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I N   A S S E M B L Y

April 27, 2016
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Introduced by M. of A. CUSICK -- read once and referred to the Committee
  on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the defi-
  nitions of the terms "impaired" and "intoxication" for the purposes of
  such law

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

 1   Section 1. Section 119-b of the vehicle and traffic law is renumbered
 2 section 119-c and a new section 119-b is added to read as follows:
 3   S 119-B. IMPAIRED. IMPAIRMENT IS REACHED WHEN A DRIVER HAS VOLUNTARILY
 4 CONSUMED OR INGESTED A SUBSTANCE OR COMBINATION OF SUBSTANCES TO THE
 5 EXTENT THAT THE DRIVER HAS IMPAIRED, TO ANY EXTENT, THE PHYSICAL AND
 6 MENTAL ABILITIES WHICH A DRIVER IS EXPECTED TO POSSESS IN ORDER TO OPER-
 7 ATE A VEHICLE AS A REASONABLE AND PRUDENT DRIVER.
 8   S 2. The vehicle and traffic law is amended by adding a new section
 9 120-a to read as follows:
10   S 120-A. INTOXICATION. INTOXICATION IS A GREATER DEGREE OF IMPAIRMENT
11 WHICH IS REACHED WHEN A DRIVER HAS VOLUNTARILY CONSUMED OR INGESTED A
12 SUBSTANCE OR COMBINATION OF SUBSTANCES TO THE EXTENT THAT THE DRIVER IS
13 INCAPABLE OF EMPLOYING THE PHYSICAL AND MENTAL ABILITIES WHICH A DRIVER
14 IS EXPECTED TO POSSESS IN ORDER TO OPERATE A VEHICLE AS A REASONABLE AND
15 PRUDENT DRIVER.
16   S 3. Section 1192 of the vehicle and traffic law is amended by adding
17 a new subdivision 13 to read as follows:
18   13. IT SHALL BE AN AFFIRMATIVE DEFENSE TO A CHARGE UNDER ANY SUBDIVI-
19 SION OF THIS SECTION THAT THE OPERATOR SUFFERED AN ALLERGIC REACTION OR
20 MEDICAL EMERGENCY RATHER THAN BEING IMPAIRED BY THE SUBSTANCE OR COMBI-
21 NATION OF SUBSTANCES.   PROVIDED, HOWEVER, THAT NO DEFENSE SHALL BE
22 AVAILABLE IF ANY SUCH CONSUMED OR INGESTED SUBSTANCE IS CONTAINED IN
23 SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW.
24   S 4. This act shall take effect on the first of November next succeed-
25 ing the date on which it shall have become a law.

     EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
                     [ ] is old law to be omitted.
                                                        LBD02096-01-5