

BILL TEXT:

STATE OF NEW YORK

2085

2005-2006 Regular Sessions

IN ASSEMBLY

January 24, 2005

Introduced by M. of A. PRETLOW, CALHOUN -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, GALEF, HOOPER, McLAUGHLIN, WRIGHT -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to the seizure of vehicles after driving while intoxicated convictions; and to amend the vehicle and traffic law, in relation to the revocation of licenses for driving while intoxicated offenses and the denial of vehicle registration after three driving while intoxicated offenses

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

1 Section 1. Section 1310 of the civil practice law and rules is amended
2 by adding a new subdivision 15 to read as follows:

3 15. "Intoxication offense" means a conviction for a violation of
4 subdivision two or three of section one thousand one hundred ninety-two
5 of the vehicle and traffic law.

6 § 2. Subdivision 1 of section 1311 of the civil practice law and rules
7 is amended by adding a new paragraph (c) to read as follows:

8 (c) An action relating to an intoxication offense must be grounded
9 upon a conviction of an intoxicated offense, as provided for by this
10 paragraph. If a defendant has been convicted of his or her second intox-
11 ication offense, any and all vehicles registered to him or her shall be
12 forfeited for a period of six months. If such vehicle is also used by a
13 member of the defendant's household, the household member shall post a
14 bond of not less than one thousand dollars to be surrendered in the
15 event that the defendant is found to be driving such vehicle. If a
16 defendant has been convicted of his or her third intoxication offense,
17 any and all vehicles registered to him or her shall be forfeited and
18 notwithstanding the provisions of section one thousand three hundred
19 forty-nine of this article, such vehicle or vehicles shall be sold with
20 the proceeds of such sale going to the county of jurisdiction's driving
21 while intoxicated program.

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

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1 § 3. Paragraph (c) of subdivision 2 of section 1193 of the vehicle and
2 traffic law, as amended by section 1 of chapter 312 of the laws of 1994,
3 is amended to read as follows:

4 (c) Reissuance of licenses; restrictions. (1) Except as otherwise
5 provided in this paragraph, where a license is revoked pursuant to para-
6 graph (b) of this subdivision, no new license shall be issued after the
7 expiration of the minimum period specified in such paragraph, except in
8 the discretion of the commissioner.

9 (2) Where a license is revoked pursuant to subparagraph two, three or
10 eight of paragraph (b) of this subdivision for a violation of subdivi-
11 sion four of section eleven hundred ninety-two of this article, and
12 where the individual does not have a driver's license or the individ-
13 ual's license was suspended at the time of conviction or youthful offen-
14 der or other juvenile adjudication, the commissioner shall not issue a
15 new license nor restore the former license for a period of six months
16 after such individual would otherwise have become eligible to obtain a
17 new license or to have the former license restored; provided, however,
18 that during such delay period the commissioner may issue a restricted
19 use license pursuant to section five hundred thirty of this chapter.

20 (3) In no event shall a new license be issued where a person has been
21 twice convicted of a violation of subdivision ~~two~~, three or four of
22 section eleven hundred ninety-two of this article or of driving while
23 intoxicated or of driving while ability is impaired by the use of a drug
24 where physical injury, as defined in section 10.00 of the penal law, has
25 resulted from such offense in each instance.

26 § 4. Paragraph (c) of subdivision 2 of section 1193 of the vehicle and
27 traffic law, as amended by section 2 of chapter 312 of the laws of 1994,
28 is amended to read as follows:

29 (c) Reissuance of licenses; restrictions. Where a license is revoked
30 pursuant to paragraph (b) of this subdivision, no new license shall be
31 issued after the expiration of the minimum period specified in such
32 paragraph, except in the discretion of the commissioner; provided,
33 however, that in no event shall a new license be issued where a person
34 has been twice convicted of a violation of subdivision ~~two~~, three or
35 four of section eleven hundred ninety-two of this article or of driving
36 while intoxicated or of driving while ability is impaired by the use of
37 a drug where physical injury, as defined in section 10.00 of the penal
38 law, has resulted from such offense in each instance.

