STATE OF NEW YORK

1094

2019-2020 Regular Sessions

IN SENATE

January 10, 2019

Introduced by Sen. AMEDORE -- 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 and the public health law, in relation to driving a motor vehicle under the influence of drugs or combined use of drugs and alcohol

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

Section 1. The vehicle and traffic law is amended by adding a new section 119-c to read as follows:

§ 119-c. Inhalant. The term "inhalant" when used in this chapter shall refer to the smelling or inhaling of any substance set forth in subdivision one of section thirty-three hundred eighty of the public health law or the prohibited use of nitrous oxide as set forth in subdivision five of such section, except for the inhalation of any such substance for medical or dental purposes.

§ 2. Subdivisions 4 and 4-a of section 1192 of the vehicle and traffic law, subdivision 4 as added by chapter 47 of the laws of 1988 and subdivision 4-a as added by chapter 732 of the laws of 2006, are amended to read as follows:

4. Driving while ability impaired by drugs. No person shall operate a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the use of a drug **or inhalant** as defined in this chapter**, or impaired by the voluntary ingestion of any other chemical, inhalant, pharmaceutical or other impairing substance or combination of substances to the extent the driver is incapable of employing the physical and mental abilities which he or she is expected to possess in order to operate a vehicle in a reasonable and prudent manner**.

4-a. Driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the combined influence of drugs **and/or inhalants** or of alco-

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

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hol and any drug or drugs **and/or inhalants or by the combined influence of alcohol or any drug or drugs and/or inhalants with any chemical, pharmaceutical, inhalant or other impairing substance or combination of substances to the extent the driver is incapable of employing the physical and mental abilities which he or she is expected to possess in order to operate a vehicle in a reasonable and prudent manner**.

§ 3. Paragraph (b) of subdivision 1 of section 3380 of the public health law, as amended by chapter 234 of the laws of 1985, is amended to read as follows:

(b) As used in this section hazardous inhalants shall mean and include **the hydrocarbon difluoroethane and** any of the preparations of compounds containing one or more of the chemical compounds[~~;~~]**:** amyl nitrite, isoamyl nitrite, butyl nitrite, isobutyl nitrite, pentyl nitrite or any other [~~**akyl**~~] **alkyl** nitrite compound that is either designed to be used, or commonly used, as an inhalant.

§ 4. Section 1192 of the vehicle and traffic law is amended by adding a new subdivision 13 to read as follows:

13. It shall be an affirmative defense to a charge under subdivisions four and four-a of this section that the operator suffered an allergic reaction or medical emergency rather than being impaired by the substance or combination of substances, provided, however, that no defense shall be available if any such ingested substance is contained in section three thousand three hundred six or section three thousand three hundred eighty of the public health law.

§ 5. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.