

STATE OF NEW YORK

5348--B

2019-2020 Regular Sessions

IN SENATE

April 26, 2019

Introduced by Sens. KENNEDY, BIAGGI, CARLUCCI, FELDER, GIANARIS, KRUEGER, MAY, MONTGOMERY, PARKER, RAMOS, RIVERA, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- 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:

1 Section 1. Subdivision 3 of section 226 of the vehicle and traffic
2 law, as amended by chapter 607 of the laws of 1993, paragraph (a) as
3 amended by section 6 of part J of chapter 62 of the laws of 2003 and
4 paragraph (b) as amended by section 2 of part K of chapter 59 of the
5 laws of 2010, is amended to read as follows:
6 3. Failure to answer or appear; entry of order. (a) If the person
7 charged with the violation shall fail to answer the summons as provided
8 herein involving a violation of section three hundred eighty-five of
9 this chapter, the commissioner may suspend such person's license or
10 driving privilege or, if the charge involves a violation of section
11 three hundred eighty-five [~~section four hundred one or section five~~
12 ~~hundred eleven-a~~] of this chapter by a registrant who was not the opera-
13 tor of the vehicle, the registration of such vehicle or the privilege of
14 operation of any motor vehicle owned by such registrant may be
15 suspended, until such person shall answer as provided in subdivision two
16 of this section. If a person shall fail to appear at a hearing involving
17 a violation of section three hundred eighty-five of this chapter, when
18 such is provided for pursuant to this section, such person's license, or

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

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5 effect, may be withdrawn or withheld, prior to the disposition of the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

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

39 § 2. Section 226 of the vehicle and traffic law is amended by adding a
40 new subdivision 1-a to read as follows:

41 1-a. Return date notifications. The commissioner shall notify any
42 person who receives a summons and complaint for any traffic violation
43 specified in subdivision one of section two hundred twenty-five of this
44 article of the time and place of the return date for such summons, no
45 later than one week prior to such return date. The commissioner shall:
46 (a) send such notification by first class mail at the address of such
47 person on file with the department or at the current address provided by
48 the United States postal service in accordance with section two hundred
49 fourteen of this title; and (b) provide an additional notification by
50 text message, electronic mail, or telephone call whenever the commis-
51 sioner has the telephone number or electronic mail address of such
52 person.

53 § 3. Section 1802 of the vehicle and traffic law is amended to read as
54 follows:

55 § 1802. Receipts for fines or bail; installment payment plans. 1.
56 Receipts for fines or bail. Upon receipt of the payment of any fine or

1 penalty collected under a sentence or judgment of conviction of a
2 violation of any of the provisions of this chapter or any local law,
3 ordinance, order, rule or regulation made by local authorities in
4 relation to traffic or the deposit of bail of a person charged with a
5 violation of any such provision, local law, ordinance, order, rule or
6 regulation, the officer or employee receiving such payment or deposit
7 shall issue a receipt therefor when the payment or deposit is made in
8 cash. Whenever any such payment or deposit is made by check, money order
9 or in other property, the officer or employee shall issue a receipt
10 therefor upon request; provided, however, no such receipt shall be
11 issued where a fine or penalty is paid by mail unless the name and
12 address of the payee is known to such officer or employee or enclosed
13 with the payment.

