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**REPORT ON LEGISLATION BY THE  
CRIMINAL JUSTICE OPERATIONS COMMITTEE**

**A.7463-B**

**S.5348-B**

**M. of A. Hunter**

**Sen. Kennedy**

AN ACT to amend the vehicle and traffic law, in relation to the suspension of a license to drive a motor vehicle or motorcycle

**THIS BILL IS APPROVED**

The New York City Bar Association’s Criminal Justice Operations Committee submits this report to express support for the Driver’s License Suspension Reform Act (DLSRA), A.7463-B/S.5348-B. We applaud the Assembly and the Senate for passing the legislation and urge Governor Cuomo to sign it into law before the legislative session ends. With the stroke of a pen, the Governor can release hundreds of thousands of New Yorkers from a cycle of debt and punishment, one that vastly and disproportionately impacts low-income communities and people of color. The DLSRA ends license suspensions due to both non-payment of traffic fines and non-appearance at a traffic hearing.<sup>1</sup> It also makes affordable payment plans available and reinstates the licenses of people who currently have a suspended license due to non-payment or non-appearance.

This legislation will put an end to an unjust system, while neither increasing costs to New York State nor impacting public safety. While the DLSRA ends driver’s license suspensions for unpaid traffic fines and missed traffic hearings, it does not alter the consequences for dangerous driving. Driver’s License suspensions for unsafe driving, such as driving while under the influence of alcohol, will remain in effect.<sup>2</sup> When a person fails to answer a traffic ticket or misses a traffic hearing, a default judgment will be entered against them.<sup>3</sup> This judgement includes a sentence of the maximum fines and the points associated with the charged violation. Even if fines have not been paid or appearances have been missed, when a person gets six points—this can result from even one serious speeding ticket—within an eighteen-month period, they are assessed a Driver’s

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<sup>1</sup> In the traffic court context, a missed traffic hearing is usually the result of a failure to respond to a traffic ticket. Only 3-5 percent of ticketed driver’s contest their traffic tickets, but people who can’t afford their traffic fines are penalized if they don’t contest theirs, even if they have no ground on which to contest their ticket. Punishing a failure to appear at traffic hearing is the equivalent of punishing a person because they can’t afford their traffic fines.

<sup>2</sup> See V.T.L. §§ 510(2), (2-a), (3).

<sup>3</sup> See V.T.L. § 226(3)(a) (authorizing default judgments by administrative judges in the Traffic Violations Bureau); V.T.L. § 1806-a (authorizing default judgments by traffic court judges).

Responsibility Assessment. Nonpayment of the Driver’s Responsibility Fee will still lead to a driver’s license suspension.<sup>4</sup> In other words, the DLSRA will not alter the “points system” for traffic violations, with which every New York State driver is (or should be) familiar. Therefore, the DLSRA will maintain public safety while ending a counterproductive collection practice that disproportionately affects low-income communities and communities of color in New York.

## **1. THE CURRENT STATE PRACTICE DISPROPORTIONATELY AND UNJUSTLY IMPACTS LOW-INCOME COMMUNITIES AND COMMUNITIES OF COLOR**

Currently, hundreds of thousands of New Yorkers have their driver’s license suspended each year simply because they cannot afford to pay fines, fees, and other monetary penalties imposed for traffic violations. Two-thirds of all driver’s license suspensions in New York occur not because of dangerous driving, but because of unpaid traffic fines and missed traffic hearings.<sup>5</sup> Between January 2016 and April 2018, New York issued almost 1.7 million of these debt-based driver’s license suspensions.<sup>6</sup>

Losing the ability to drive often means losing the ability to get to work. And if a person cannot work, they cannot pay their debts or afford their basic necessities. Thirty percent of civilian jobs require a driver’s license and for the countless New Yorkers who rely on driving to get to work, a license suspension forces an impossible choice—stop driving and not work, or keep driving with a suspended license and risk arrest, criminal charges, more fines and fees, and jail time. This tension is especially felt by Black and Latinx New Yorkers, who are disproportionately stopped, ticketed and arrested. New Yorkers drive because they need to get to work, purchase groceries or medicine, and take care of their families. The devastation caused by debt-based license suspensions is disproportionate to the punished act.

Traffic debt suspensions are issued at much higher rates in low-income communities and communities of color. In New York’s ten poorest communities, driver’s license suspension rates are nearly nine times as high as the rates in the state’s ten wealthiest communities.<sup>7</sup> The communities in New York with the highest percentage of people of color receive driver’s license suspensions for nonpayment of traffic debt at rates four times as high as communities with the smallest percentage of people of color.<sup>8</sup>

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<sup>4</sup> See Frequently Asked Questions, Driver Responsibility Assessment, <https://dmv.ny.gov/how-pay-driver-responsibility-assessment>. Moreover, when someone accrues eleven points within an eighteen-month period, their license is then suspended for dangerous driving. (All websites last visited on December 22, 2020.)

