

1597

2015-2016 Regular Sessions

I N A S S E M B L Y

January 12, 2015

Introduced by M. of A. MAGNARELLI, JAFFEE, SCHIMMINGER, ROBERTS, LAVINE, ZEBROWSKI, GUNTHER, ROSENTHAL, GALEF, SCHIMEL, HOOPER -- Multi-Sponsored by -- M. of A. GOTTFRIED -- read once and referred to the Committee on Transportation

AN ACT to amend the navigation law, in relation to the effect of prior conviction for operation of certain vehicles while intoxicated upon imposition of penalties for boating while intoxicated

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 "Tiffany Heitkamp's law".  
3 S 2. Paragraphs (a) and (f) of subdivision 2 of section 49-a of the  
4 navigation law, as amended by chapter 151 of the laws of 2006, are  
5 amended to read as follows:  
6 (a) No person shall operate a vessel upon the waters of the state  
7 while his ability to operate such vessel is impaired by the consumption  
8 of alcohol. A violation of this subdivision shall be an offense and  
9 shall be punishable by a fine of not less than three hundred dollars nor  
10 more than five hundred dollars, or by imprisonment in a penitentiary or  
11 county jail for not more than fifteen days, or by both such fine and  
12 imprisonment. A person who operates a vessel in violation of this subdivi-  
13 sion after being convicted of a violation of any subdivision of this  
14 section OR OF ANY SUBDIVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF  
15 THE VEHICLE AND TRAFFIC LAW within the preceding five years shall be  
16 punished by a fine of not less than five hundred dollars nor more than  
17 seven hundred fifty dollars, or by imprisonment of not more than thirty  
18 days in a penitentiary or county jail or by both such fine and imprison-  
19 ment. A person who operates a vessel in violation of this subdivision  
20 after being convicted two or more times of a violation of any subdivi-  
21 sion of this section, OR OF A VIOLATION OF ANY SUBDIVISION OF SECTION  
22 ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW, OR OF ANY

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

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1 COMBINATION OF TWO OR MORE SUCH CONVICTIONS NOT ARISING OUT OF THE SAME  
2 INCIDENT within the preceding ten years shall be guilty of a misdemea-  
3 nor, and shall be punished by a fine of not less than seven hundred  
4 fifty dollars nor more than fifteen hundred dollars, or by imprisonment  
5 of not more than one hundred eighty days in a penitentiary or county  
6 jail or by both such fine and imprisonment.

7 (f) A violation of paragraph (b), (c), (d) or (e) of this subdivision  
8 shall be a misdemeanor and shall be punishable by imprisonment in a  
9 penitentiary or county jail for not more than one year, or by a fine of  
10 not less than five hundred dollars nor more than one thousand dollars,  
11 or by both such fine and imprisonment. A person who operates a vessel in  
12 violation of paragraph (b), (c), (d) or (e) of this subdivision after  
13 having been convicted of a violation of paragraph (b), (c), (d) or (e)  
14 of this subdivision, or of operating a vessel or public vessel while  
15 intoxicated or while under the influence of drugs, OR OF SUBDIVISION  
16 TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO  
17 OF THE VEHICLE AND TRAFFIC LAW within the preceding ten years, shall be  
18 guilty of a class E felony and shall be punished by a period of impri-  
19 sonment as provided in the penal law, or by a fine of not less than one  
20 thousand dollars nor more than five thousand dollars, or by both such  
21 fine and imprisonment. A person who operates a vessel in violation of  
22 paragraph (b), (c), (d) or (e) of this subdivision after having been  
23 twice convicted of a violation of any of such paragraph (b), (c), (d) or  
24 (e) of this subdivision or of operating a vessel or public vessel while  
25 intoxicated or under the influence of drugs, OR OF A VIOLATION OF SUBDI-  
26 VISION TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINE-  
27 TY-TWO OF THE VEHICLE AND TRAFFIC LAW, OR OF ANY COMBINATION OF TWO SUCH  
28 CONVICTIONS NOT ARISING OUT OF THE SAME INCIDENT within the preceding  
29 ten years, shall be guilty of a class D felony and shall be punished by  
30 a fine of not less than two thousand dollars nor more than ten thousand  
31 dollars or by a period of imprisonment as provided in the penal law, or  
32 by both such fine and imprisonment.

33 S 3. Subparagraph 3 of paragraph (a) of subdivision 3 of section 49-a  
34 of the navigation law, as added by chapter 805 of the laws of 1992, is  
35 amended to read as follows:

36 (3) a period of twenty-four months where a person is convicted of a  
37 violation of paragraph (b), (c), (d) or (e) of subdivision two of this  
38 section after having been convicted of a violation of paragraph (b),  
39 (c), (d) or (e) of subdivision two of this section or of operating a  
40 vessel or public vessel while intoxicated or under the influence of  
41 drugs OR OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A  
42 OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW  
43 within the preceding ten years.

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