STATE OF NEW YORK

7197

2021-2022 Regular Sessions

IN ASSEMBLY

April 29, 2021

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

AN ACT to amend the vehicle and traffic law, in relation to lowering the blood alcohol concentration required for driving while intoxicated from .08 of one per centum to .05, and for aggravated driving while intoxicated from .18 of one per centum to .12

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

Section 1. Subdivision 2, paragraph (a) of subdivision 2-a, subdivision 5 and subdivision 6 of section 1192 of the vehicle and traffic law, subdivision 2 as amended by chapter 3 of the laws of 2002, paragraph (a) of subdivision 2-a as amended by chapter 496 of the laws of 2009 and subdivisions 5 and 6 as amended by chapter 236 of the laws of 2003, are amended to read as follows:

2. Driving while intoxicated; per se. No person shall operate a motor vehicle while such person has [~~.08~~] .05 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article.

(a) Per se. No person shall operate a motor vehicle while such person has [~~.18~~] .12 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article.

5. Commercial motor vehicles: per se - level I. Notwithstanding the provisions of section eleven hundred ninety-five of this article, no person shall operate a commercial motor vehicle while such person has .04 of one per centum or more but not more than [~~.06~~] .05 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article;

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

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provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section, or of section eleven hundred ninety-two-a of this article where a person under the age of twenty-one operates a commercial motor vehicle where a chemical analysis of such person's blood, breath, urine, or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article, indicates that such operator has .02 of one per centum or more but less than .04 of one per centum by weight of alcohol in such operator's blood.

6. Commercial motor vehicles; per se - level II. Notwithstanding the provisions of section eleven hundred ninety-five of this article, no person shall operate a commercial motor vehicle while such person has more than [~~.06~~] .05 of one per centum [~~but less than .08 of one per centum~~] by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article; provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section.

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