

STATE OF NEW YORK

7463--A

2019-2020 Regular Sessions

IN ASSEMBLY

May 6, 2019

Introduced by M. of A. HUNTER, SAYEGH, RAYNOR, D'URSO, CRUZ, TAYLOR, WALCZYK, GOTTFRIED, SIMON, EPSTEIN, NIOU, JEAN-PIERRE, BLAKE, BARRON, JAFFEE, CROUCH, SEAWRIGHT, GLICK, FRONTUS, WEPRIN, BRONSON, MAGNARELLI, ZEBROWSKI, STECK -- Multi-Sponsored by -- M. of A. COOK, DE LA ROSA -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to the suspension of a license to drive a motor vehicle or motorcycle

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 226 of the vehicle and traffic law, as amended by chapter 607 of the laws of 1993, paragraph (a) as amended by section 6 of part J of chapter 62 of the laws of 2003 and paragraph (b) as amended by section 2 of part K of chapter 59 of the laws of 2010, is amended to read as follows:

3. Failure to answer or appear; entry of order. (a) If the person charged with the violation shall fail to answer the summons as provided herein involving a violation of section three hundred eighty-five of this chapter, the commissioner may suspend such person's license or driving privilege or, if the charge involves a violation of section three hundred eighty-five~~[, section four hundred one or section five hundred eleven-a]~~ of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or the privilege of operation of any motor vehicle owned by such registrant may be suspended, until such person shall answer as provided in subdivision two of this section. If a person shall fail to appear at a hearing involving a violation of section three hundred eighty-five of this chapter, when such is provided for pursuant to this section, such person's license, or registration or privilege of operating or of operation, as appropriate, may be suspended pending appearance at a subsequent hearing, or the

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

LBD11167-07-9

1 disposition of the charges involved. Any suspension permitted by this
2 subdivision, if already in effect, may be terminated or if not yet in
3 effect, may be withdrawn or withheld, prior to the disposition of the
4 charges involved if such person shall appear and post security in the
5 amount of forty dollars to guarantee his or her appearance at any
6 required hearing. The security posted pursuant to this subdivision shall
7 be returned upon appearance at the scheduled hearing or an adjourned
8 hearing which results in a final disposition of the charge, and other-
9 wise shall be forfeited. If a suspension has been imposed pursuant to
10 this subdivision and the case is subsequently transferred pursuant to
11 subdivision two of section two hundred twenty-five of this article, such
12 suspension shall remain in effect until the person answers the charges
13 in the court to which the case was transferred. Any suspension issued
14 pursuant to this paragraph shall be subject to the provisions of para-
15 graph (j-1) of subdivision two of section five hundred three of this
16 chapter.

17 (b) Failure to answer or appear in accordance with the requirements of
18 this section and any regulations promulgated hereunder shall be deemed
19 an admission to the violation as charged, and an appropriate order may
20 be entered in the department's records, and a fine consistent with the
21 provisions of this chapter and regulations of the commissioner may be
22 imposed by the commissioner or person designated by the commissioner.
23 Prior to entry of an order and imposition of a fine, the commissioner
24 shall notify such person by mail at the address of such person on file
25 with the department or at the current address provided by the United
26 States postal service in accordance with section two hundred fourteen of
27 this ~~chapter~~ **title**: (i) of the violation charged; (ii) of the impend-
28 ing entry of such order and fine; (iii) that such order and fine may be
29 filed as a judgment with the county clerk of the county in which the
30 operator or registrant is located; and (iv) that entry of such order and
31 imposition of such fine may be avoided by entering a plea or making an
32 appearance within thirty days of the sending of such notice. In no case
33 shall such an order and fine be entered and imposed more than two years
34 after the date of the alleged violation. Upon application in such manner
35 and form as the commissioner shall prescribe an order and fine shall be
36 vacated upon the ground of excusable default.

