

# STATE OF NEW YORK

5348--A

2019-2020 Regular Sessions

## IN SENATE

April 26, 2019

Introduced by Sens. KENNEDY, CARLUCCI, GIANARIS, KRUEGER, MAY, MONTGOMERY, PARKER, RAMOS, 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

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  
19 registration or privilege of operating or of operation, as appropriate,  
20 may be suspended pending appearance at a subsequent hearing, or the  
21 disposition of the charges involved. Any suspension permitted by this

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

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2 effect, may be withdrawn or withheld, prior to the disposition of the  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

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

36 § 2. The vehicle and traffic law is amended by adding a new section  
37 226-a to read as follows:

38 § 226-a. Return date notifications. Subject to appropriation, the  
39 commissioner shall notify any person who receives a summons or appear-  
40 ance ticket for a violation described in subdivision one of section two  
41 hundred twenty-five of this article of the time and place of the return  
42 date for such summons no later than one week prior to the return date.  
43 The commissioner shall (a) send the notification by first class mail at  
44 the address of such person on file with the department or at the current  
45 address provided by the United States Postal Service in accordance with  
46 section two hundred fourteen of this title; and (b) in collaboration  
47 with state and local law enforcement agencies, make best efforts to  
48 provide an additional notification by text message, electronic mail or  
49 phone call using the best available phone number or electronic mail  
50 address for the intended person.

51 § 3. The vehicle and traffic law is amended by adding a new section  
52 229 to read as follows:

53 § 229. Reasonable payment plans. 1. The court or hearing officer shall  
54 offer the opportunity for a reasonable payment plan at no charge to the  
55 person. A reasonable payment plan shall comprehend all fines, fees and  
56 mandatory surcharges and shall consist of monthly payments that do not

1 exceed two percent of the person's monthly net income or ten dollars per  
2 month, whichever is greater. Monthly net income means total monetary  
3 payments from any source, minus deductions required by law, including  
4 but not limited to administrative or court-ordered garnishments and  
5 support payments. The court or traffic violations agency may accept  
6 payments higher than the set amount, but may not undertake additional  
7 collection activity so long as the person meets his or her obligations  
8 under the payment plan. The court or hearing officer may require people  
9 with payment plans to appear periodically, but no more often than annu-  
10 ally, to assess their financial circumstances and may set a new payment  
11 amount if the person's financial circumstances have changed. A person  
12 who enters into a payment plan and experiences a reduction in income may  
13 petition the court or hearing officer at any time to seek a reduction in  
14 the monthly payment.

15 2. The court or hearing officer shall have the discretion in the  
16 interests of justice to reduce or waive the amount of any fine, fee or  
17 mandatory surcharge assessed for a violation of any of the provisions of  
18 this chapter.

19 3. A person assessed a fine, fee and/or mandatory surcharge for a  
20 violation of any of the provisions of this chapter shall be notified of  
21 their right to a reasonable payment plan (a) at the time the citation or  
22 ticket is issued; (b) at the time of sentencing; and (c) in any communi-  
23 cation concerning imposition or collection of the fine, fee or mandatory  
24 surcharge. Information about the availability of payment plans shall be  
25 prominently posted at each court and traffic violations agency, on its  
26 website, if any, and on the commissioner's website.

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

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

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

53 4-a. Suspension for failure to answer an appearance ticket or to pay a  
54 fine. (a) Upon receipt of a court notification of the failure of a  
55 person to appear within sixty days of the return date or new subsequent  
56 adjourned date, pursuant to an appearance ticket charging said person

1 with a violation of any [~~of the provisions of this chapter (except one~~  
2 ~~for parking, stopping, or standing), of any~~] violation of the tax law or  
3 of the transportation law regulating traffic [~~or of any lawful ordinance~~  
4 ~~or regulation made by a local or public authority, relating to traffic~~  
5 ~~(except one for parking, stopping, or standing) or the failure to pay a~~  
6 ~~fine imposed by a court~~] the commissioner or his or her agent may  
7 suspend the driver's license or privileges of such person pending  
8 receipt of notice from the court that such person has appeared in  
9 response to such appearance ticket or has paid such fine. Such suspen-  
10 sion shall take effect no less than thirty days from the day upon which  
11 notice thereof is sent by the commissioner to the person whose driver's  
12 license or privileges are to be suspended. Any suspension issued pursu-  
13 ant to this paragraph shall be subject to the provisions of paragraph  
14 (j-1) of subdivision two of section five hundred three of this chapter.

15 (b) The provisions of paragraph (a) of this subdivision shall not  
16 apply to a registrant who was not operating a vehicle, but who was  
17 issued a summons or an appearance ticket for a violation of section  
18 three hundred eighty-five, section four hundred one or section five  
19 hundred eleven-a of this chapter. Upon the receipt of a court notifica-  
20 tion of the failure of such person to appear within sixty days of the  
21 return date or a new subsequent adjourned date, pursuant to an appear-  
22 ance ticket charging said person with such violation, or the failure of  
23 such person to pay a fine imposed by a court, the commissioner or his or  
24 her agent may suspend the registration of the vehicle or vehicles  
25 involved in such violation or privilege of operation of any motor vehi-  
26 cle owned by the registrant pending receipt of notice from the court  
27 that such person has appeared in response to such appearance ticket or  
28 has paid such fine. Such suspension shall take effect no less than  
29 thirty days from the day upon which notice thereof is sent by the  
30 commissioner to the person whose registration or privilege is to be  
31 suspended. Any suspension issued pursuant to this paragraph shall be  
32 subject to the provisions of paragraph (j-1) of subdivision two of  
33 section five hundred three of this chapter.

