

STATE OF NEW YORK

2558

2021-2022 Regular Sessions

IN SENATE

January 21, 2021

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the vehicle and traffic law, in relation to the suspension of a license to drive a motor vehicle or motorcycle; and to amend chapter 382 of the laws of 2020 amending the vehicle and traffic law relating to the suspension of a license to drive a motor vehicle or motorcycle, in relation to the suspension of a license to drive a motor vehicle or motorcycle and the effectiveness thereof

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

Section 1. Paragraph (a) of subdivision 3 of section 226 of the vehicle and traffic law, as amended by chapter 382 of the laws of 2020, is amended to read as follows:

(a) If the person charged with the violation shall fail to answer the summons as provided herein [~~involving a violation of section three hundred eighty-five of this chapter~~], the commissioner may suspend such person's license or driving privilege or, if the charge involves a violation of section three hundred eighty-five, section four hundred one or section five hundred eleven-a of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or the privilege of operation of any motor vehicle owned by such registrant may be suspended, until such person shall answer as provided in subdivision two of this section, or has paid the fine associated with a conviction entered as a result of the failure to appear in response to such summons, or the defendant has been acquitted of the charge that led to the suspension or such charge was otherwise dismissed. If a person shall fail to appear at a hearing [~~involving a violation of section three hundred eighty-five of this chapter~~], when such is provided for pursuant to this section, such person's license, or registration or privilege of operating or of operation, as appropriate, may be suspended pending appearance at a subsequent hearing, or the disposition of the charges

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

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involved. Any suspension permitted by this subdivision, if already in effect, may be terminated or if not yet in effect, may be withdrawn or withheld, prior to the disposition of the charges involved if such person shall appear and post security in the amount of forty dollars to guarantee his or her appearance at any required hearing. The security posted pursuant to this subdivision shall be returned upon appearance at the scheduled hearing or an adjourned hearing which results in a final disposition of the charge, and otherwise shall be forfeited. If a suspension has been imposed pursuant to this subdivision and the case is subsequently transferred pursuant to subdivision two of section two hundred twenty-five of this article, such suspension shall remain in effect until the person answers the charges in the court to which the case was transferred. 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.

§ 2. Subdivision 1-a of section 226 of the vehicle and traffic law, as added by chapter 382 of the laws of 2020, is amended to read as follows:

1-a. Return date notifications. The commissioner shall notify any person who receives a summons and complaint for any traffic violation specified in subdivision one of section two hundred twenty-five of this article of the time and place of the return date for such summons, no later than one week prior to such return date. The commissioner shall~~+~~ ~~(a)] send such notification by first class mail at the address of such person on file with the department or at the current address provided by the United States postal service in accordance with section two hundred fourteen of this title[, and (b) provide an additional notification by text message, electronic mail, or telephone call whenever the commissioner has the telephone number or electronic mail address of such person]~~.

§ 3. Paragraph (a) of subdivision 2 of section 1802 of the vehicle and traffic law, as added by chapter 382 of the laws of 2020, is amended to read as follows:

(a) Whenever fines 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 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. Any such installment payment plan shall be comprised of all fines, fees and mandatory surcharges and shall consist of monthly payments that do not exceed two percent of such person's monthly net income or ~~ten~~ 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 assets, minus deductions required by law including but not limited to administrative or court-ordered garnishments and support payments. A court or hearing officer may require the submission of a financial disclosure report, on a form prescribed by the commissioner, from all persons who opt to enter into installment payment plans. A court or hearing officer also may accept payments higher than the set amount, but may not undertake additional collection activity so

1 long as the person meets his or her payment obligations under the
2 installment payment plan. A court or hearing officer may undertake addi-
3 tional collection activity, but no sooner than ninety days after a
4 person fails to meet their payment obligation under the installment
5 payment plan. A court or hearing officer may require persons entering
6 installment payment plans to appear periodically before such court or
7 hearing officer, but no more frequently than annually, to assess their
8 financial circumstances, and may set a new payment amount if such
9 person's financial circumstances have changed. A person who enters into
10 an installment payment plan and experiences a reduction in income may
11 petition the court or hearing officer [~~at any time~~] no more than two
12 times in a calendar year to seek a reduction in the monthly payment;
13 provided, however, in the interests of justice, the court or hearing
14 officer may accept a reduction request from such person at any time.