37 § 2. The vehicle and traffic law is amended by adding a new section
38 226-a to read as follows:

39 § 226-a. Return date notifications. Subject to appropriation, the
40 commissioner shall notify any person who receives a summons or appear-
41 ance ticket for a violation described in subdivision one of section two
42 hundred twenty-five of this article of the time and place of the return
43 date for such summons no later than one week prior to the return date.
44 The commissioner shall (a) send the notification by first class mail at
45 the address of such person on file with the department or at the current
46 address provided by the United States Postal Service in accordance with
47 section two hundred fourteen of this title; and (b) in collaboration
48 with state and local law enforcement agencies, make best efforts to
49 provide an additional notification by text message, electronic mail or
50 phone call using the best available phone number or electronic mail
51 address for the intended person.

52 § 3. The vehicle and traffic law is amended by adding a new section
53 229 to read as follows:

54 § 229. Reasonable payment plans. 1. The court or hearing officer shall
55 offer the opportunity for a reasonable payment plan at no charge to the
56 person. A reasonable payment plan shall comprehend all fines, fees and

1 mandatory surcharges and shall consist of monthly payments that do not
2 exceed two percent of the person's monthly net income or ten dollars per
3 month, whichever is greater. Monthly net income means total monetary
4 payments from any source, minus deductions required by law, including
5 but not limited to administrative or court-ordered garnishments and
6 support payments. The court or traffic violations agency may accept
7 payments higher than the set amount, but may not undertake additional
8 collection activity so long as the person meets his or her obligations
9 under the payment plan. The court or hearing officer may require people
10 with payment plans to appear periodically, but no more often than annu-
11 ally, to assess their financial circumstances and may set a new payment
12 amount if the person's financial circumstances have changed. A person
13 who enters into a payment plan and experiences a reduction in income may
14 petition the court or hearing officer at any time to seek a reduction in
15 the monthly payment.

16 2. The court or hearing officer shall have the discretion in the
17 interests of justice to reduce or waive the amount of any fine, fee or
18 mandatory surcharge assessed for a violation of any of the provisions of
19 this chapter.

20 3. A person assessed a fine, fee and/or mandatory surcharge for a
21 violation of any of the provisions of this chapter shall be notified of
22 their right to a reasonable payment plan (a) at the time the citation or
23 ticket is issued; (b) at the time of sentencing; and (c) in any communi-
24 cation concerning imposition or collection of the fine, fee or mandatory
25 surcharge. Information about the availability of payment plans shall be
26 prominently posted at each court and traffic violations agency, on its
27 website, if any, and on the commissioner's website.

28 § 4. Paragraph a of subdivision 4 of section 227 of the vehicle and
29 traffic law, as amended by section 7 of part J of chapter 62 of the laws
30 of 2003, is amended to read as follows:

31 a. An order entered upon the failure to answer or appear or after the
32 receipt of an answer admitting the charge or where a determination is
33 made that the charge has been established shall be civil in nature, but
34 shall be treated as a conviction for the purposes of this chapter. The
35 commissioner or his designee may include in such order an imposition of
36 any penalty authorized by any provision of this chapter for a conviction
37 of such violation, except that no penalty therefore shall include impri-
38 sonment, nor, if monetary, exceed the amount of the fine which could
39 have been imposed had the charge been heard by a court. ~~[The]~~ If the
40 charge involves a violation of section three hundred eighty-five of this
41 chapter, the driver's license or privileges may be suspended pending the
42 payment of any penalty so imposed, or, if the charge involves a
43 violation of section three hundred eighty-five ~~[or section four hundred~~
44 ~~one]~~ of this chapter by a registrant who was not the operator of the
45 vehicle, the registration of such vehicle or privilege of operation of
46 any motor vehicle owned by such registrant may be suspended pending the
47 payment of any penalty so imposed. Any suspension issued pursuant to
48 this paragraph shall be subject to the provisions of paragraph (j-1) of
49 subdivision two of section five hundred three of this chapter.

