

5292--C

2009-2010 Regular Sessions

I N   S E N A T E

April 27, 2009

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Introduced by Sens. SQUADRON, HASSELL-THOMPSON, KLEIN, MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to the requirement of exercising due care in the operation of a motor vehicle

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

1     Section 1. This act shall be known and may be cited as the "Hayley Ng  
2     and Diego Martinez law."  
3     S 2. Section 1146 of the vehicle and traffic law, as amended by chap-  
4     ter 559 of the laws of 1988, is amended to read as follows:  
5     S 1146. Drivers to exercise due care. (A) Notwithstanding the  
6     provisions of any other law to the contrary, every driver of a vehicle  
7     shall exercise due care to avoid colliding with any bicyclist, pedestri-  
8     an, or domestic animal upon any roadway and shall give warning by sound-  
9     ing the horn when necessary. For the purposes of this section, the term  
10    "domestic animal" shall mean domesticated sheep, cattle, and goats which  
11    are under the supervision and control of a pedestrian.  
12    (B) 1. A DRIVER OF A MOTOR VEHICLE WHO CAUSES PHYSICAL INJURY AS  
13    DEFINED IN ARTICLE TEN OF THE PENAL LAW TO A PEDESTRIAN OR BICYCLIST  
14    WHILE FAILING TO EXERCISE DUE CARE IN VIOLATION OF SUBDIVISION (A) OF  
15    THIS SECTION, SHALL BE GUILTY OF A TRAFFIC INFRACTION PUNISHABLE BY A  
16    FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS OR BY IMPRISONMENT FOR NOT  
17    MORE THAN FIFTEEN DAYS OR BY BOTH SUCH FINE AND IMPRISONMENT.

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

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1 2. IF SUCH DRIVER OF A MOTOR VEHICLE CAUSES PHYSICAL INJURY WHILE  
2 FAILING TO EXERCISE DUE CARE IN VIOLATION OF SUBDIVISION (A) OF THIS  
3 SECTION, THEN THERE SHALL BE A REBUTTABLE PRESUMPTION THAT, AS A RESULT  
4 OF SUCH FAILURE TO EXERCISE DUE CARE, SUCH PERSON OPERATED THE MOTOR  
5 VEHICLE IN A MANNER THAT CAUSED SUCH PHYSICAL INJURY.

6 (C) 1. A DRIVER OF A MOTOR VEHICLE WHO CAUSES SERIOUS PHYSICAL INJURY  
7 AS DEFINED IN ARTICLE TEN OF THE PENAL LAW TO A PEDESTRIAN OR BICYCLIST  
8 WHILE FAILING TO EXERCISE DUE CARE IN VIOLATION OF SUBDIVISION (A) OF  
9 THIS SECTION, SHALL BE GUILTY OF A TRAFFIC INFRACTION PUNISHABLE BY A  
10 FINE OF NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS OR BY IMPRISONMENT FOR  
11 NOT MORE THAN FIFTEEN DAYS OR BY REQUIRED PARTICIPATION IN A MOTOR VEHI-  
12 CLE ACCIDENT PREVENTION COURSE PURSUANT TO PARAGRAPH (E-1) OF SUBDIVI-  
13 SION TWO OF SECTION 65.10 OF THE PENAL LAW OR BY ANY COMBINATION OF SUCH  
14 FINE, IMPRISONMENT OR COURSE, AND BY SUSPENSION OF A LICENSE OR REGIS-  
15 TRATION PURSUANT TO SUBPARAGRAPH (XIV) OR (XV) OF PARAGRAPH B OF SUBDI-  
16 VISION TWO OF SECTION FIVE HUNDRED TEN OF THIS CHAPTER.

17 2. IF SUCH DRIVER OF A MOTOR VEHICLE CAUSES SERIOUS PHYSICAL INJURY  
18 WHILE FAILING TO EXERCISE DUE CARE IN VIOLATION OF SUBDIVISION (A) OF  
19 THIS SECTION, THEN THERE SHALL BE A REBUTTABLE PRESUMPTION THAT, AS A  
20 RESULT OF SUCH FAILURE TO EXERCISE DUE CARE, SUCH PERSON OPERATED THE  
21 MOTOR VEHICLE IN A MANNER THAT CAUSED SUCH SERIOUS PHYSICAL INJURY.

22 (D) A VIOLATION OF SUBDIVISION (B) OR (C) OF THIS SECTION COMMITTED BY  
23 A PERSON WHO HAS PREVIOUSLY BEEN CONVICTED OF ANY VIOLATION OF SUCH  
24 SUBDIVISIONS WITHIN THE PRECEDING FIVE YEARS, SHALL CONSTITUTE A CLASS B  
25 MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS  
26 IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW.

27 (E) NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE COURT FROM  
28 IMPOSING ANY OTHER AUTHORIZED DISPOSITION, INCLUDING A PERIOD OF COMMU-  
29 NITY SERVICE.

30 S 3. This act shall take effect on the sixtieth day after it shall  
31 have become a law.