STATE OF NEW YORK

5225--A

2019-2020 Regular Sessions

IN SENATE

April 17, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed 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 licensing of drivers where there is evidence of the loss of consciousness by such person

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

Section 1. Section 502 of the vehicle and traffic law is amended by adding a new subdivision 8 to read as follows:

8. Loss of consciousness. a. This subdivision shall apply to any applicant for an original driver's license in this state who has ever suffered a loss of consciousness, to any applicant for a renewal driver's license who has suffered a loss of consciousness since his or her last license was issued in this state, to any person who is required to submit physicians', physician assistants', or nurse practitioners' statements, in such form as the commissioner may require, as a condition for continuing licensing, and to persons holding a driver's license concerning whom the commissioner has received evidence of loss of consciousness.

b. As used in this subdivision, the following terms shall have the following meanings: "loss of consciousness" shall mean the condition of not being aware of one's surroundings or of one's existence and the inability to receive, interpret or react to sensory impressions as the result of epilepsy, syncope, cataplexy, narcolepsy and other disorders affecting consciousness and control; and "evidence of loss of consciousness" shall mean a police accident report filed pursuant to section six hundred three of this chapter indicating a loss of consciousness, no matter how denominate, as the cause of an accident, or admission by an

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

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applicant or licensee, or a complaint alleging loss of consciousness received from police agencies and others.

c. A person to whom this part is applicable shall be deemed to be fit for licensing only as determined by the commissioner in accordance with section 9.3 of part 9 of title 15 of the codes, rules and regulations of the state of New York as prescribed by the commissioner.

d. (i) Upon receipt of an application for an original driver's license, or for renewal of a driver's license, or upon a scheduled review of evidence confirmed by a department hearing or investigation that a licensee has experienced a lack of consciousness, or if the commissioner has not received an acceptable physician's, physician assistant's or nurse practitioner's statement as defined in subparagraph (ii) of this paragraph, or, if such a statement is received but the commissioner's medical consultant finds grounds to disagree with or to question a recommendation of such physician, physician assistant or nurse practitioner made in accordance with the provisions of section 9.3 of part 9 of title 15 of the codes, rules and regulations of the state of New York, the commissioner shall deny or suspend such license, whichever is appropriate, and offer to hold a department hearing to review such action, upon written request of such person. If such request for hearing is not made within thirty days of such denial or suspension, the offer to hold a hearing shall be deemed to be withdrawn.

(ii) A physician's, physician assistant's or nurse practitioner's statement shall not be acceptable unless such licensed physician, physician assistant or nurse practitioner has attended or examined the patient within one hundred twenty days of the date of such statement, and if required by the commissioner, may be required to be submitted by a physician licensed in a specialty appropriate to the condition in question.

e. The commissioner may require the submission of physicians', physician assistants' or nurse practitioners' statements on a scheduled basis as a condition of licensing in those cases in which a person has experienced loss of consciousness but meets standards of fitness as set forth in rules and regulations prescribed by the commissioner, and the physician's, physician assistant's or nurse practitioner's statement indicates that medication is being taken to meet such standards and, in the opinion of either the submitting physician, physician assistant or nurse practitioner or the medical consultant to the commissioner, the submission of such scheduled physician's, physician assistant's or nurse practitioner's statements is considered necessary or desirable. However, the provisions of this subdivision shall not be applicable in any case where a person has been seizure free without medication for a minimum period of one year and submits a physician's, physician assistant's or nurse practitioner's statement.

f. Any hearing held pursuant to this subdivision shall be conducted in conformity with the provisions of the state administrative procedure act and any regulations promulgated by the commissioner thereunder. Judicial review of a determination made by the commissioner after a hearing held pursuant to this subdivision may be had without an administrative appeal being made pursuant to article three-A of this chapter.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.