39 § 5. Section 401 of the vehicle and traffic law is amended by adding a
40 new subdivision 22 to read as follows:

41 22. Notwithstanding the provisions of this section or any other law,
42 no vehicle may be registered by an individual who has been convicted
43 three times of a violation of subdivisions two and three of section
44 eleven hundred ninety-two of this chapter.

45 § 6. This act shall take effect immediately; provided, however, that
46 sections one, two and five of this act shall take effect on the first of
47 November next succeeding the date on which it shall have become a law
48 and shall apply to offenses committed on or after such date; provided
49 further however, that the amendment to paragraph (c) of subdivision 2 of
50 section 1193 of the vehicle and traffic law made by section three of
51 this act shall be subject to the expiration and reversion of such para-
52 graph pursuant to section 9 of chapter 533 of the laws of 1993, as
53 amended, when upon such date the provisions of section four of this act
54 shall take effect.

SPONSORS MEMO:

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A2085

SPONSOR: Pretlow (MS)

TITLE OF BILL: An act to amend the civil practice law and rules, in relation to the seizure of vehicles after driving while intoxicated convictions; and to amend the vehicle and traffic law, in relation to the revocation of licenses for driving while intoxicated offenses and the denial of vehicle registration after three driving while intoxicated offenses

PURPOSE OF BILL:

Requires forfeiture of vehicles for 6 months for second DWI offenses and permanent forfeiture and registration denial for third DWI offenses.

SUMMARY OF SPECIFIC PROVISIONS:

This bill will amend Section 1320 of the civil practice law and rules by adding a new subdivision 15 to read as follows: "Intoxication offense" means a conviction for a violation of subdivisions two or three of Section 1192 of the vehicle and traffic law. This bill will also amend Subdivision 1 of section 1311 of the civil practice law and rules by adding a new paragraph (c) to read as follows:

(c) An action relating to an intoxication offense, as provided for by this paragraph. If a defendant has been convicted of his or her second intoxication offense, any and all vehicles registered to him or her shall be forfeited for a period of six months. If such vehicle is used by a member of the defendant's household, the household shall post a bond of no less than one thousand dollars to be surrendered in the event that the defendant is to be found driving such vehicle. If a defendant has been convicted of his or her third intoxication offense, any and all vehicles registered to him shall be forfeited and notwithstanding the provisions of section 1349 of this article, such vehicle or vehicles shall be sold with the proceeds of such sale going to the county of the jurisdiction's driving while intoxicated program. This bill would also amend paragraph (c) of subdivision 2 of section 1193 of the vehicle and traffic law as added by chapter 47 section 1193 of the laws of 1988 to say that, except as otherwise provided, no new license shall be issued after the expiration of the minimum period except in the discretion of the commissioner. In no event shall a new license be issued where a person has been twice convicted of driving while intoxicated or impaired by drugs where physical injury has resulted from such offenses in each instance.

Lastly, section 401 of the vehicle and traffic law is amended by adding subdivision 20 to say: no vehicles may be registered by an individual who has been convicted three times of a violation of subdivisions two and three of section 1192 of this chapter.

JUSTIFICATION:

Although efforts in recent years to deter drunk driving through stiffer penalties have been successful, we feel that even greater deterrents are still needed. By threatening repeat DWI offenders with the loss of their vehicle(s) as well as the loss of their driver's license, an intoxicated person would think twice about trying to drive. The added financial stress of having such a large investment as a motor vehicle

taken away from a person is likely to go a long way to keeping them away

RETRIEVE BILL

from behind the wheel of a vehicle if they are intoxicated.

LEGISLATIVE HISTORY:

New legislation.

EFFECTIVE DATE:

This act shall take effect immediately; provided, however, that sections one, two and five of this act shall take effect on the first day of November next succeeding the date on which it shall have become a law and shall apply to offenses committed on or after such date; provided further however, that the amendment to paragraph (c) of subdivision 2 of section 1193 of the vehicle and traffic law made by section four of this act shall take effect on the same date as such paragraph takes effect pursuant to section 9 of chapter 533 of the laws of 1993, as amended.
