
National Driver Registry Stop on Driver License

Although the following issue does not directly relate to DWI law, we thought readers may be interested in a problem faced by a client of our firm who was attempting to have his driving privileges in New York State reinstated following an out-of-state conviction.

Recently, we had an individual come to our firm because he was having trouble getting his New York State driver license reinstated. His New York State driver license had been revoked as a result of a fatal motor vehicle accident that had occurred in the State of Massachusetts while he was driving a commercial motor vehicle. No drugs, alcohol or other contributing factors were involved. He had been convicted in a Massachusetts court of Motor Vehicle Homicide by Negligent Operation (ALM GL ch. 90§ 24G(b)), which is a misdemeanor offense in the State of Massachusetts.

As a result of this conviction, he was sentenced to two years of probation, and the court informed him that he was barred from holding a commercial driver license. Shortly thereafter, he received a letter from the Massachusetts Registry of Motor Vehicles stating that his "license/right to operate a commercial motor vehicle is revoked for 5475 Days for MV HOMICIDE/NEGL OP."

Once his conviction had been forwarded to the New York State DMV, he received two separate Orders of Suspension or Revocation from the NYS DMV. The first informed him that his New York State Commercial Driver License would be revoked for at least one year under VTL § 510-A (Suspension and Revocation of Commercial Driver's Licenses). The second informed him that his New York State Driver License was being revoked for at least six months under VTL § 510[2] (Suspension, Revocation and Reissuance of Licenses and Revocations) based on an out-of-state homicide conviction involving a motor vehicle and criminal negligence.

Our client complied with these Orders. After the conclusion of the six month revocation period to his regular, class D driver license, he received a Notice of Approval from the NYS DMV indicating that his application for a driver license had been approved. When he went to the Department of Motor Vehicles and applied for a non-commercial class D driver license, however, he was informed that it could not be issued because Massachusetts has put a *fifteen year* stop on his holding a driver license *in any state*. A helpful employee at the local DMV Office attempted to contact the Massachusetts' Registry of Motor Vehicles by both telephone and fax on our client's behalf, but they did not receive any response from Massachusetts.

Because the client had not been able to accomplish anything through normal procedures, our office contacted the NYS DMV in Albany and provided detailed information regarding the client's problem. Prior to this incident, it had been our experience that another state's ruling would not override New York State law regarding New York's issuance of a license. As a result, although our client may be barred from driving in the State of Massachusetts based on Massachusetts law, our client should be able to obtain a NYS driver license after completing New York's required revocation period.

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Based on this understanding, we anticipated that the DMV's response to our letter would either be (a) a mistake had been made in the reporting of the out-of-state conviction, the mistake had been corrected and our client was eligible for a license, or (b) under some new regulation we were unaware of, New York State was now upholding out-of-state driver license revocations for their full duration regardless of how such an offense would previously have been handled under New York State law.

We received the following response from the DMV:

According to Massachusetts' Counsel's Office, under their law, your client's privilege to operate a commercial motor vehicle is revoked for 15 years and his privilege to operate a non-commercial motor vehicle is revoked for 10 years. However, under the provisions of the Driver's License Compact, New York can restore his non-CDL privileges one year after the revocation period has expired. See Vehicle and Traffic Law § 516. Thus, on November 27, 2007, your client may obtain his non-CDL license. Please notify me in advance of the DMV Office that will process the transaction and the date Mr. MacGregor intends to go that office. I will arrange for the "NDR stop" to be overridden in the office.

While this was a good result for our client in that he would soon be able to drive again, there are several issues involved that we thought may be helpful for our readers to be made aware of.

The "NDR stop" refers to National Driver Register, which is a list of drivers who licenses have been revoked, suspended or denied based on "serious" traffic violations. It is the primary mechanism used by the motor vehicle departments of different states to avoid licensing drivers who have lost their driving privileges in another state. Apparently, Massachusetts had placed information on the NDR indicating that our client could not hold a driver license for the next fifteen years. More information regarding the National Driver Register can be found at www.nhtsa.dot.gov/portal/site/nhtsa.

Although our client's license was revoked in New York State for only one year based on the same incident that led to NDR posting, the local branch of the DMV where our client applied was unable to override the "NDR stop" and issue a driver license without clearance from the Department of Motor Vehicles in Albany.

Finally, although Albany has the ability to override the stop, apparently the stop could not simply be removed from the client's record. This is most likely because Albany could not change an National Driver Registry listing posted by another state, and the listing is automatically triggering a stop on the license. As a result, overriding the stop will require Albany to specifically coordinate with a local DMV branch for a driver license to be issued to the client.

Normally, we inform clients who have had their New York State driver license revoked that they do need the assistance of a lawyer or other third party to get their license back. In this situation, however, the stop would not have been overcome without the ability to contact Albany and have special arrangements made. As a result, an individual "going it alone" may not be able to get a New York State driver license under these circumstances even though they are entitled to one under New York State law.