14 2. Installment payment plans. (a) Whenever fines and/or surcharges are
15 imposed upon a natural person upon a conviction of a violation of any of
16 the provisions of this chapter or any local law, ordinance, order, rule
17 or regulation made by local authorities in relation to traffic, or when-
18 ever an order is entered pursuant to subdivision three of section two
19 hundred twenty-seven of this chapter, the court or hearing officer shall
20 offer such person the opportunity to enter into an installment payment
21 plan at no charge for the payment of such fines and/or surcharges and
22 any related fees. Any such installment payment plan shall be comprised
23 of all fines, fees and mandatory surcharges and shall consist of monthly
24 payments that do not exceed two percent of such person's monthly net
25 income or ten dollars per month, whichever is greater. For the purposes
26 of this subdivision, the term "net income" shall mean such person's
27 total income from all sources and assets, minus deductions required by
28 law including but not limited to administrative or court-ordered
29 garnishments and support payments. A court or hearing officer may
30 require the submission of a financial disclosure report, on a form
31 prescribed by the commissioner, from all persons who opt to enter into
32 installment payment plans. A court or hearing officer also may accept
33 payments higher than the set amount, but may not undertake additional
34 collection activity so long as the person meets his or her obligations
35 under the installment payment plan. A court or hearing officer may
36 require persons entering installment payment plans to appear period-
37 ically before such court or hearing officer, but no more frequently than
38 annually, to assess their financial circumstances, and may set a new
39 payment amount if such person's financial circumstances have changed. A
40 person who enters into an installment payment plan and experiences a
41 reduction in income may petition the court or hearing officer at any
42 time to seek a reduction in the monthly payment.

43 (b) The court or hearing officer shall have the discretion in the
44 interests of justice to reduce or waive the amount of any fine, fee or
45 mandatory surcharge assessed for a violation of any of the provisions of
46 this chapter or any local law, ordinance, order, rule or regulation made
47 by local authorities in relation to traffic.

48 (c) A person assessed a fine, fee and/or mandatory surcharge following
49 a conviction for a violation of any of the provisions of this chapter or
50 any local law, ordinance, order, rule or regulation made by local
51 authorities in relation to traffic, or the entering of an order pursuant
52 to subdivision three of section two hundred twenty-seven of this chap-
53 ter, shall be notified of their right to an installment payment plan (a)
54 at the time the summons is issued; (b) at the time of sentencing; and
55 (c) in any communication concerning imposition or collection of a fine,
56 fee or mandatory surcharge. Information about the availability of

1 installment payment plans shall be prominently posted, in a clear and
2 conspicuous manner: at each court and administrative tribunal and its
3 website, if any, and on the commissioner's website.

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

7 a. An order entered upon the failure to answer or appear or after the
8 receipt of an answer admitting the charge or where a determination is
9 made that the charge has been established shall be civil in nature, but
10 shall be treated as a conviction for the purposes of this chapter. The
11 commissioner or his designee may include in such order an imposition of
12 any penalty authorized by any provision of this chapter for a conviction
13 of such violation, except that no penalty therefore shall include impri-
14 sonment, nor, if monetary, exceed the amount of the fine which could
15 have been imposed had the charge been heard by a court. ~~[The]~~ If the
16 charge involves a violation of section three hundred eighty-five of this
17 chapter, the driver's license or privileges may be suspended pending the
18 payment of any penalty so imposed, or, if the charge involves a
19 violation of section three hundred eighty-five ~~[or section four hundred~~
20 ~~one]~~ of this chapter by a registrant who was not the operator of the
21 vehicle, the registration of such vehicle or privilege of operation of
22 any motor vehicle owned by such registrant may be suspended pending the
23 payment of any penalty so imposed. Any suspension issued pursuant to
24 this paragraph shall be subject to the provisions of paragraph (j-1) of
25 subdivision two of section five hundred three of this chapter.

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

30 4-a. Suspension for failure to answer an appearance ticket or to pay a
31 fine. (a) Upon receipt of a court notification of the failure of a
32 person to appear within sixty days of the return date or new subsequent
33 adjourned date, pursuant to an appearance ticket charging said person
34 with a violation of any ~~[of the provisions of this chapter (except one~~
35 ~~for parking, stopping, or standing), of any]~~ violation of the tax law or
36 of the transportation law regulating traffic ~~[or of any lawful ordinance~~
37 ~~or regulation made by a local or public authority, relating to traffic~~
38 ~~(except one for parking, stopping, or standing) or the failure to pay a~~
39 ~~fine imposed by a court]~~ the commissioner or his or her agent may
40 suspend the driver's license or privileges of such person pending
41 receipt of notice from the court that such person has appeared in
42 response to such appearance ticket or has paid such fine. Such suspen-
43 sion shall take effect no less than thirty days from the day upon which
44 notice thereof is sent by the commissioner to the person whose driver's
45 license or privileges are to be suspended. Any suspension issued pursu-
46 ant to this paragraph shall be subject to the provisions of paragraph
47 (j-1) of subdivision two of section five hundred three of this chapter.

