

3641

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 27, 2015

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Introduced by M. of A. McKEVITT, GRAF, KOLB -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to increasing fines and license revocation periods for repeat alcohol and drug related offenses

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

1     Section 1. Subparagraph (i) of paragraph (c) of subdivision 1 of  
2     section 1193 of the vehicle and traffic law, as amended by chapter 169  
3     of the laws of 2013, is amended to read as follows:  
4     (i) A person who operates a vehicle (A) in violation of subdivision  
5     two, two-a, three, four or four-a of section eleven hundred ninety-two  
6     of this article after having been convicted of a violation of subdivi-  
7     sion two, two-a, three, four or four-a of such section or of vehicular  
8     assault in the second or first degree, as defined, respectively, in  
9     sections 120.03 and 120.04 and aggravated vehicular assault as defined  
10    in section 120.04-a of the penal law or of vehicular manslaughter in the  
11    second or first degree, as defined, respectively, in sections 125.12 and  
12    125.13 and aggravated vehicular homicide as defined in section 125.14 of  
13    such law, within the preceding ten years, or (B) in violation of para-  
14    graph (b) of subdivision two-a of section eleven hundred ninety-two of  
15    this article shall be guilty of a class E felony, and shall be punished  
16    by a fine of not less than [one thousand] TWO THOUSAND FIVE HUNDRED  
17    dollars nor more than five thousand dollars or by a period of imprison-  
18    ment as provided in the penal law, or by both such fine and imprison-  
19    ment.  
20    S 2. Subparagraph 3 of paragraph (b) of subdivision 2 of section 1193  
21    of the vehicle and traffic law, as amended by chapter 732 of the laws of  
22    2006, is amended to read as follows:  
23    (3) Driving while intoxicated or while ability impaired by drugs or  
24    while ability impaired by the combined influence of drugs or of alcohol

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

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1 and any drug or drugs; aggravated driving while intoxicated; prior  
2 offense. [One year] TWO YEARS, where the holder is convicted of a  
3 violation of subdivision two, three, four or four-a of section eleven  
4 hundred ninety-two of this article committed within ten years of a  
5 conviction for a violation of subdivision two, three, four or four-a of  
6 section eleven hundred ninety-two of this article. [Eighteen months,  
7 where the holder is convicted of a violation of subdivision two-a of  
8 section eleven hundred ninety-two of this article committed within ten  
9 years of a conviction for a violation of subdivision two, two-a, three,  
10 four or four-a of section eleven hundred ninety-two of this article; or  
11 where] WHERE the holder is convicted of a violation of subdivision two,  
12 TWO-A, three, four or four-a of section eleven hundred ninety-two of  
13 this article [committed] AFTER HAVING BEEN CONVICTED TWO OR MORE TIMES  
14 OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A OF  
15 SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE within THE PRECEDING  
16 ten years [of a conviction for a violation of subdivision two-a of  
17 section eleven hundred ninety-two of this article], SUCH HOLDER SHALL BE  
18 PERMANENTLY DISQUALIFIED FROM OPERATING A MOTOR VEHICLE.

19 S 3. Subparagraph 3 of paragraph (e) of subdivision 2 of section 1193  
20 of the vehicle and traffic law, as amended by chapter 173 of the laws of  
21 1990, item (iii) of clause a as amended by section 35 and item (iii) of  
22 clause b as amended by section 36 of part LL of chapter 56 of the laws  
23 of 2010 and clause b as amended by section 17 of part E of chapter 60 of  
24 the laws of 2005, is amended to read as follows:

25 (3) Permanent disqualification from operating certain motor vehicles.  
26 a. ANY PERSON SENTENCED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (C)  
27 OF SUBDIVISION ONE OF THIS SECTION SHALL BE PERMANENTLY DISQUALIFIED  
28 FROM OPERATING A MOTOR VEHICLE. IN ADDITION, THE COMMISSIONER SHALL NOT  
29 ISSUE SUCH PERSON A LICENSE VALID FOR THE OPERATION OF ANY VEHICLE.  
30 HOWEVER, THE COMMISSIONER MAY WAIVE SUCH DISQUALIFICATION AND PROHIBI-  
31 TION HEREINBEFORE PROVIDED AFTER A PERIOD OF TEN YEARS HAS EXPIRED FROM  
32 SUCH SENTENCE AND MAY ISSUE A PERMANENTLY PROBATIONARY LICENSE PROVIDED:

