

2513

2017-2018 Regular Sessions

I N   A S S E M B L Y

January 20, 2017

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Introduced by M. of A. SIMOTAS, McDONOUGH, MURRAY -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the public health law, in relation to driving a motor vehicle under the influence of drugs or combined use of drugs and alcohol

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The vehicle and traffic law is amended by adding a new  
2     section 119-c to read as follows:

3     S 119-C. INHALANT. THE TERM "INHALANT" WHEN USED IN THIS CHAPTER SHALL  
4     REFER TO THE SMELLING OR INHALING OF ANY SUBSTANCE SET FORTH IN SUBDIVI-  
5     SION ONE OF SECTION THIRTY-THREE HUNDRED EIGHTY OF THE PUBLIC HEALTH LAW  
6     OR THE PROHIBITED USE OF NITROUS OXIDE AS SET FORTH IN SUBDIVISION FIVE  
7     OF SUCH SECTION, EXCEPT FOR THE INHALATION OF ANY SUCH SUBSTANCE FOR  
8     MEDICAL OR DENTAL PURPOSES.

9     S 2. Subdivisions 4 and 4-a of section 1192 of the vehicle and traffic  
10    law, subdivision 4 as added by chapter 47 of the laws of 1988 and subdi-  
11    vision 4-a as added by chapter 732 of the laws of 2006, are amended to  
12    read as follows:

13    4. Driving while ability impaired by drugs. No person shall operate a  
14    motor vehicle while the person's ability to operate such a motor vehicle  
15    is impaired by the use of a drug OR INHALANT as defined in this chapter,  
16    OR IMPAIRED BY THE VOLUNTARY INGESTION OF ANY OTHER CHEMICAL, INHALANT,  
17    PHARMACEUTICAL OR OTHER IMPAIRING SUBSTANCE OR COMBINATION OF SUBSTANCES  
18    TO THE EXTENT THE DRIVER IS INCAPABLE OF EMPLOYING THE PHYSICAL AND  
19    MENTAL ABILITIES WHICH HE OR SHE IS EXPECTED TO POSSESS IN ORDER TO  
20    OPERATE A VEHICLE IN A REASONABLE AND PRUDENT MANNER.

21    4-a. Driving while ability impaired by the combined influence of drugs  
22    or of alcohol and any drug or drugs. No person shall operate a motor  
23    vehicle while the person's ability to operate such motor vehicle is  
24    impaired by the combined influence of drugs AND/OR INHALANTS or of alco-

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

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1 hol and any drug or drugs AND/OR INHALANTS OR BY THE COMBINED INFLUENCE  
2 OF ALCOHOL OR ANY DRUG OR DRUGS AND/OR INHALANTS WITH ANY CHEMICAL,  
3 PHARMACEUTICAL, INHALANT OR OTHER IMPAIRING SUBSTANCE OR COMBINATION OF  
4 SUBSTANCES TO THE EXTENT THE DRIVER IS INCAPABLE OF EMPLOYING THE PHYS-  
5 ICAL AND MENTAL ABILITIES WHICH HE OR SHE IS EXPECTED TO POSSESS IN  
6 ORDER TO OPERATE A VEHICLE IN A REASONABLE AND PRUDENT MANNER.

7 S 3. Paragraph (b) of subdivision 1 of section 3380 of the public  
8 health law, as amended by chapter 234 of the laws of 1985, is amended to  
9 read as follows:

10 (b) As used in this section hazardous inhalants shall mean and include  
11 THE HYDROCARBON DIFLUOROETHANE AND any of the preparations of compounds  
12 containing one or more of the chemical compounds[:]: amyl nitrite, isoa-  
13 myl nitrite, butyl nitrite, isobutyl nitrite, pentyl nitrite or any  
14 other [akyl] ALKYL nitrite compound that is either designed to be used,  
15 or commonly used, as an inhalant.

16 S 4. Section 1192 of the vehicle and traffic law is amended by adding  
17 a new subdivision 13 to read as follows:

18 13. IT SHALL BE AN AFFIRMATIVE DEFENSE TO A CHARGE UNDER SUBDIVISIONS  
19 FOUR AND FOUR-A OF THIS SECTION THAT THE OPERATOR SUFFERED AN ALLERGIC  
20 REACTION OR MEDICAL EMERGENCY RATHER THAN BEING IMPAIRED BY THE  
21 SUBSTANCE OR COMBINATION OF SUBSTANCES, PROVIDED, HOWEVER, THAT NO  
22 DEFENSE SHALL BE AVAILABLE IF ANY SUCH INGESTED SUBSTANCE IS CONTAINED  
23 IN SECTION THREE THOUSAND THREE HUNDRED SIX OR SECTION THREE THOUSAND  
24 THREE HUNDRED EIGHTY OF THE PUBLIC HEALTH LAW.

25 S 5. This act shall take effect on the first of November next succeed-  
26 ing the date on which it shall have become a law.