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 Any suspension permitted by this subdivision, if already in effect, may be terminated or if not yet in effect, may be withdrawn or withheld, prior to the disposition of the charges involved if such person shall appear and post security in the amount of forty dollars to guarantee his or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

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

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

4-a. Suspension for failure to answer an appearance ticket [~~or to pay a fine~~]. (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 [~~such~~] **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-l) of subdivision two of section five hundred three of this chapter.

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

suspended. 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.

(c) Upon receipt of notification from a traffic and parking violations agency or a traffic violations agency 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:

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

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

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

(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 [~~such~~] **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.

§ 5. Sections 7 and 8 of 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, are amended to read as follows:

§ 7. Termination of suspension for failure to [~~appear, answer or~~] pay a fine. a. [~~Within three months of the effective date of this section, the~~] **The** commissioner of motor vehicles shall terminate all suspensions of licenses, privileges to operate a motor vehicle and registrations based upon a failure to [~~appear, answer, or~~] pay a fine, penalty or mandatory surcharge pursuant to subdivision 3 of section 226, subdivision 4 of section 227, or subdivision 4-a of section 510 of the vehicle and traffic law, in effect prior to the effective date of this section. The commissioner of motor vehicles shall waive all fees and fines associated with the termination of such suspension, including but not limited to those described in subparagraph (i) of paragraph (j-1) of subdivision 2 of section 503, subdivision 3 of section 514 and paragraph a of subdivision 4 of section 227 of the vehicle and traffic law, as in existence prior to the effective date of this section. Provided, however, that the provisions of this section shall not apply to suspensions imposed pursuant to such sections involving violations of section 385 of

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

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

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

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

§ 9. This act shall take effect on the [~~ninetieth~~] one hundred eightieth day after it shall have become a law provided, however, sections [~~two and seven~~] four, five, six and eight of this act shall take effect [~~the first of April next succeeding the date upon which it shall have become a law~~] immediately. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

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