

# 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:

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

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

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

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

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

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

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

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

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

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

(i) ~~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,~~

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

~~(iii)~~ (ii) 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~~

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

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

§ 6. 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

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.