STATE OF NEW YORK

10215

IN ASSEMBLY

March 24, 2020

Introduced by M. of A. WOERNER -- read once and referred to the Committee on Transportation

AN ACT to amend the parks, recreation and historic preservation law, in relation to increasing the penalties for operating a snowmobile while intoxicated

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

Section 1. Paragraphs (a), (b) and (e) of subdivision 1 of section 25.24 of the parks, recreation and historic preservation law, paragraphs (a) and (b) as amended by chapter 311 of the laws of 2007 and paragraph (e) as added by chapter 629 of the laws of 1998, are amended to read as follows:

(a) No person shall operate a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while his or her ability to operate such snowmobile is impaired by the consumption of alcohol. **(1)** A violation of this subdivision shall be an offense and shall be punishable by a fine of not less than two hundred fifty dollars nor more than three hundred fifty dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment. **(2)** A person who operates a snowmobile in violation of this subdivision after being convicted of a violation of any subdivision of this section within the preceding five years shall be punished by a fine of not less than five hundred dollars nor more than fifteen hundred dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment.

(b) **(1)** No such person shall operate a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while he or she has .08 of one per centum or more by weight of alcohol in his or her blood, breath, urine, or saliva, as determined by the chemical test made pursuant to the provisions of subdivision six of this section.

(2) No such person shall operate a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another

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

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while he or she has .16 of one per centum or more by weight of alcohol in his or her blood, breath, urine, or saliva, as determined by the chemical test made pursuant to the provisions of subdivision six of this section.

(e) (1) A violation of subparagraph one of paragraph (b), or paragraph (c)[~~,~~] or (d) of this subdivision shall be a misdemeanor and shall be punishable by imprisonment in a penitentiary or county jail for not more than ninety days, or by a fine of not less than three hundred fifty dollars nor more than five hundred dollars, or by both such fine and imprisonment.

(2) A person who operates a snowmobile in violation of subparagraph one of paragraph (b), or paragraph (c)[~~,~~] or (d) of this subdivision after having been convicted of a violation of subparagraph one of paragraph (b), of paragraph (c)[~~,~~] or (d) of this subdivision, or of operating a snowmobile while intoxicated or while under the influence of drugs, within the preceding ten years, shall be guilty of a misdemeanor and shall be punished by imprisonment for not more than one year, or by a fine of not less than five hundred dollars nor more than fifteen hundred dollars, or by both such fine and imprisonment.

(3) A person who operates a snowmobile in violation of subparagraph one of paragraph (b), or paragraph (c)[~~,~~] or (d) of this subdivision after having been twice convicted of a violation of subparagraph one of paragraph (b), or paragraph (c)[~~,~~] or (d) of this subdivision, or of operating a snowmobile while intoxicated or under the influence of drugs, within the preceding ten years, shall be guilty of a class E felony and shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(4) (i) A violation of subparagraph two of paragraph (b) of this subdivision shall be a misdemeanor and shall be punishable by imprisonment in a penitentiary or county jail for not more than one hundred eighty days, or by a fine of not less than seven hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

(ii) A person who operates a snowmobile in violation of subparagraph two of paragraph (b) of this subdivision after having been convicted of a violation of subparagraph one or two of paragraph (b), or paragraph (c) or (d) of this subdivision, or of operating a snowmobile while intoxicated or while under the influence of drugs, within the preceding ten years, shall be guilty of a class E felony and shall be punished by a fine of not less than one thousand dollars nor more than three thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(iii) A person who operates a snowmobile in violation of subparagraph two of paragraph (b) of this subdivision after having been twice convicted of a violation of subparagraph one or two of paragraph (b), or paragraph (c) or (d) of this subdivision, or of operating a snowmobile while intoxicated or under the influence of drugs, within the preceding ten years, shall be guilty of a class D felony and shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

§ 2. Section 25.24 of the parks, recreation and historic preservation law is amended by adding a new subdivision 4-a to read as follows:

4-a. Sentencing; previous convictions. When sentencing a person for a violation of paragraph (b), (c) or (d) of subdivision one of this

section pursuant to subparagraph two or three, or clause (ii) or (iii) of subparagraph four of paragraph (e) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of the vehicle and traffic law or subdivision two of section forty-nine-a of the navigation law within the preceding ten years. When sentencing a person for a violation of subparagraph two of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of the vehicle and traffic law or subdivision two of section forty-nine-a of the navigation law within the preceding five years.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.