

# STATE OF NEW YORK

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7874--A

2021-2022 Regular Sessions

## IN ASSEMBLY

May 28, 2021

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Introduced by M. of A. HUNTER -- read once and referred 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 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. Paragraph (a) of subdivision 3 of section 226 of the vehicle and traffic law, as amended by chapter 76 of the laws of 2021, is amended to read as follows:

2 (a) If the person charged with the violation shall fail to answer the  
3 summons as provided herein, the commissioner may suspend such person's  
4 license or driving privilege or, if the charge involves a violation of  
5 section three hundred eighty-five, section four hundred one or section  
6 five hundred eleven-a of this chapter by a registrant who was not the  
7 operator of the vehicle, the registration of such vehicle or the privilege  
8 of operation of any motor vehicle owned by such registrant may be  
9 suspended, until such person shall answer as provided in subdivision two  
10 of this section, or has paid or has entered into an installment payment  
11 plan to pay the fine associated with a conviction entered as a result of  
12 the failure to appear in response to such summons, or the defendant has  
13 been acquitted of the charge that led to the suspension or such charge  
14 was otherwise dismissed. If a person shall fail to appear at a hearing,  
15 when such is provided for pursuant to this section, such person's  
16 license, or registration or privilege of operating or of operation, as  
17 appropriate, may be suspended pending appearance at a subsequent hearing,  
18 or the disposition of the charges involved. Any suspension permitted  
19 by this subdivision, if already in effect, may be terminated or if  
20 not yet in effect, may be withdrawn or withheld, prior to the disposition  
21 of the charges involved if such person shall appear and post security  
22 in the amount of forty dollars to guarantee his or her appearance  
23  
24

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

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1 at any required hearing. The security posted pursuant to this subdivi-  
2 sion shall be returned upon appearance at the scheduled hearing or an  
3 adjourned hearing which results in a final disposition of the charge,  
4 and otherwise shall be forfeited. If a suspension has been imposed  
5 pursuant to this subdivision and the case is subsequently transferred  
6 pursuant to subdivision two of section two hundred twenty-five of this  
7 article, such suspension shall remain in effect until the person answers  
8 the charges in the court to which the case was transferred. Any suspen-  
9 sion issued pursuant to this paragraph shall be subject to the  
10 provisions of paragraph (j-1) of subdivision two of section five hundred  
11 three of this chapter.

12 § 2. Paragraph (a) and the closing paragraph of paragraph (b) of  
13 subdivision 3 of section 514 of the vehicle and traffic law, as amended  
14 by chapter 382 of the laws of 2020, are amended to read as follows:

15 (a) Upon the failure of a person to appear or answer, within sixty  
16 days of the return date or any subsequent adjourned date, or the failure  
17 to pay a fine imposed by a court, pursuant to a summons charging him or  
18 her with a violation of any of the provisions of this chapter (except  
19 one for parking, stopping or standing), section five hundred two or five  
20 hundred twelve of the tax law, section fourteen-f, two hundred eleven or  
21 two hundred twelve of the transportation law or of any law, ordinance,  
22 rule or regulation made by a local authority, relating to traffic  
23 (except for parking, stopping or standing), the trial court or the clerk  
24 thereof shall within ten days certify that fact to the commissioner, in  
25 the manner and form prescribed by the commissioner, who shall record the  
26 same in his or her office. Thereafter and upon the appearance of any  
27 such person in response to such summons or the receipt of the fine by  
28 the court or such person's entry into an installment payment plan, the  
29 trial court or the clerk thereof shall forthwith certify that fact to  
30 the commissioner, in the manner and form prescribed by the commissioner.  
31 the clerk thereof shall within ten days certify that fact to the  
32 commissioner, in the manner and form prescribed by the commissioner, who  
33 shall record the same in his or her office. Thereafter and upon the  
34 appearance of any such person in response to such summons or the receipt  
35 of the fine by the agency or such person's entry into an installment  
36 payment plan, the traffic and parking violations agency, the traffic  
37 violations agency or the clerk thereof shall forthwith certify that fact  
38 to the commissioner, in the manner and form prescribed by the commis-  
39 sioner.