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

39 (~~i~~) [~~any of the provisions of this chapter except one for parking,~~  
40 ~~stopping or standing and except those violations described in paragraphs~~  
41 ~~(a), (b), (d), (e) and (f) of subdivision two and in paragraphs (a),~~  
42 ~~(b), (d), (e), (f) and (g) of subdivision two-a and in paragraphs (a),~~  
43 ~~(b), (d), (e), (f) and (g) of subdivision two-b of section three hundred~~  
44 ~~seventy-one of the general municipal law,~~

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

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

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

54 the commissioner or his or her agent may suspend the driver's license or  
55 privileges of such person pending receipt of notice from the agency that  
56 such person has appeared in response to such appearance ticket or has

1 paid such fine. Such suspension shall take effect no less than thirty  
2 days from the day upon which notice thereof is sent by the commissioner  
3 to the person whose driver's license or privileges are to be suspended.  
4 Any suspension issued pursuant to this paragraph shall be subject to the  
5 provisions of paragraph (j-1) of subdivision two of section five hundred  
6 three of this chapter.

7 § 6. Paragraph (a) of subdivision 2 of section 511 of the vehicle and  
8 traffic law, as amended by chapter 607 of the laws of 1993 and subpara-  
9 graph (ii) as amended by chapter 196 of the laws of 1996, is amended to  
10 read as follows:

11 (a) A person is guilty of the offense of aggravated unlicensed opera-  
12 tion of a motor vehicle in the second degree when such person commits  
13 the offense of aggravated unlicensed operation of a motor vehicle in the  
14 third degree as defined in subdivision one of this section; and

15 (i) has previously been convicted of an offense that consists of or  
16 includes the elements comprising the offense committed within the imme-  
17 diately preceding eighteen months; or

18 (ii) the suspension or revocation is based upon a refusal to submit to  
19 a chemical test pursuant to section eleven hundred ninety-four of this  
20 chapter, a finding of driving after having consumed alcohol in violation  
21 of section eleven hundred ninety-two-a of this chapter or upon a  
22 conviction for a violation of any of the provisions of section eleven  
23 hundred ninety-two of this chapter; or

24 (iii) the suspension was a mandatory suspension pending prosecution of  
25 a charge of a violation of section eleven hundred ninety-two of this  
26 chapter ordered pursuant to paragraph (e) of subdivision two of section  
27 eleven hundred ninety-three of this chapter or other similar statute[~~+~~

28 ~~or~~

29 ~~(iv) such person has in effect three or more suspensions, imposed on~~  
30 ~~at least three separate dates, for failure to answer, appear or pay a~~  
31 ~~fine, pursuant to subdivision three of section two hundred twenty-six or~~  
32 ~~subdivision four-a of section five hundred ten of this chapter].~~

33 § 7. Paragraph (a) of subdivision 3 of section 511 of the vehicle and  
34 traffic law, as amended by chapter 732 of the laws of 2006 and subpara-  
35 graph (iii) as amended and subparagraph (iv) as added by chapter 169 of  
36 the laws of 2013, is amended to read as follows:

37 (a) A person is guilty of the offense of aggravated unlicensed opera-  
38 tion of a motor vehicle in the first degree when such person: (i)  
39 commits the offense of aggravated unlicensed operation of a motor vehi-  
40 cle in the second degree as provided in subparagraph (ii), (iii) or (iv)  
41 of paragraph (a) of subdivision two of this section and is operating a  
42 motor vehicle while under the influence of alcohol or a drug in  
43 violation of subdivision one, two, two-a, three, four, four-a or five of  
44 section eleven hundred ninety-two of this chapter; or

45 (ii) [~~commits the offense of aggravated unlicensed operation of a~~  
46 ~~motor vehicle in the third degree as defined in subdivision one of this~~  
47 ~~section, and is operating a motor vehicle while such person has in~~  
48 ~~effect ten or more suspensions, imposed on at least ten separate dates~~  
49 ~~for failure to answer, appear or pay a fine, pursuant to subdivision~~  
50 ~~three of section two hundred twenty-six of this chapter or subdivision~~  
51 ~~four-a of section five hundred ten of this article, or~~

52 ~~(iii)]~~ commits the offense of aggravated unlicensed operation of a  
53 motor vehicle in the third degree as defined in subdivision one of this  
54 section; and is operating a motor vehicle while under permanent revoca-  
55 tion as set forth in subparagraph twelve of paragraph (b) of subdivision  
56 two of section eleven hundred ninety-three of this chapter; or

1   ~~(iv)~~ (iii) operates a motor vehicle upon a public highway while  
2 holding a conditional license issued pursuant to paragraph (a) of subdi-  
3 vision seven of section eleven hundred ninety-six of this chapter while  
4 under the influence of alcohol or a drug in violation of subdivision  
5 one, two, two-a, three, four, four-a or five of section eleven hundred  
6 ninety-two of this chapter.