50 § 5. Subdivision 4-a of section 510 of the vehicle and traffic law, as
51 added by section 10 of part J of chapter 62 of the laws of 2003 and
52 paragraph (c) as amended by chapter 157 of the laws of 2017, is amended
53 to read as follows:

54 4-a. Suspension for failure to answer an appearance ticket or to pay a
55 fine. (a) Upon receipt of a court notification of the failure of a
56 person to appear within sixty days of the return date or new subsequent

1 adjourned date, pursuant to an appearance ticket charging said person
2 with a violation of any [~~of the provisions of this chapter (except one~~
3 ~~for parking, stopping, or standing), of any~~] violation of the tax law or
4 of the transportation law regulating traffic [~~or of any lawful ordinance~~
5 ~~or regulation made by a local or public authority, relating to traffic~~
6 ~~(except one for parking, stopping, or standing) or the failure to pay a~~
7 ~~fine imposed by a court]~~ the commissioner or his or her agent may
8 suspend the driver's license or privileges of such person pending
9 receipt of notice from the court that such person has appeared in
10 response to such appearance ticket or has paid such fine. Such suspen-
11 sion shall take effect no less than thirty days from the day upon which
12 notice thereof is sent by the commissioner to the person whose driver's
13 license or privileges are to be suspended. Any suspension issued pursu-
14 ant to this paragraph shall be subject to the provisions of paragraph
15 (j-1) of subdivision two of section five hundred three of this chapter.

16 (b) The provisions of paragraph (a) of this subdivision shall not
17 apply to a registrant who was not operating a vehicle, but who was
18 issued a summons or an appearance ticket for a violation of section
19 three hundred eighty-five, section four hundred one or section five
20 hundred eleven-a of this chapter. Upon the receipt of a court notifica-
21 tion of the failure of such person to appear within sixty days of the
22 return date or a new subsequent adjourned date, pursuant to an appear-
23 ance ticket charging said person with such violation, or the failure of
24 such person to pay a fine imposed by a court, the commissioner or his or
25 her agent may suspend the registration of the vehicle or vehicles
26 involved in such violation or privilege of operation of any motor vehi-
27 cle owned by the registrant pending receipt of notice from the court
28 that such person has appeared in response to such appearance ticket or
29 has paid such fine. Such suspension shall take effect no less than
30 thirty days from the day upon which notice thereof is sent by the
31 commissioner to the person whose registration or privilege is to be
32 suspended. Any suspension issued pursuant to this paragraph shall be
33 subject to the provisions of paragraph (j-1) of subdivision two of
34 section five hundred three of this chapter.

35 (c) Upon receipt of notification from a traffic and parking violations
36 agency or a traffic violations agency of the failure of a person to
37 appear within sixty days of the return date or new subsequent adjourned
38 date, pursuant to an appearance ticket charging said person with a
39 violation of:

40 (i) [~~any of the provisions of this chapter except one for parking,~~
41 ~~stopping or standing and except those violations described in paragraphs~~
42 ~~(a), (b), (d), (e) and (f) of subdivision two and in paragraphs (a),~~
43 ~~(b), (d), (e), (f) and (g) of subdivision two-a and in paragraphs (a),~~
44 ~~(b), (d), (e), (f) and (g) of subdivision two-b of section three hundred~~
45 ~~seventy-one of the general municipal law,~~

46 ~~(ii)]~~ section five hundred two or subdivision (a) of section eighteen
47 hundred fifteen of the tax law; or

48 [~~(iii)]~~ (ii) section fourteen-f (except paragraph (b) of subdivision
49 four of section fourteen-f), two hundred eleven or two hundred twelve of
50 the transportation law[~~, or~~

51 ~~(iv) any lawful ordinance or regulation made by a local or public~~
52 ~~authority relating to traffic (except one for parking, stopping or~~
53 ~~standing) or the failure to pay a fine imposed for such a violation by a~~
54 ~~traffic and parking violations agency or a traffic violations agency],~~
55 the commissioner or his or her agent may suspend the driver's license or
56 privileges of such person pending receipt of notice from the agency that

1 such person has appeared in response to such appearance ticket or has
2 paid such fine. Such suspension shall take effect no less than thirty
3 days from the day upon which notice thereof is sent by the commissioner
4 to the person whose driver's license or privileges are to be suspended.
5 Any suspension issued pursuant to this paragraph shall be subject to the
6 provisions of paragraph (j-1) of subdivision two of section five hundred
7 three of this chapter.