15 § 4. Subdivision 4-a of section 510 of the vehicle and traffic law, as
16 amended by chapter 382 of the laws of 2020, is amended to read as
17 follows:

18 4-a. Suspension for failure to answer an appearance ticket [~~or to pay~~
19 ~~a fine~~]. (a) Upon receipt of a court notification of the failure of a
20 person to appear within sixty days of the return date or new subsequent
21 adjourned date, pursuant to an appearance ticket charging said person
22 with a violation of any of the provisions of this chapter (except one
23 for parking, stopping, or standing), of any violation of the tax law or
24 of the transportation law regulating traffic or of any lawful ordinance
25 or regulation made by a local or public authority, relating to traffic
26 (except one for parking, stopping, or standing) the commissioner or his
27 or her agent may suspend the driver's license or privileges of such
28 person pending receipt of notice from the court that such person has
29 appeared in response to such appearance ticket or has paid [~~such~~] the
30 fine associated with a conviction entered as a result of the failure to
31 appear in response to such appearance ticket, or the defendant has been
32 acquitted of the charge that led to the suspension or such charge was
33 otherwise dismissed. Such suspension shall take effect no less than
34 thirty days from the day upon which an initial notice thereof is sent by
35 the commissioner to the person whose driver's license or privileges are
36 to be suspended, provided that the commissioner shall send such person
37 at least two notices thereof, including such initial notice, at least
38 fifteen days apart during such period. Any suspension issued pursuant to
39 this paragraph shall be subject to the provisions of paragraph (j-1) of
40 subdivision two of section five hundred three of this chapter.

41 (b) The provisions of paragraph (a) of this subdivision shall not
42 apply to a registrant who was not operating a vehicle, but who was
43 issued a summons or an appearance ticket for a violation of section
44 three hundred eighty-five, section four hundred one or section five
45 hundred eleven-a of this chapter. Upon the receipt of a court notifica-
46 tion of the failure of such person to appear within sixty days of the
47 return date or a new subsequent adjourned date, pursuant to an appear-
48 ance ticket charging said person with such violation, or the failure of
49 such person to pay a fine imposed by a court, the commissioner or his or
50 her agent may suspend the registration of the vehicle or vehicles
51 involved in such violation or privilege of operation of any motor vehi-
52 cle owned by the registrant pending receipt of notice from the court
53 that such person has appeared in response to such appearance ticket or
54 has paid such fine. Such suspension shall take effect no less than
55 thirty days from the day upon which notice thereof is sent by the
56 commissioner to the person whose registration or privilege is to be

1 suspended. Any suspension issued pursuant to this paragraph shall be
2 subject to the provisions of paragraph (j-1) of subdivision two of
3 section five hundred three of this chapter.

4 (c) Upon receipt of notification from a traffic and parking violations
5 agency or a traffic violations agency of the failure of a person to
6 appear within sixty days of the return date or new subsequent adjourned
7 date, pursuant to an appearance ticket charging said person with a
8 violation of:

9 (i) any of the provisions of this chapter except one for parking,
10 stopping or standing and except those violations described in paragraphs
11 (a), (b), (d), (e) and (f) of subdivision two and in paragraphs (a),
12 (b), (d), (e), (f) and (g) of subdivision two-a and in paragraphs (a),
13 (b), (d), (e), (f) and (g) of subdivision two-b of section three hundred
14 seventy-one of the general municipal law;

15 (ii) section five hundred two or subdivision (a) of section eighteen
16 hundred fifteen of the tax law; ~~or~~

17 ~~(ii)]~~ (iii) section fourteen-f (except paragraph (b) of subdivision
18 four of section fourteen-f), two hundred eleven or two hundred twelve of
19 the transportation law; or

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

37 § 5. Sections 7 and 8 of chapter 382 of the laws of 2020, amending the
38 vehicle and traffic law relating to the suspension of a license to drive
39 a motor vehicle or motorcycle, are amended to read as follows:

