STATE OF NEW YORK

6461

2023-2024 Regular Sessions

IN SENATE

April 20, 2023

Introduced by Sen. BAILEY -- 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 chemical tests for the purpose of determining the alcoholic and/or drug content of the blood

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

Section 1. The opening paragraph of paragraph (a) of subdivision 2 of section 1194 of the vehicle and traffic law, as amended by chapter 196 of the laws of 1996, is amended to read as follows:

When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of the blood provided that such test is administered by or at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer **provided, however, that a police officer shall, after an oral and a written explanation in the preferred language of the driver, by an interpreter if necessary, of the consequences of refusal to take such test**:

§ 2. Subparagraphs 1 and 2 of paragraph b of subdivision 2 of section 1194 of the vehicle and traffic law, subparagraph 1 as amended by chapter 489 of the laws of 2017, clause (A) of subparagraph 1 and subparagraph 2 as amended by chapter 27 of the laws of 2018, are amended to read as follows:

(1) If: (A) such person having been placed under arrest; or (B) after a breath test indicates the presence of alcohol in the person's system; or (C) with regard to a person under the age of twenty-one, there are reasonable grounds to believe that such person has been operating a motor vehicle after having consumed alcohol in violation of section

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

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eleven hundred ninety-two-a of this article; and having thereafter been requested to submit to such chemical test and having been informed**, both orally and in writing in such person's preferred language,** that the person's license or permit to drive and any non-resident operating privilege shall be immediately suspended and subsequently revoked, or, for operators under the age of twenty-one for whom there are reasonable grounds to believe that such operator has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, shall be revoked for refusal to submit to such chemical test or any portion thereof, whether or not the person is found guilty of the charge for which such person is arrested or detained, refuses to submit to such chemical test or any portion thereof, unless a court order has been granted pursuant to subdivision three of this section, the test shall not be given and a written report of such refusal shall be immediately made by the police officer before whom such refusal was made. Such report may be verified by having the report sworn to, or by affixing to such report a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law and such form notice together with the subscription of the deponent shall constitute a verification of the report.

(2) The report of the police officer shall set forth reasonable grounds to believe such arrested person or such detained person under the age of twenty-one had been driving in violation of any subdivision of section eleven hundred ninety-two or eleven hundred ninety-two-a of this article, that said person had refused to submit to such chemical test **after being informed both orally and in writing of the consequences of such refusal**, and that no chemical test was administered pursuant to the requirements of subdivision three of this section. The report shall be presented to the court upon arraignment of an arrested person, provided, however, in the case of a person under the age of twenty-one, for whom a test was authorized pursuant to the provisions of subparagraph two or three of paragraph (a) of this subdivision, and who has not been placed under arrest for a violation of any of the provisions of section eleven hundred ninety-two of this article, such report shall be forwarded to the commissioner within forty-eight hours in a manner to be prescribed by the commissioner, and all subsequent proceedings with regard to refusal to submit to such chemical test by such person shall be as set forth in subdivision three of section eleven hundred ninety-four-a of this article.

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