8 § 6. Paragraph (a) of subdivision 2 of section 511 of the vehicle and
9 traffic law, as amended by chapter 607 of the laws of 1993 and subpara-
10 graph (ii) as amended by chapter 196 of the laws of 1996, is amended to
11 read as follows:

12 (a) A person is guilty of the offense of aggravated unlicensed opera-
13 tion of a motor vehicle in the second degree when such person commits
14 the offense of aggravated unlicensed operation of a motor vehicle in the
15 third degree as defined in subdivision one of this section; and

16 (i) has previously been convicted of an offense that consists of or
17 includes the elements comprising the offense committed within the imme-
18 diately preceding eighteen months; or

19 (ii) the suspension or revocation is based upon a refusal to submit to
20 a chemical test pursuant to section eleven hundred ninety-four of this
21 chapter, a finding of driving after having consumed alcohol in violation
22 of section eleven hundred ninety-two-a of this chapter or upon a
23 conviction for a violation of any of the provisions of section eleven
24 hundred ninety-two of this chapter; or

25 (iii) the suspension was a mandatory suspension pending prosecution of
26 a charge of a violation of section eleven hundred ninety-two of this
27 chapter ordered pursuant to paragraph (e) of subdivision two of section
28 eleven hundred ninety-three of this chapter or other similar statute[+
29 ex

30 ~~(iv) such person has in effect three or more suspensions, imposed on~~
31 ~~at least three separate dates, for failure to answer, appear or pay a~~
32 ~~fine, pursuant to subdivision three of section two hundred twenty-six or~~
33 ~~subdivision four-a of section five hundred ten of this chapter].~~

34 § 7. Paragraph (a) of subdivision 3 of section 511 of the vehicle and
35 traffic law, as amended by chapter 732 of the laws of 2006 and subpara-
36 graph (iii) as amended and subparagraph (iv) as added by chapter 169 of
37 the laws of 2013, is amended to read as follows:

38 (a) A person is guilty of the offense of aggravated unlicensed opera-
39 tion of a motor vehicle in the first degree when such person: (i)
40 commits the offense of aggravated unlicensed operation of a motor vehi-
41 cle in the second degree as provided in subparagraph (ii), (iii) or (iv)
42 of paragraph (a) of subdivision two of this section and is operating a
43 motor vehicle while under the influence of alcohol or a drug in
44 violation of subdivision one, two, two-a, three, four, four-a or five of
45 section eleven hundred ninety-two of this chapter; or

46 (ii) ~~[commits the offense of aggravated unlicensed operation of a~~
47 ~~motor vehicle in the third degree as defined in subdivision one of this~~
48 ~~section; and is operating a motor vehicle while such person has in~~
49 ~~effect ten or more suspensions, imposed on at least ten separate dates~~
50 ~~for failure to answer, appear or pay a fine, pursuant to subdivision~~
51 ~~three of section two hundred twenty-six of this chapter or subdivision~~
52 ~~four-a of section five hundred ten of this article; or~~

53 ~~(iii)]~~ commits the offense of aggravated unlicensed operation of a
54 motor vehicle in the third degree as defined in subdivision one of this
55 section; and is operating a motor vehicle while under permanent revoca-

tion as set forth in subparagraph twelve of paragraph (b) of subdivision two of section eleven hundred ninety-three of this chapter; or

~~[(iv)]~~ (iii) operates a motor vehicle upon a public highway while holding a conditional license issued pursuant to paragraph (a) of subdivision seven of section eleven hundred ninety-six of this chapter while under the influence of alcohol or a drug in violation of subdivision one, two, two-a, three, four, four-a or five of section eleven hundred ninety-two of this chapter.

