

# STATE OF NEW YORK

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5225--A

2019-2020 Regular Sessions

## IN SENATE

April 17, 2019

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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:

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

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

13 b. As used in this subdivision, the following terms shall have the  
14 following meanings: "loss of consciousness" shall mean the condition of  
15 not being aware of one's surroundings or of one's existence and the  
16 inability to receive, interpret or react to sensory impressions as the  
17 result of epilepsy, syncope, cataplexy, narcolepsy and other disorders  
18 affecting consciousness and control; and "evidence of loss of conscious-  
19 ness" shall mean a police accident report filed pursuant to section six  
20 hundred three of this chapter indicating a loss of consciousness, no  
21 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.

LBD02083-03-9

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

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

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

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

30 e. The commissioner may require the submission of physicians', physi-  
31 cian assistants' or nurse practitioners' statements on a scheduled basis  
32 as a condition of licensing in those cases in which a person has experi-  
33 enced loss of consciousness but meets standards of fitness as set forth  
34 in rules and regulations prescribed by the commissioner, and the physi-  
35 cian's, physician assistant's or nurse practitioner's statement indi-  
36 cates that medication is being taken to meet such standards and, in the  
37 opinion of either the submitting physician, physician assistant or nurse  
38 practitioner or the medical consultant to the commissioner, the  
39 submission of such scheduled physician's, physician assistant's or nurse  
40 practitioner's statements is considered necessary or desirable. However,  
41 the provisions of this subdivision shall not be applicable in any case  
42 where a person has been seizure free without medication for a minimum  
43 period of one year and submits a physician's, physician assistant's or  
44 nurse practitioner's statement.

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

51 § 2. This act shall take effect on the one hundred eightieth day after  
52 it shall have become a law. Effective immediately, the addition, amend-  
53 ment and/or repeal of any rule or regulation necessary for the implemen-  
54 tation of this act on its effective date are authorized to be made and  
55 completed on or before such effective date.