40 § 7. Termination of suspension for failure to ~~[appear, answer or]~~ pay
41 a fine. a. ~~[Within three months of the effective date of this section,~~
42 ~~the]~~ The commissioner of motor vehicles shall terminate all suspensions
43 of licenses, privileges to operate a motor vehicle and registrations
44 based upon a failure to ~~[appear, answer, or]~~ pay a fine, penalty or
45 mandatory surcharge pursuant to subdivision 3 of section 226, subdivi-
46 sion 4 of section 227, or subdivision 4-a of section 510 of the vehicle
47 and traffic law, in effect prior to the effective date of this section.
48 The commissioner of motor vehicles shall waive all fees and fines asso-
49 ciated with the termination of such suspension, including but not limit-
50 ed to those described in subparagraph (i) of paragraph (j-1) of subdivi-
51 sion 2 of section 503, subdivision 3 of section 514 and paragraph a of
52 subdivision 4 of section 227 of the vehicle and traffic law, as in
53 existence prior to the effective date of this section. Provided, howev-
54 er, that the provisions of this section shall not apply to suspensions
55 imposed pursuant to such sections involving violations of section 385 of

1 the vehicle and traffic law, or any violation of the tax law or of the
2 transportation law regulating traffic.

3 b. Upon termination of suspensions pursuant to this section, the
4 commissioner of motor vehicles shall give the person whose license
5 and/or registration suspension is terminated pursuant to this section a
6 written notification by first class mail to the address of such person
7 on file with the department of motor vehicles or at the current address
8 provided by the United States postal service. Such notice shall inform
9 such person of the termination of the suspension of their license and/or
10 registration, the date of such termination, ~~[that continued failure to~~
11 ~~answer the violation for which the suspension for failure to answer was~~
12 ~~originally imposed may subject such person to the entry of a guilty plea~~
13 ~~on their behalf and the rendering of a default judgment of a fine as~~
14 ~~well as additional enforcement actions including garnishment of wages~~
15 ~~and personal property, restraining of bank accounts, and the placing of~~
16 ~~liens on real property, and that unpaid fines can be entered as a civil~~
17 ~~judgment for enforcement. Such notice also shall provide instructions on~~
18 ~~how such person can avoid the imposition of such additional plea,~~
19 ~~default, and enforcement actions]~~ and of their right to enter into an
20 installment payment plan pursuant to subdivision 2 of section 1802 of
21 the vehicle and traffic law.

22 § 8. 1. Within thirty days of the effective date of this section, the
23 commissioner of motor vehicles, in consultation with the chief adminis-
24 trative judge, shall provide each court and administrative tribunal
25 within the state a notification advising such court and administrative
26 tribunal that no further enforcement action may be undertaken with
27 regard to suspensions of licenses or privileges to operate a motor vehi-
28 cle based upon a failure to pay a fine, penalty, mandatory surcharge or
29 other related fee issued pursuant to subdivision 3 of section 226,
30 subdivision 4 of section 227, or subdivision 4-a of section 510 of the
31 vehicle and traffic law.

32 2. The commissioner of motor vehicles shall, within a reasonable peri-
33 od after such installment payment plan has been implemented, send a
34 notice to persons whose drivers' licenses, privileges, or registration
35 have been suspended for failure to appear or answer a summons or appear-
36 ance ticket, by first class mail to the address of such persons on file
37 with the department of motor vehicles or at the current address provided
38 by the United States postal service, of the availability of, their right
39 to enter into and information on how to enter into, an installment
40 payment plan for all fines, surcharges and any related fees in accord-
41 ance with section three of this act.

42 § 9. This act shall take effect on the ~~[ninetieth]~~ one hundred eight-
43 ieth day after it shall have become a law provided, however, sections
44 ~~[two and seven]~~ four, five, six and eight of this act shall take effect
45 ~~[the first of April next succeeding the date upon which it shall have~~
46 ~~become a law]~~ immediately. Effective immediately, the addition, amend-
47 ment and/or repeal of any rule or regulation necessary for the implemen-
48 tation of this act on its effective date are authorized to be made and
49 completed on or before such effective date.

50 § 6. This act shall take effect immediately, provided, however, that
51 sections one, two, three and four of this act shall take effect on the
52 same date and in the same manner as chapter 382 of the laws of 2020,
53 takes effect.