<sup>5</sup> *New Report Finds New York Has Severe Racial Disparities in Traffic Enforcement and Driver’s License Suspensions*, New York Law School (Feb. 18, 2020), [https://news.nyls.edu/new-report-finds-new-york-has-severe-racial-disparities-in-traffic-enforcement-and-drivers-license-suspensions/#:~:text=New%20York%2C%20NY%20\(February%2018,driving%20on%20a%20suspended%20license](https://news.nyls.edu/new-report-finds-new-york-has-severe-racial-disparities-in-traffic-enforcement-and-drivers-license-suspensions/#:~:text=New%20York%2C%20NY%20(February%2018,driving%20on%20a%20suspended%20license).

<sup>6</sup> *Id.*

<sup>7</sup> *The 2019 New York State Driver’s License Suspension Reform Act*, NYCLU, <https://www.nyclu.org/en/legislation/2019-new-york-state-drivers-license-suspension-reform-act>.

<sup>8</sup> *Id.*

The racial disparities are equally stark in New York City. For example, in 2018, driving with a suspended license was the fourth most-charged crime in New York City.<sup>9</sup> Though 76 percent of drivers are white, 80 percent of the people arrested for driving with a suspended license in New York City that year were Black or Latinx.<sup>10</sup>

## **2. GOVERNOR CUOMO SHOULD SIGN THE DLSRA AND RECTIFY THE RACIAL AND ECONOMIC DISPARITIES TRAFFIC DEBT SUSPENSIONS CAUSE**

The City Bar's Criminal Justice Operations Committee urges Governor Cuomo to sign the Driver's License Suspension Reform Act (DLSRA), A.7463-B/S.5348-B into law. The State Legislature, faith leaders, and over one hundred civil rights organizations have spoken out in support of the DLSRA and the need to make driver's license reform a reality for New Yorkers. Now, more than ever, people need to be able to get to work and seek jobs safely and legally. The legislature passed the DLSRA in July 2020. With the Governor's signature, The DLSRA will:

- End debt-based driver's license suspensions
- Make affordable installment plans available (at 2% of a person's monthly income or \$10/month, whichever is greater)
- Provide additional notice of traffic hearings, and
- Reinstate all driver's licenses suspended due to non-payment of traffic fines or non-appearance at traffic hearings.

For hundreds of thousands of New Yorkers, what starts as a traffic infraction becomes an unshakable nightmare. The COVID-19 pandemic has only magnified the harms of a suspension and intensified the need for the DLSRA. It's time to end the cruel, discriminatory, and counterproductive practice of traffic debt suspensions.

The DLSRA will not eliminate consequences or accountability for dangerous driving, non-appearance in traffic court, or non-payment of traffic fines. Instead, the DLSRA eliminates an unforgiving and counterproductive collection method and establishes payment plans for people to pay off traffic debt over time.<sup>11</sup>

The DLSRA provides support for New Yorkers in need and in turn will ensure that more fines will be paid and fewer hearings will be missed. In the rare case that someone does not appear

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<sup>9</sup> *New Report Finds New York Has Severe Racial Disparities in Traffic Enforcement and Driver's License Suspensions*, New York Law School (Feb. 18, 2020).

<sup>10</sup> *Id.*

<sup>11</sup> The DLSRA requires jurisdictions to introduce payment plans and provide notice of those plans and hearing dates. When drivers can afford their payments, they pay and don't need to appear repeatedly for hearings on unpaid fines and fees. The bill also explicitly limits the number of check-in hearings an officer may require for people on payment plans. A study by the New York Criminal Justice Agency found that reminders could reduce the likelihood of a person not-appearing in court by 47%. In Palm Beach, FL, the County began offering payment plans and issuing reminders rather than suspensions upon missed payments. Revenue increased from \$50,659.97 in 2014 (when the policy began) to \$1.6 million in 2017.

at a traffic hearing, the court may still enter a default judgement. And if an individual does not pay their fines, a civil judgment may be entered against them. For dangerous drivers, the “points system” for traffic violations remains in place. When a default judgment is entered upon an individual’s non-appearance, depending on the nature of the traffic infraction, points will be added to that person’s driver’s license. When an individual reaches twelve points, their license will still be suspended.

### **3. THE DLSRA WILL INCREASE REVENUE AND DECREASE COSTS IN NEW YORK STATE**

Data from California<sup>12</sup> and programs in San Francisco, CA, Phoenix, AZ and Palm Beach, FL demonstrate that this bill will actually increase collections of traffic debt and provide a critical boost to New York’s recovering economy.