48 (b) The provisions of paragraph (a) of this subdivision shall not
49 apply to a registrant who was not operating a vehicle, but who was
50 issued a summons or an appearance ticket for a violation of section
51 three hundred eighty-five, section four hundred one or section five
52 hundred eleven-a of this chapter. Upon the receipt of a court notifica-
53 tion of the failure of such person to appear within sixty days of the
54 return date or a new subsequent adjourned date, pursuant to an appear-
55 ance ticket charging said person with such violation, or the failure of
56 such person to pay a fine imposed by a court, the commissioner or his or

1 her agent may suspend the registration of the vehicle or vehicles
2 involved in such violation or privilege of operation of any motor vehi-
3 cle owned by the registrant pending receipt of notice from the court
4 that such person has appeared in response to such appearance ticket or
5 has paid such fine. Such suspension shall take effect no less than
6 thirty days from the day upon which notice thereof is sent by the
7 commissioner to the person whose registration or privilege is to be
8 suspended. Any suspension issued pursuant to this paragraph shall be
9 subject to the provisions of paragraph (j-1) of subdivision two of
10 section five hundred three of this chapter.

11 (c) Upon receipt of notification from a traffic and parking violations
12 agency or a traffic violations agency of the failure of a person to
13 appear within sixty days of the return date or new subsequent adjourned
14 date, pursuant to an appearance ticket charging said person with a
15 violation of:

16 (i) [~~any of the provisions of this chapter except one for parking,~~
17 ~~stopping or standing and except those violations described in paragraphs~~
18 ~~(a), (b), (d), (e) and (f) of subdivision two and in paragraphs (a),~~
19 ~~(b), (d), (e), (f) and (g) of subdivision two-a and in paragraphs (a),~~
20 ~~(b), (d), (e), (f) and (g) of subdivision two-b of section three hundred~~
21 ~~seventy one of the general municipal law,~~

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

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

27 ~~(iv) any lawful ordinance or regulation made by a local or public~~
28 ~~authority relating to traffic (except one for parking, stopping or~~
29 ~~standing) or the failure to pay a fine imposed for such a violation by a~~
30 ~~traffic and parking violations agency or a traffic violations agency],~~

31 the commissioner or his or her agent may suspend the driver's license or
32 privileges of such person pending receipt of notice from the agency that
33 such person has appeared in response to such appearance ticket or has
34 paid such fine. Such suspension shall take effect no less than thirty
35 days from the day upon which notice thereof is sent by the commissioner
36 to the person whose driver's license or privileges are to be suspended.
37 Any suspension issued pursuant to this paragraph shall be subject to the
38 provisions of paragraph (j-1) of subdivision two of section five hundred
39 three of this chapter.

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

44 3. (a) Upon the failure of a person to appear or answer, within sixty
45 days of the return date or any subsequent adjourned date, or the failure
46 to pay a fine imposed by a court, pursuant to a summons charging him or
47 her with a violation of any of the provisions of this chapter (except
48 one for parking, stopping or standing), section five hundred two or five
49 hundred twelve of the tax law, section fourteen-f, two hundred eleven or
50 two hundred twelve of the transportation law or of any law, ordinance,
51 rule or regulation made by a local authority, relating to traffic
52 (except for parking, stopping or standing), the trial court or the clerk
53 thereof shall within ten days certify that fact to the commissioner, in
54 the manner and form prescribed by the commissioner, who shall record the
55 same in his or her office. Thereafter and upon the appearance of any
56 such person in response to such summons or the receipt of the fine by