§ 8. Subdivision 3 of section 514 of the vehicle and traffic law, as amended by section 11 of part J of chapter 62 of the laws of 2003 and paragraph (b) as amended by chapter 157 of the laws of 2017, is amended to read as follows:

3. (a) Upon the failure of a person to appear or answer, within sixty days of the return date or any subsequent adjourned date, or the failure to pay a fine imposed by a court, pursuant to a summons charging him or her with a violation of any of the provisions of this chapter (except one for parking, stopping or standing), section five hundred two or five hundred twelve of the tax law, section fourteen-f, two hundred eleven or two hundred twelve of the transportation law or of any law, ordinance, rule or regulation made by a local authority, relating to traffic (except for parking, stopping or standing), the trial court or the clerk thereof shall within ten days certify that fact to the commissioner, in the manner and form prescribed by the commissioner, who shall record the same in his or her office. Thereafter and upon the appearance of any such person in response to such summons or the receipt of the fine by the court, the trial court or the clerk thereof shall forthwith certify that fact to the commissioner, in the manner and form prescribed by the commissioner~~[, provided, however, no such certification shall be made unless the court has collected the termination of suspension fee required to be paid pursuant to paragraph (j-1) of subdivision two of section five hundred three of this chapter]~~.

(b) Upon the failure of a person to appear or answer, within sixty days of the return date or any subsequent adjourned date, or the failure to pay a fine imposed by a traffic and parking violations agency or a traffic violations agency pursuant to a summons charging him or her with a violation of:

(1) any of the provisions of this chapter except one for parking, stopping or standing and except those violations described in paragraphs (a), (b), (d), (e) and (f) of subdivision two and in paragraphs (a), (b), (d), (e), (f) and (g) of subdivision two-a and in paragraphs (a), (b), (d), (e), (f) and (g) of subdivision two-b of section three hundred seventy-one of the general municipal law;

(2) section five hundred two or subdivision (a) of section eighteen hundred fifteen of the tax law;

(3) section fourteen-f (except paragraph (b) of subdivision four of section fourteen-f), two hundred eleven or two hundred twelve of the transportation law; or

(4) any lawful ordinance or regulation made by a local or public authority relating to traffic (except one for parking, stopping or standing);

the clerk thereof shall within ten days certify that fact to the commissioner, in the manner and form prescribed by the commissioner, who shall record the same in his or her office. Thereafter and upon the appearance of any such person in response to such summons or the receipt of the fine by the agency, the traffic and parking violations agency, the traffic violations agency or the clerk thereof shall forthwith certify that

1 fact to the commissioner, in the manner and form prescribed by the
2 commissioner[~~, provided, however, no such certification shall be made~~
3 ~~unless the traffic and parking violations agency or the traffic~~
4 ~~violations agency has collected the termination of suspension fee~~
5 ~~required to be paid pursuant to paragraph (j-1) of subdivision two of~~
6 ~~section five hundred three of this chapter~~].

7 § 9. The vehicle and traffic law is amended by adding a new section
8 519 to read as follows:

9 § 519. Termination of suspensions for failure to answer or failure to
10 pay. Within three months of the effective date of this section, the
11 commissioner shall terminate all suspensions of licenses, privileges to
12 operate a motor vehicle and registrations based upon a failure to answer
13 an appearance ticket or summons or failure to pay a fine, penalty or
14 mandatory surcharge pursuant to subdivision three of section two hundred
15 twenty-six, subdivision four of section two hundred twenty-seven, or
16 subdivision four-a of section five hundred ten of this chapter, then in
17 effect, exclusive of fines, penalties or surcharges for violations of
18 provisions of this chapter that remain in effect after the effective
19 date of this section. The commissioner shall waive all fees and penal-
20 ties associated with the termination of a suspension, including but not
21 limited to those described in subparagraph (i) of paragraph (j-1) of
22 subdivision two of section five hundred three, subdivision three of
23 section five hundred fourteen and paragraph a of subdivision four of
24 section two hundred twenty-seven of this chapter, as in existence prior
25 to the effective date of this section.

26 § 10. This act shall take effect on the ninetieth day after it shall
27 have become a law provided, however, sections two and nine of this act
28 shall take effect the first of April next succeeding the date upon which
29 it shall have become a law. Effective immediately, the addition, amend-
30 ment and/or repeal of any rule or regulation necessary for the implemen-
31 tation of this act on its effective date are authorized to be made and
32 completed on or before such effective date.