

STATE OF NEW YORK

6967

IN SENATE

January 6, 2020

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the vehicle and traffic law, in relation to evidence of loss of consciousness for the purposes of maintaining a driver's license

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

1 Section 1. Subdivision 8 of section 502 of the vehicle and traffic
2 law, as added by a chapter of the laws of 2019 amending the vehicle and
3 traffic law relating to the licensing of drivers where there is evidence
4 of the loss of consciousness by such person, as proposed in legislative
5 bills numbers S.5225-A and A.4751-A, is amended to read as follows:

6 ~~[8]~~ 9. Loss of consciousness. a. This subdivision shall apply to any
7 applicant for an original driver's license in this state who has ever
8 suffered a loss of consciousness, to any applicant for a renewal driv-
9 er's license who has suffered a loss of consciousness since his or her
10 last license was issued in this state, to any person who is required to
11 submit physicians', physician assistants', or nurse practitioners'
12 statements, in such form as the commissioner may require, as a condition
13 for continuing licensing, and to persons holding a driver's license
14 concerning whom the commissioner has received evidence of loss of
15 consciousness.

16 b. As used in this subdivision, the following terms shall have the
17 following meanings: "loss of consciousness" shall mean the condition of
18 not being aware of one's surroundings or of one's existence and the
19 inability to receive, interpret or react to sensory impressions as the
20 result of epilepsy, syncope, cataplexy, narcolepsy and other disorders
21 affecting consciousness and control; and "evidence of loss of conscious-
22 ness" shall mean a police accident report filed pursuant to section six
23 hundred three of this chapter indicating a loss of consciousness, no
24 matter how ~~denominate~~ denominated, as the cause of an accident, or
25 admission by an applicant or licensee, or a complaint alleging loss of
26 consciousness received from police agencies and others.

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

LBD02083-04-0

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

5 d. (i) Upon ~~[receipt of an application for an original driver's~~
6 ~~license, or for renewal of a driver's license, or upon]~~ a scheduled
7 review of a statement as required under paragraph e of this section or
8 upon receipt of evidence from a police agency, police accident report or
9 physician, physician assistant or nurse practitioner confirmed by a
10 department hearing or investigation that a licensee has experienced a
11 lack of consciousness, or if the commissioner has not received an
12 acceptable physician's, physician assistant's or nurse practitioner's
13 statement as defined in subparagraph ~~(ii)~~ (iii) of this paragraph, or,
14 if such a statement is received but the commissioner's medical consult-
15 ant finds grounds to disagree with or to question a recommendation of
16 such physician, physician assistant or nurse practitioner made in
17 accordance with the provisions of section 9.3 of part 9 of title 15 of
18 the codes, rules and regulations of the state of New York, the commis-
19 sioner shall deny or suspend such license, whichever is appropriate, and
20 offer to hold a department hearing to review such action, upon written
21 request of such person. If such request for hearing is not made within
22 thirty days of such denial or suspension, the offer to hold a hearing
23 shall be deemed to be withdrawn. Notwithstanding the offer to hold a
24 department hearing to review the denial or suspension, a department
25 hearing will not be held until such time as the motorist submits to the
26 commissioner a physician, physician assistant or nurse practitioner
27 statement as required under the provisions of part 9 of title 15 of the
28 codes, rules and regulations of the state of New York and the commis-
29 sioner and the commissioner's medical consultants have reviewed such
30 statements within a reasonable period of time. The denial or suspension
31 shall remain in effect until a department hearing is held to review such
32 denial or suspension or after review of the physician, physician assist-
33 ant or nurse practitioner statement the commissioner and his or her
34 medical consultants finds no grounds to disagree with or to question the
35 physician's, physician assistant's or nurse practitioner's statement.

36 (ii) Notwithstanding the provisions of subparagraph (i) of this
37 section, upon receipt of an application for an original driver's
38 license, or for renewal of a driver's license, or upon receipt of
39 evidence from a source other than a police agency, police accident
40 report or physician, physician assistant or nurse practitioner,
41 confirmed by a department hearing or investigation that a licensee has
42 experienced a loss of consciousness, the commissioner shall, unless he
43 or she deems such person's operation of a motor vehicle on a public
44 highway to be an immediate hazard, send to such person a proposed denial
45 or suspension of license, whichever is appropriate, with an offer to
46 withhold such action until after a department hearing, if such hearing
47 is requested by such person. The failure of such person to reply to the
48 commissioner, either accepting the denial or suspension or requesting a
49 hearing, within thirty days of the date of such notice, shall result in
50 the imposition of the denial or suspension. If the commissioner deems
51 any such person's operation of a motor vehicle on a public highway to be
52 an immediate hazard, he or she shall deny or suspend such license as
53 required under subparagraph (i) of this paragraph and such denial or
54 suspension shall be subject to the provisions of such subparagraph (i).
55 For the purposes of this subparagraph, a person's operation of a motor
56 vehicle on a public highway shall be deemed to constitute an immediate

1 hazard if the commissioner has received evidence that such person's loss
2 of consciousness has caused or contributed to a motor vehicle accident.

3 (iii) A physician's, physician assistant's or nurse practitioner's
4 statement shall not be acceptable unless such licensed physician, physi-
5 cian assistant or nurse practitioner has attended or examined the
6 patient within one hundred twenty days of the date of such statement,
7 and if required by the commissioner, may be required to be submitted by
8 a physician licensed in a specialty appropriate to the condition in
9 question.

10 e. The commissioner may require the submission of physicians', physi-
11 cian assistants' or nurse practitioners' statements on a scheduled basis
12 as a condition of licensing in those cases in which a person has experi-
13 enced loss of consciousness but meets standards of fitness as set forth
14 in rules and regulations prescribed by the commissioner, and the physi-
15 cian's, physician assistant's or nurse practitioner's statement indi-
16 cates that medication is being taken to meet such standards and, in the
17 opinion of either the submitting physician, physician assistant or nurse
18 practitioner or the medical consultant to the commissioner, the
19 submission of such scheduled physician's, physician assistant's or nurse
20 practitioner's statements is considered necessary or desirable. However,
21 the provisions of this subdivision shall not be applicable in any case
22 where a person has been seizure free without medication for a minimum
23 period of one year and submits a physician's, physician assistant's or
24 nurse practitioner's statement.

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

31 § 2. This act shall take effect on the same date and in the same
32 manner as a chapter of the laws of 2019 amending the vehicle and traffic
33 law relating to the licensing of drivers where there is evidence of the
34 loss of consciousness by such person, as proposed in legislative bills
35 numbers S.5225-A and A.4751-A, takes effect.