33 (I) THAT DURING SUCH TEN YEAR PERIOD SUCH PERSON HAS NOT VIOLATED ANY  
34 OF THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE  
35 OR ANY ALCOHOL OR DRUG RELATED TRAFFIC OFFENSE IN THIS STATE OR IN ANY  
36 JURISDICTION OUTSIDE THIS STATE;

37 (II) THAT SUCH PERSON PROVIDES ACCEPTABLE DOCUMENTATION TO THE COMMIS-  
38 SIONER THAT SUCH PERSON IS NOT IN NEED OF ALCOHOL OR DRUG TREATMENT OR  
39 HAS SATISFACTORILY COMPLETED A PRESCRIBED COURSE OF SUCH TREATMENT; AND

40 (III) AFTER SUCH DOCUMENTATION IS ACCEPTED, THAT SUCH PERSON IS GRANT-  
41 ED A CERTIFICATE OF RELIEF FROM DISABILITIES AS PROVIDED FOR IN SECTION  
42 SEVEN HUNDRED ONE OF THE CORRECTION LAW BY THE COURT IN WHICH SUCH  
43 PERSON WAS LAST PENALIZED PURSUANT TO PARAGRAPH (D) OF SUBDIVISION ONE  
44 OF THIS SECTION.

45 B. Except as otherwise provided herein, in addition to any revocation  
46 set forth in subparagraph four or five of paragraph (b) of this subdivi-  
47 sion, any person sentenced pursuant to subparagraph three of paragraph  
48 (d) of subdivision one of this section shall be permanently disqualified  
49 from operating any vehicle set forth in such paragraph. In addition, the  
50 commissioner shall not issue such person a license valid for the opera-  
51 tion of any vehicle set forth therein by such person. The commissioner  
52 may waive such disqualification and prohibition hereinbefore provided  
53 after a period of five years has expired from such sentencing provided:

54 (i) that during such five year period such person has not violated any  
55 of the provisions of section eleven hundred ninety-two of this article

1 or any alcohol or drug related traffic offense in this state or in any  
2 jurisdiction outside this state;

3 (ii) that such person provides acceptable documentation to the commis-  
4 sioner that such person is not in need of alcohol or drug treatment or  
5 has satisfactorily completed a prescribed course of such treatment; and

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

9 [b] C. Any person who holds a commercial driver's license and is  
10 convicted of a violation of any subdivision of section eleven hundred  
11 ninety-two of this article who has had a prior finding of refusal to  
12 submit to a chemical test pursuant to section eleven hundred ninety-four  
13 of this article or has had a prior conviction of any of the following  
14 offenses: any violation of section eleven hundred ninety-two of this  
15 article; any violation of subdivision one or two of section six hundred  
16 of this chapter; or has a prior conviction of any felony involving the  
17 use of a motor vehicle pursuant to paragraph (a) of subdivision one of  
18 section five hundred ten-a of this chapter, shall be permanently  
19 disqualified from operating a commercial motor vehicle. The commissioner  
20 may waive such disqualification and prohibition hereinbefore provided  
21 after a period of ten years has expired from such sentence provided:

22 (i) that during such ten year period such person has not been found to  
23 have refused a chemical test pursuant to section eleven hundred ninety-  
24 four of this article while operating a motor vehicle and has not been  
25 convicted of any one of the following offenses while operating a motor  
26 vehicle: any violation of section eleven hundred ninety-two of this  
27 article; any violation of subdivision one or two of section six hundred  
28 of this chapter; or has a prior conviction of any felony involving the  
29 use of a motor vehicle pursuant to paragraph (a) of subdivision one of  
30 section five hundred ten-a of this chapter;

31 (ii) that such person provides acceptable documentation to the commis-  
32 sioner that such person is not in need of alcohol or drug treatment or  
33 has satisfactorily completed a prescribed course of such treatment; and

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

37 [c] D. Upon a third finding of refusal and/or conviction of any of  
38 the offenses which require a permanent commercial driver's license revo-  
39 cation, such permanent revocation may not be waived by the commissioner  
40 under any circumstances.

41 S 4. This act shall take effect on the first of November next succeed-  
42 ing the date on which it shall have become a law.