40 § 3. Paragraph (a) and subparagraph (iv) of paragraph (c) of subdivi-  
41 sion 4-a of section 510 of the vehicle and traffic law, as amended by  
42 chapter 76 of the laws of 2021, are amended to read as follows:

43 (a) Upon receipt of a court notification of the failure of a person to  
44 appear within sixty days of the return date or new subsequent adjourned  
45 date, pursuant to an appearance ticket charging said person with a  
46 violation of any of the provisions of this chapter (except one for park-  
47 ing, stopping, or standing), of any violation of the tax law or of the  
48 transportation law regulating traffic or of any lawful ordinance or  
49 regulation made by a local or public authority, relating to traffic  
50 (except one for parking, stopping, or standing) the commissioner or his  
51 or her agent may suspend the driver's license or privileges of such  
52 person pending receipt of notice from the court that such person has  
53 appeared in response to such appearance ticket or has paid or has  
54 entered into an installment payment plan to pay the fine associated with  
55 a conviction entered as a result of the failure to appear in response to  
56 such appearance ticket, or the defendant has been acquitted of the

charge that led to the suspension or such charge was otherwise dismissed. Such suspension shall take effect no less than thirty days from the day upon which an initial notice thereof is sent by the commissioner to the person whose driver's license or privileges are to be suspended, provided that the commissioner shall send such person at least two notices thereof, including such initial notice, at least fifteen days apart during such period. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

(iv) any lawful ordinance or regulation made by a local or public authority relating to traffic (except one for parking, stopping or standing), the commissioner or his or her agent may suspend the driver's license or privileges of such person pending receipt of notice from the agency that such person has appeared in response to such appearance ticket or has paid or has entered into an installment payment plan to pay the fine associated with a conviction entered as a result of the failure to appear in response to such appearance ticket, or the defendant has been acquitted of the charge that led to the suspension or such charge was otherwise dismissed. Such suspension shall take effect no less than thirty days from the day upon which an initial notice thereof is sent by the commissioner to the person whose driver's license or privileges are to be suspended, provided that the commissioner shall send such person at least two notices thereof, including such initial notice, at least fifteen days apart during such period. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

§ 4. Paragraph (a) of subdivision 2 of section 1802 of the vehicle and traffic law, as amended by chapter 76 of the laws of 2021, is amended to read as follows:

(a) Whenever fines, fees, and/or surcharges are imposed upon a natural person upon a conviction of a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic, or whenever an order is entered pursuant to subdivision three of section two hundred twenty-seven of this chapter, ~~[the court or hearing officer shall offer such person the opportunity to enter into an installment payment plan]~~ such fines, fees, and/or surcharges may be paid in installments at no charge ~~[for the payment of such fines and/or surcharges and any related fees including but not limited to those described in subparagraph (i) of paragraph (j-1) of subdivision two of section five hundred three, subdivision three of section five hundred fourteen and paragraph a of subdivision four of section two hundred twenty-seven of this chapter]~~ to the natural person. The court or hearing officer shall offer such persons the opportunity to enter into an installment payment plan at any time, including after a conviction entered as a result of the failure to appear in response to a summons or appearance ticket. Any such installment payment plan shall be comprised of all fines, fees and mandatory surcharges, including but not limited to those described in subparagraph (i) of paragraph (j-1) of subdivision two of section five hundred three, subdivision three of section five hundred fourteen and paragraph a of subdivision four of section two hundred twenty-seven of this chapter, and shall consist of monthly payments that do not exceed two percent of such person's monthly net income or twenty-five dollars per month, whichever is greater. For the purposes of this subdivision, the term "net income" shall mean such person's total income from all sources and

1 assets, minus deductions required by law including but not limited to  
2 administrative or court-ordered garnishments and support payments. A  
3 court or hearing officer may require the submission of a financial  
4 disclosure report, on a form prescribed by the commissioner, from all  
5 persons who opt to enter into installment payment plans. A court or  
6 hearing officer also may accept payments higher than the set amount, but  
7 may not undertake additional collection activity so long as the person  
8 meets his or her payment obligations under the installment payment plan.

9 A court or hearing officer may undertake additional collection activity,  
10 but no sooner than ninety days after a person fails to meet their  
11 payment obligation under the installment payment plan; a court, hearing  
12 officer or the commissioner shall not suspend such person's driver's  
13 license or privileges for failure to meet their payment obligation under  
14 the installment payment plan. A court or hearing officer may require  
15 persons entering installment payment plans to appear periodically before  
16 such court or hearing officer[~~7~~] to assess their financial circumstances  
17 but no more frequently than annually[~~7, to assess their financial circum-~~  
18 ~~stances,~~] and may set a new payment amount if such person's financial  
19 circumstances have changed. A person who enters into an installment  
20 payment plan and experiences a reduction in income may petition the  
21 court or hearing officer no more than two times in a calendar year to  
22 seek a reduction in the monthly payment; provided, however, in the  
23 interests of justice, the court or hearing officer may accept a  
24 reduction request from such person at any time.

25 § 5. This act shall take effect immediately, provided, however that  
26 section one of this act shall take effect on the same date and in the  
27 same manner as section 1 of chapter 76 of the laws of 2021 and section  
28 four of this act shall take effect on the same date and in the same  
29 manner as section 3 of chapter 76 of the laws of 2021.