (B) OF SUBDIVISION FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS  
45 ARTICLE AND WHO HAS BEEN SENTENCED TO A PERIOD OF PROBATION, PROVIDED  
46 THAT PROBATION CONSENTS TO THE ISSUANCE OF A POST-REVOCATION CONDITIONAL  
47 LICENSE AND THE PERSON HAS SATISFIED THE MINIMUM PERIOD OF LICENSE REVO-  
48 CATION ESTABLISHED BY LAW AND THE COMMISSIONER HAS BEEN NOTIFIED THAT  
49 SUCH PERSON MAY OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH A FUNCTIONING  
50 IGNITION INTERLOCK DEVICE. NO SUCH REQUEST SHALL BE MADE NOR SHALL SUCH  
51 A LICENSE BE GRANTED, HOWEVER, IF SUCH PERSON HAS BEEN DEEMED BY A COURT  
52 TO HAVE VIOLATED ANY CONDITION OF PROBATION OR CONDITIONAL DISCHARGE SET  
53 FORTH BY THE COURT RELATING TO THE OPERATION OF A MOTOR VEHICLE OR THE  
54 CONSUMPTION OF ALCOHOL OR IF SUCH PERSON HAS BEEN CHARGED WITH A  
55 VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING A  
56 LICENSE SUSPENSION OR REVOCATION PERIOD, FOR A VIOLATION OF SECTION

ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, HAS OPERATED A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN ONE WAS REQUIRED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE AND A COURT, PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION HAS ISSUED A FINDING, FILED WITH THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER, THAT THE ACCUSATORY INSTRUMENT CONFORMS TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE OPERATOR HAS COMMITTED THE VIOLATION OR VIOLATIONS CHARGED.

S 16. Subdivision 7 and paragraph (e) of subdivision 9 of section 1198 of the vehicle and traffic law, subdivision 7 as amended by chapter 669 of the laws of 2007 and paragraph (e) of subdivision 9 as amended by chapter 496 of the laws of 2009, are amended to read as follows:

7. [Use of other vehicles. (a) Any requirement of this article or the penal law that a person operate a vehicle only if it is equipped with an ignition interlock device shall apply to every motor vehicle operated by that person including, but not limited to, vehicles that are leased, rented or loaned.

(b) No person shall knowingly rent, lease, or lend a motor vehicle to a person known to have had his or her driving privilege restricted to vehicles equipped with an ignition interlock device unless the vehicle is so equipped. Any person whose driving privilege is so restricted shall notify any other person who rents, leases, or loans a motor vehicle to him or her of such driving restriction.

(c) A violation of paragraph (a) or (b) of this subdivision shall be a misdemeanor.]

VIOLATIONS. (A) ANY FAILED TASK INCLUDING FAILING TO INSTALL A DEVICE, FAILURE TO APPEAR FOR A SERVICE VISIT OR FAILURE TO COMPLY WITH SERVICE INSTRUCTIONS, CIRCUMVENTIONS OR TAMPERINGS, IN ACCORDANCE WITH THE OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES (OPCA) REGULATIONS UNDER 9 NYCRR 358 SHALL CONSTITUTE A VIOLATION OF THE CONDITIONS OF A PERSON'S SENTENCE AND MAY ALSO CONSTITUTE A SEPARATE OFFENSE. SUCH VIOLATIONS WILL BE ADJUDICATED BY THE SENTENCING COURT IN ITS DISCRETION.

(B) A FAILED TEST INCLUDING A FAILED START-UP RE-TEST, A MISSED START-UP RE-TEST, A FAILED ROLLING RE-TEST, A MISSED ROLLING RE-TEST, THE DEVICE ENTERING LOCKOUT MODE, AND ANY TEST OR RE-TEST WHERE THE OPERATOR REGISTERS .05 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN SUCH PERSON'S BLOOD SHALL CONSTITUTE A VIOLATION OF THE CONDITIONS OF A PERSON'S SENTENCE IN ACCORDANCE WITH THE OPCA REGULATIONS UNDER 9 NYCRR 358 AND ALSO MAY CONSTITUTE A SEPARATE OFFENSE. SUCH VIOLATIONS WILL BE ADJUDICATED BY THE SENTENCING COURT IN ITS DISCRETION.

(C) A FAILED TRANSDERMAL ALCOHOL MONITORING REPORT SHALL CONSTITUTE A VIOLATION OF THE OFFENDER'S SENTENCE WHERE THE COURT HAS ORDERED THE OFFENDER TO ABSTAIN FROM THE CONSUMPTION OF ALCOHOL OR RESTRICT THE CONSUMPTION OF ALCOHOL TO LEVELS BELOW A CERTAIN BLOOD ALCOHOL LEVEL DESIGNATED BY THE COURT. ABSTINENCE REQUIRED BY A TREATMENT PROVIDER AS A RESULT OF COURT-ORDERED TREATMENT SHALL BE CONSTRUED FOR THE PURPOSES OF THIS SECTION AS COURT-ORDERED ABSTINENCE. AT THE CONCLUSION OF THE COURT-ORDERED TRANSDERMAL ALCOHOL MONITORING PERIOD, THE TRANSDERMAL ALCOHOL REPORT OR A SUMMARY OF ITS CONTENTS SHALL BE FORWARDED TO THE DEPARTMENT BY THE MONITOR IN A FORM PRESCRIBED BY THE COMMISSIONER.

(e) NO PERSON SHALL KNOWINGLY RENT, LEASE, OR LEND A MOTOR VEHICLE TO A PERSON KNOWN TO HAVE HAD HIS OR HER DRIVING PRIVILEGE RESTRICTED TO VEHICLES EQUIPPED WITH AN IGNITION INTERLOCK DEVICE UNLESS THE VEHICLE IS SO EQUIPPED. ANY PERSON WHOSE DRIVING PRIVILEGE IS SO RESTRICTED

1 SHALL NOTIFY ANY OTHER PERSON WHO RENTS, LEASES, OR LOANS A MOTOR VEHI-  
2 CLE TO HIM OR HER OF SUCH DRIVING RESTRICTION.

3 (F) In addition to any other provisions of law, any person convicted  
4 of a violation of paragraph (a), (b), (c), [or] (d), OR (E) of this  
5 subdivision shall be guilty of a Class A misdemeanor.

6 S 17. Subparagraph (i) of paragraph (a) of subdivision 3 of section  
7 511 of the vehicle and traffic law, as amended by chapter 732 of the  
8 laws of 2006, is amended to read as follows:

9 (i) commits the offense of aggravated unlicensed operation of a motor  
10 vehicle in the second degree as provided in subparagraph (ii), (iii) or  
11 (iv) of paragraph (a) of subdivision two of this section OR HAS A CONDI-  
12 TIONAL LICENSE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION  
13 ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER and is operating a motor vehi-  
14 cle while under the influence of alcohol or a drug in violation of  
15 subdivision one, two, two-a, three, four, four-a or five of section  
16 eleven hundred ninety-two of this chapter; or

17 S 18. This act shall take effect on the ninetieth day after it shall  
18 have become a law; provided, however, that the amendments to subdivi-  
19 sions 1, 2, 3 and 4 and paragraph (a) of subdivision 5 of section 1198  
20 of the vehicle and traffic law made by section three of this act, the  
21 amendments to subdivision 8 of section 1198 of the vehicle and traffic  
22 law made by section four of this act and the amendments to subdivision 7  
23 and paragraph (e) of subdivision 9 of section 1198 of the vehicle and  
24 traffic law made by section sixteen of this act shall not affect the  
25 repeal of such section and shall be deemed repealed therewith.