Ten states and Washington, D.C, have implemented policies similar to the DLSRA. In 2017, the California Legislature was the first to end driver’s license suspensions for unpaid fines and fees.<sup>13</sup> The California DMV claimed that they needed \$20M to implement the legislation. Governor Brown, however, did not allocate any additional funds, and the DMV nonetheless successfully implemented the changes within their existing budget. Similarly, New York’s DMV already has the capacity to accept partial payments, suggesting this reform can be implemented within existing budgets. The ability of the State to collect revenue, especially during the COVID-19 crisis and the economic downturn, is extremely limited without the availability of payment plans.

In addition, there will be savings to the State by virtue of ending the cycle of unpaid debts leading to suspended licenses and/or bench warrants and criminal charges from driving without a license. Criminalizing unpaid fees costs substantial money, necessitating payment of judges, public defenders, prosecutors, police officers and court staff as part of these enforcement actions.<sup>14</sup>

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<sup>12</sup> Since eliminating driver’s license suspensions for non-payment of traffic tickets and introducing payment plans, the State of California has experienced an 8.9% increase in collections on newly issued tickets. Judicial Council of California, Report on the Statewide Collection of Delinquent Court-Ordered Debt for 2017-18 2 (2018), [https://www.courts.ca.gov/documents/lr-2018-statewide-court-ordered-debt-2017-18-pc1463\\_010.pdf](https://www.courts.ca.gov/documents/lr-2018-statewide-court-ordered-debt-2017-18-pc1463_010.pdf).

<sup>13</sup> *Driving Toward Justice: How ending driver’s license suspensions for unpaid traffic tickets helps communities without impacting court collections*, Fines & Fees Justice Center (Apr. 29, 2020), <https://sftreasurer.org/sites/default/files/2020-04/DrivingTowardJustice.pdf>.

<sup>14</sup> For example, “In 2015, Washington State calculated that state troopers spent 70,848 hours dealing with suspensions for non-driving offenses. Arresting one person for driving with a suspended license can take nine hours of an officer’s time when considering all the paperwork required.” *Bipartisan support builds for Coons-Wicker bill targeting debt-based driver’s license suspensions*, Chris Coons Senate, (July 31, 2020), <https://www.coons.senate.gov/news/press-releases/bipartisan-support-builds-for-coons-wicker-bill-targeting-debt-based-drivers-license-suspensions>.

#### **4. PASSING THE DLSRA WILL BRING NEW YORK IN LINE WITH NATIONAL TRENDS AND SEVERAL OTHER STATES THAT HAVE SOUGHT TO END THIS UNJUST PRACTICE**

Moreover, as part of his “commitment to justice” platform, President-elect Joe Biden promises to incentivize states to end traffic debt suspension policies,<sup>15</sup> and in August, Senators Chris Coons (D-Del) and Roger Wicker (R-Miss) introduced the Driving for Opportunity Act,<sup>16</sup> which provides retroactive funding to states for implementing policies like the DLSRA. The bill has gained co-sponsors from both parties—including Sen. Grassley (R) from Iowa—and is well-positioned for passage by Congress. New York can be a model for the driver’s license suspension reform movement. Bipartisan support for these uncontroversial reforms is spreading across the country, and in the next year 15 additional states will have joined the movement.

Over one hundred organizations in New York, including faith leaders, legislators, and organizations across the State, have joined together to support enactment of the DLSRA. The movement for driver’s license suspension reform is moving fast. This summer Oregon passed driver’s license reform during a special legislative session to address the impacts of COVID-19 and racial inequities, recognizing the urgent need to increase access to opportunity, particularly for the communities hardest hit by both the pandemic and driver’s license suspensions.

If Governor Cuomo signs the DLSRA into law, New York will join six other states, including West Virginia, Montana and Oregon, in passing legislation to end driver’s license suspension for unpaid traffic fines.<sup>17</sup> The DLSRA will help individuals, communities, and the State. The time to act is now.

Criminal Justice Operations Committee  
Tess M. Cohen, Chair

December 2020

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<sup>15</sup> *The Biden Plan for Strengthening America’s Commitment to Justice*, <https://joebiden.com/justice/>.

<sup>16</sup> *Bipartisan support builds for Coons-Wicker bill targeting debt-based driver’s license suspensions*, Chris Coons Senate, (July 31, 2020), <https://www.coons.senate.gov/news/press-releases/bipartisan-support-builds-for-coons-wicker-bill-targeting-debt-based-drivers-license-suspensions>.

<sup>17</sup> *Id.*