1 the court, the trial court or the clerk thereof shall forthwith certify
2 that fact to the commissioner, in the manner and form prescribed by the
3 commissioner[~~, provided, however, no such certification shall be made
4 unless the court 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 (b) Upon the failure of a person to appear or answer, within sixty
8 days of the return date or any subsequent adjourned date, or the failure
9 to pay a fine imposed by a traffic and parking violations agency or a
10 traffic violations agency pursuant to a summons charging him or her with
11 a violation of:

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

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

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

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

26 the clerk thereof shall within ten days certify that fact to the commis-
27 sioner, in the manner and form prescribed by the commissioner, who shall
28 record the same in his or her office. Thereafter and upon the appearance
29 of any such person in response to such summons or the receipt of the
30 fine by the agency, the traffic and parking violations agency, the traf-
31 fic violations agency or the clerk thereof shall forthwith certify that
32 fact to the commissioner, in the manner and form prescribed by the
33 commissioner[~~, provided, however, no such certification shall be made
34 unless the traffic and parking violations agency or the traffic
35 violations agency has collected the termination of suspension fee
36 required to be paid pursuant to paragraph (j-1) of subdivision two of
37 section five hundred three of this chapter~~].

38 § 7. Termination of suspension for failure to appear, answer or pay a
39 fine. a. Within three months of the effective date of this section, the
40 commissioner of motor vehicles shall terminate all suspensions of
41 licenses, privileges to operate a motor vehicle and registrations based
42 upon a failure to appear, answer, or pay a fine, penalty or mandatory
43 surcharge pursuant to subdivision 3 of section 226, subdivision 4 of
44 section 227, or subdivision 4-a of section 510 of the vehicle and traf-
45 fic law, in effect prior to the effective date of this section. The
46 commissioner of motor vehicles shall waive all fees and fines associated
47 with the termination of such suspension, including but not limited to
48 those described in subparagraph (i) of paragraph (j-1) of subdivision 2
49 of section 503, subdivision 3 of section 514 and paragraph a of subdivi-
50 sion 4 of section 227 of the vehicle and traffic law, as in existence
51 prior to the effective date of this section. Provided, however, that the
52 provisions of this section shall not apply to suspensions imposed pursu-
53 ant to such sections involving violations of section 385 of the vehicle
54 and traffic law, or any violation of the tax law or of the transporta-
55 tion law regulating traffic.

1 b. Upon termination of suspensions pursuant to this section, the
2 commissioner of motor vehicles shall give the person whose license
3 and/or registration suspension is terminated pursuant to this section a
4 written notification by first class mail to the address of such person
5 on file with the department of motor vehicles or at the current address
6 provided by the United States postal service. Such notice shall inform
7 such person of the termination of the suspension of their license and/or
8 registration, the date of such termination, that continued failure to
9 answer the violation for which the suspension for failure to answer was
10 originally imposed may subject such person to the entry of a guilty plea
11 on their behalf and the rendering of a default judgment of a fine as
12 well as additional enforcement actions including garnishment of wages
13 and personal property, restraining of bank accounts, and the placing of
14 liens on real property, and that unpaid fines can be entered as a civil
15 judgment for enforcement. Such notice also shall provide instructions on
16 how such person can avoid the imposition of such additional plea,
17 default, and enforcement actions.

18 § 8. This act shall take effect on the ninetieth day after it shall
19 have become a law provided, however, sections two and seven of this act
20 shall take effect the first of April next succeeding the date upon which
21 it shall have become a law. Effective immediately, the addition, amend-
22 ment and/or repeal of any rule or regulation necessary for the implemen-
23 tation of this act on its effective date are authorized to be made and
24 completed on or before such effective date.