

STATE OF NEW YORK

DEPARTMENT OF MOTOR VEHICLES

Pursuant to the authority contained in Sections 215(a), 510(3)(a) and 510(3)(d) of the Vehicle and Traffic Law, the Commissioner of Motor Vehicles hereby amends the Regulations of the Commissioner of Motor Vehicles by adding a new section to read as follows:

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PART 132

Dangerous Repeat Alcohol or Drug Offenders

Sec.

132.1. Definitions

132.2. Lifetime record review.

132.3. Hearings.

132.1. Definitions. For the purposes of this Part:

(a) "Alcohol- or drug-related driving conviction or incident" means any of the following, not arising out of the same incident: (i) a conviction of a violation of section 1192 of the Vehicle and Traffic Law; (ii) a finding of a violation of section 1192-a of the Vehicle and Traffic Law; provided, however, that no such finding shall be considered after the expiration of the retention period contained in paragraph (k) of subdivision 1 of section 201 of the Vehicle and Traffic Law; (iii) a conviction of an offense under the Penal Law for which a violation of section 1192 of the Vehicle and Traffic Law is an essential element: or (iv) a finding of refusal to submit to a chemical test under section 1194 of the Vehicle and Traffic Law.

(b) "Dangerous repeat alcohol or drug offender" means:

(1) any driver who, within his or her lifetime, has five or more alcohol- or drug-related driving convictions or incidents in any combination; or

(2) any driver who, during the 25 year look back period, has three or four alcohol- or drug-related driving convictions or incidents in any combination and, in addition, has one or more serious driving offenses during the 25 year look back period.

(c) "High-point driving violation" means any violation for which five or more points are assessed on a violator's driving record pursuant to Section 131.3 of this subchapter.

(d) "Serious driving offense" means (i) a fatal accident; (ii) a driving-related Penal Law conviction; (iii) conviction of two or more high-point driving violations, other than the violation that forms the basis for the record review under Section 132.2 of this Part; or (iv) 20 or more points from any violations, other than the violation that forms the basis for the record review under Section 132.2 of this Part.

(e) "25 year look back period" means the period commencing on the date that is 25 years before the date of the commission of a high-point driving violation and ending on and including the date of the commission of such high-point driving violation.

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132.2. Lifetime record review.

Upon receipt of notice of a driver's conviction for a high-point driving violation, the Commissioner shall conduct a review of the lifetime driving record of the person convicted. If such review indicates that the person convicted is a dangerous repeat alcohol or drug offender, the Commissioner shall issue a proposed revocation of such person's driver license. Such person shall be advised of the right to request a hearing before an administrative law judge, prior to such proposed revocation taking effect. The provisions of Part 127 of this Chapter shall be applicable to any such hearing.

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132.3. Hearings.

The sole purpose of a hearing scheduled pursuant to this Part is to determine whether there exist unusual, extenuating and compelling circumstances to warrant a finding that the revocation proposed by the Commissioner should not take effect. In making such a determination, the administrative law judge shall take into account a driver's entire driving record. Unless the administrative law judge finds that such unusual, extenuating and compelling circumstances exist, the judge shall issue an order confirming the revocation proposed by the Commissioner.

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