

2596

2011-2012 Regular Sessions

I N   S E N A T E

January 26, 2011

---

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to penalties for causing serious injury or death while knowingly operating a motor vehicle with a revoked or suspended license

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

1     Section 1. Section 120.03 of the penal law, as amended by chapter 732  
2     of the laws of 2006, is amended to read as follows:  
3     S 120.03 Vehicular assault in the second degree.  
4     A person is guilty of vehicular assault in the second degree when he  
5     or she causes serious physical injury to another person, and either:  
6     (1) operates a motor vehicle in violation of subdivision two, three,  
7     four or four-a of section eleven hundred ninety-two of the vehicle and  
8     traffic law or operates a vessel or public vessel in violation of para-  
9     graph (b), (c), (d) or (e) of subdivision two of section forty-nine-a of  
10    the navigation law, and as a result of such intoxication or impairment  
11    by the use of a drug, or by the combined influence of drugs or of alco-  
12    hol and any drug or drugs, operates such motor vehicle, vessel or public  
13    vessel in a manner that causes such serious physical injury to such  
14    other person, or  
15    (2) operates a motor vehicle with a gross vehicle weight rating of  
16    more than eighteen thousand pounds which contains flammable gas, radio-  
17    active materials or explosives in violation of subdivision one of  
18    section eleven hundred ninety-two of the vehicle and traffic law, and  
19    such flammable gas, radioactive materials or explosives is the cause of  
20    such serious physical injury, and as a result of such impairment by the  
21    use of alcohol, operates such motor vehicle in a manner that causes such  
22    serious physical injury to such other person, or  
23    (3) operates a snowmobile in violation of paragraph (b), (c) or (d) of  
24    subdivision one of section 25.24 of the parks, recreation and historic

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

LBD02886-01-1

1 preservation law or operates an all terrain vehicle as defined in para-  
2 graph (a) of subdivision one of section twenty-two hundred eighty-one of  
3 the vehicle and traffic law and in violation of subdivision two, three,  
4 four, or four-a of section eleven hundred ninety-two of the vehicle and  
5 traffic law, and as a result of such intoxication or impairment by the  
6 use of a drug, or by the combined influence of drugs or of alcohol and  
7 any drug or drugs, operates such snowmobile or all terrain vehicle in a  
8 manner that causes such serious physical injury to such other person[.],  
9 OR

10 (4) CAUSES SUCH SERIOUS PHYSICAL INJURY BY OPERATION OF A MOTOR VEHI-  
11 CLE WHILE KNOWING OR HAVING REASON TO KNOW THAT HIS OR HER LICENSE OR  
12 PRIVILEGE OF OPERATING A MOTOR VEHICLE IS SUSPENDED OR REVOKED PURSUANT  
13 TO PROVISIONS OF SECTION FIVE HUNDRED TEN OF THE VEHICLE AND TRAFFIC  
14 LAW.

15 If it is established that the person operating such motor vehicle,  
16 vessel, public vessel, snowmobile or all terrain vehicle caused such  
17 serious physical injury while unlawfully intoxicated or impaired by the  
18 use of alcohol or a drug, then there shall be a rebuttable presumption  
19 that, as a result of such intoxication or impairment by the use of alco-  
20 hol or a drug, or by the combined influence of drugs or of alcohol and  
21 any drug or drugs, such person operated the motor vehicle, vessel,  
22 public vessel, snowmobile or all terrain vehicle in a manner that caused  
23 such serious physical injury, as required by this section.

24 Vehicular assault in the second degree is a class E felony.

25 S 2. Section 125.12 of the penal law, as amended by chapter 732 of the  
26 laws of 2006, is amended to read as follows:

27 S 125.12 Vehicular manslaughter in the second degree.

28 A person is guilty of vehicular manslaughter in the second degree when  
29 he or she causes the death of another person, and either:

30 (1) operates a motor vehicle in violation of subdivision two, three,  
31 four or four-a of section eleven hundred ninety-two of the vehicle and  
32 traffic law or operates a vessel or public vessel in violation of para-  
33 graph (b), (c), (d) or (e) of subdivision two of section forty-nine-a of  
34 the navigation law, and as a result of such intoxication or impairment  
35 by the use of a drug, or by the combined influence of drugs or of alco-  
36 hol and any drug or drugs, operates such motor vehicle, vessel or public  
37 vessel in a manner that causes the death of such other person, or

38 (2) operates a motor vehicle with a gross vehicle weight rating of  
39 more than eighteen thousand pounds which contains flammable gas, radio-  
40 active materials or explosives in violation of subdivision one of  
41 section eleven hundred ninety-two of the vehicle and traffic law, and  
42 such flammable gas, radioactive materials or explosives is the cause of  
43 such death, and as a result of such impairment by the use of alcohol,  
44 operates such motor vehicle in a manner that causes the death of such  
45 other person, or

46 (3) operates a snowmobile in violation of paragraph (b), (c) or (d) of  
47 subdivision one of section 25.24 of the parks, recreation and historic  
48 preservation law or operates an all terrain vehicle as defined in para-  
49 graph (a) of subdivision one of section twenty-two hundred eighty-one of  
50 the vehicle and traffic law in violation of subdivision two, three,  
51 four, or four-a of section eleven hundred ninety-two of the vehicle and  
52 traffic law, and as a result of such intoxication or impairment by the  
53 use of a drug, or by the combined influence of drugs or of alcohol and  
54 any drug or drugs, operates such snowmobile or all terrain vehicle in a  
55 manner that causes the death of such other person[.], OR

1 (4) CAUSES THE DEATH OF SUCH OTHER PERSON BY OPERATION OF A MOTOR  
2 VEHICLE WHILE KNOWING OR HAVING REASON TO KNOW THAT HIS OR HER LICENSE  
3 OR PRIVILEGE OF OPERATING A MOTOR VEHICLE IS SUSPENDED OR REVOKED PURSU-  
4 ANT TO PROVISIONS OF SECTION FIVE HUNDRED TEN OF THE VEHICLE AND TRAFFIC  
5 LAW.

6 If it is established that the person operating such motor vehicle,  
7 vessel, public vessel, snowmobile or all terrain vehicle caused such  
8 death while unlawfully intoxicated or impaired by the use of alcohol or  
9 a drug, then there shall be a rebuttable presumption that, as a result  
10 of such intoxication or impairment by the use of alcohol or a drug, or  
11 by the combined influence of drugs or of alcohol and any drug or drugs,  
12 such person operated the motor vehicle, vessel, public vessel, snowmo-  
13 bile or all terrain vehicle in a manner that caused such death, as  
14 required by this section.

15 Vehicular manslaughter in the second degree is a class D felony.

16 S 3. This act shall take effect on the first of November next succeed-  
17 ing the date on which it shall have become a law.