7   § 8. Subdivision 3 of section 514 of the vehicle and traffic law, as  
8 amended by section 11 of part J of chapter 62 of the laws of 2003 and  
9 paragraph (b) as amended by chapter 157 of the laws of 2017, is amended  
10 to read as follows:

11   3. (a) Upon the failure of a person to appear or answer, within sixty  
12 days of the return date or any subsequent adjourned date, or the failure  
13 to pay a fine imposed by a court, pursuant to a summons charging him or  
14 her with a violation of any of the provisions of this chapter (except  
15 one for parking, stopping or standing), section five hundred two or five  
16 hundred twelve of the tax law, section fourteen-f, two hundred eleven or  
17 two hundred twelve of the transportation law or of any law, ordinance,  
18 rule or regulation made by a local authority, relating to traffic  
19 (except for parking, stopping or standing), the trial court or the clerk  
20 thereof shall within ten days certify that fact to the commissioner, in  
21 the manner and form prescribed by the commissioner, who shall record the  
22 same in his or her office. Thereafter and upon the appearance of any  
23 such person in response to such summons or the receipt of the fine by  
24 the court, the trial court or the clerk thereof shall forthwith certify  
25 that fact to the commissioner, in the manner and form prescribed by the  
26 commissioner ~~, provided, however, no such certification shall be made  
27 unless the court has collected the termination of suspension fee  
28 required to be paid pursuant to paragraph (j-1) of subdivision two of  
29 section five hundred three of this chapter ]~~.

30   (b) Upon the failure of a person to appear or answer, within sixty  
31 days of the return date or any subsequent adjourned date, or the failure  
32 to pay a fine imposed by a traffic and parking violations agency or a  
33 traffic violations agency pursuant to a summons charging him or her with  
34 a violation of:

35   (1) any of the provisions of this chapter except one for parking,  
36 stopping or standing and except those violations described in paragraphs  
37 (a), (b), (d), (e) and (f) of subdivision two and in paragraphs (a),  
38 (b), (d), (e), (f) and (g) of subdivision two-a and in paragraphs (a),  
39 (b), (d), (e), (f) and (g) of subdivision two-b of section three hundred  
40 seventy-one of the general municipal law;

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

43   (3) section fourteen-f (except paragraph (b) of subdivision four of  
44 section fourteen-f), two hundred eleven or two hundred twelve of the  
45 transportation law; or

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

49 the clerk thereof shall within ten days certify that fact to the commis-  
50 sioner, in the manner and form prescribed by the commissioner, who shall  
51 record the same in his or her office. Thereafter and upon the appearance  
52 of any such person in response to such summons or the receipt of the  
53 fine by the agency, the traffic and parking violations agency, the traf-  
54 fic violations agency or the clerk thereof shall forthwith certify that  
55 fact to the commissioner, in the manner and form prescribed by the  
56 commissioner ~~, provided, however, no such certification shall be made~~

~~1 unless the traffic and parking violations agency or the traffic  
2 violations agency has collected the termination of suspension fee  
3 required to be paid pursuant to paragraph (j-1) of subdivision two of  
4 section five hundred three of this chapter].~~

5 § 9. The vehicle and traffic law is amended by adding a new section  
6 519 to read as follows:

7 § 519. Termination of suspensions for failure to answer or failure to  
8 pay. Within three months of the effective date of this section, the  
9 commissioner shall terminate all suspensions of licenses, privileges to  
10 operate a motor vehicle and registrations based upon a failure to answer  
11 an appearance ticket or summons or failure to pay a fine, penalty or  
12 mandatory surcharge pursuant to subdivision three of section two hundred  
13 twenty-six, subdivision four of section two hundred twenty-seven, or  
14 subdivision four-a of section five hundred ten of this chapter, then in  
15 effect, exclusive of fines, penalties or surcharges for violations of  
16 provisions of this chapter that remain in effect after the effective  
17 date of this section. The commissioner shall waive all fees and penal-  
18 ties associated with the termination of a suspension, including but not  
19 limited to those described in subparagraph (i) of paragraph (j-1) of  
20 subdivision two of section five hundred three, subdivision three of  
21 section five hundred fourteen and paragraph a of subdivision four of  
22 section two hundred twenty-seven of this chapter, as in existence prior  
23 to the effective date of this section.

24 § 10. This act shall take effect on the ninetieth day after it shall  
25 have become a law provided, however, sections two and nine of this act  
26 shall take effect the first of April next succeeding the date upon which  
27 it shall have become a law. Effective immediately, the addition, amend-  
28 ment and/or repeal of any rule or regulation necessary for the implemen-  
29 tation of this act on its effective date are authorized to be made and  
30 completed on or before such effective date.