

STATE OF NEW YORK

7053

2021-2022 Regular Sessions

IN SENATE

May 26, 2021

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

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 section 6 of part J of chapter 62 of the laws of 2003, is amended to read as follows:

2 (a) If the person charged with the violation shall fail to answer the summons as provided herein, 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 or 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 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, 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 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 Any suspension permitted by this subdivision, if already in effect, may be terminated or if not yet in effect, may be withdrawn or withheld, prior to the disposition of the charges involved if such person shall appear and post security in the amount of forty dollars to guarantee his or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 subdivi-

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

LBD11650-04-1

sion 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. 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:

(a) If the person charged with the violation shall fail to answer the summons as provided herein, 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 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 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, 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 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.

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

(a) Upon the failure of a person to appear or answer, within sixty days of the return date or any subsequent adjourned date, or the failure to pay a fine imposed by a court, pursuant to a summons charging him or her with a violation of any of the provisions of this chapter (except one for parking, stopping or standing), section five hundred two or five hundred twelve of the tax law, section fourteen-f, two hundred eleven or two hundred twelve of the transportation law or of any law, ordinance, rule or regulation made by a local authority, relating to traffic

(except for parking, stopping or standing), the trial court or the clerk thereof shall within ten days certify that fact to the commissioner, in the manner and form prescribed by the commissioner, who shall record the same in his or her office. Thereafter and upon the appearance of any such person in response to such summons or the receipt of the fine by the court or such person's entry into an installment payment plan, the trial court or the clerk thereof shall forthwith certify that fact to the commissioner, in the manner and form prescribed by the commissioner.

the clerk thereof shall within ten days certify that fact to the commissioner, in the manner and form prescribed by the commissioner, who shall record the same in his or her office. Thereafter and upon the appearance of any such person in response to such summons or the receipt of the fine by the agency or such person's entry into an installment payment plan, the traffic and parking violations agency, the traffic violations agency or the clerk thereof shall forthwith certify that fact to the commissioner, in the manner and form prescribed by the commissioner.

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

(a) Upon receipt of a court notification of the failure of a person to appear within sixty days of the return date or new subsequent adjourned date, pursuant to an appearance ticket charging said person with a violation of any of the provisions of this chapter (except one for parking, stopping, or standing), of any violation of the tax law or of the transportation law regulating traffic or of 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 court 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.

(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

1 send such person at least two notices thereof, including such initial
2 notice, at least fifteen days apart during such period. Any suspension
3 issued pursuant to this paragraph shall be subject to the provisions of
4 paragraph (j-1) of subdivision two of section five hundred three of this
5 chapter.

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

9 (a) Whenever fines, fees, and/or surcharges are imposed upon a natural
10 person upon a conviction of a violation of any of the provisions of this
11 chapter or any local law, ordinance, order, rule or regulation made by
12 local authorities in relation to traffic, or whenever an order is
13 entered pursuant to subdivision three of section two hundred twenty-sev-
14 en of this chapter, ~~[the court or hearing officer shall offer such~~
15 ~~person the opportunity to enter into an installment payment plan]~~ such
16 finest, fees, and/or surcharges may be paid in installments at no charge
17 ~~[for the payment of such fines and/or surcharges and any related fees~~
18 ~~including but not limited to those described in subparagraph (i) of~~
19 ~~paragraph (j-1) of subdivision two of section five hundred three, subdi-~~
20 ~~vision three of section five hundred fourteen and paragraph a of subdi-~~
21 ~~vision four of section two hundred twenty-seven of this chapter]~~ to the
22 natural person. Courts, traffic violations agencies, traffic and park-
23 ing violations agencies, and the commissioner or his or her agent shall
24 offer such persons the opportunity to enter into a payment plan at any
25 time, including after a conviction entered as a result of the failure to
26 appear in response to a summons or appearance ticket. Any such install-
27 ment payment plan shall be comprised of all fines, fees and mandatory
28 surcharges, including but not limited to those described in subparagraph
29 (i) of paragraph (j-1) of subdivision two of section five hundred three,
30 subdivision three of section five hundred fourteen and paragraph a of
31 subdivision four of section two hundred twenty-seven of this chapter,
32 and shall consist of monthly payments that do not exceed two percent of
33 such person's monthly net income or twenty-five dollars per month,
34 whichever is greater. For the purposes of this subdivision, the term
35 "net income" shall mean such person's total income from all sources and
36 assets, minus deductions required by law including but not limited to
37 administrative or court-ordered garnishments and support payments. A
38 court or hearing officer may require the submission of a financial
39 disclosure report, on a form prescribed by the commissioner, from all
40 persons who opt to enter into installment payment plans. A court or
41 hearing officer also may accept payments higher than the set amount, but
42 may not undertake additional collection activity so long as the person
43 meets his or her payment obligations under the installment payment plan.
44 A court or hearing officer may undertake additional collection activity,
45 but no sooner than ninety days after a person fails to meet their
46 payment obligation under the installment payment plan; the commissioner
47 shall not suspend such person's driver's license or privileges for fail-
48 ure to meet their payment obligation under the installment payment plan.
49 A court or hearing officer may require persons entering installment
50 payment plans to appear periodically before such court or hearing offi-
51 cer, but no more frequently than twice annually~~[, to assess their finan-~~
52 ~~cial circumstances,]~~ and may set a new payment amount if such person's
53 financial circumstances have changed. A person who enters into an
54 installment payment plan and experiences a reduction in income may peti-
55 tion the court or hearing officer no more than two times in a calendar
56 year to seek a reduction in the monthly payment; provided, however, in

1 the interests of justice, the court or hearing officer may accept a
2 reduction request from such person at any time.

3 § 6. This act shall take effect immediately, provided, however that
4 section two of this act shall take effect on the same date and in the
5 same manner as section 1 of chapter 76 of the laws of 2021 and section
6 five of this act shall take effect on the same date and in the same
7 manner as section 3 of chapter 76 of the laws of 2021.