

7382

2009-2010 Regular Sessions

I N A S S E M B L Y

April 2, 2009

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the vehicle and traffic law, in relation to safety in active work zones

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

1 Section 1. The penal law is amended by adding two new sections 120.65  
2 and 120.75 to read as follows:  
3 S 120.65 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE SECOND DEGREE.  
4 1. A PERSON IS GUILTY OF VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN  
5 THE SECOND DEGREE WHEN, WITH CRIMINAL NEGLIGENCE, HE OR SHE:  
6 A. ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WITHOUT PERMISSION  
7 WHILE OPERATING A MOTOR VEHICLE; AND  
8 B. SUCH ENTRY OR INTRUSION CAUSES SERIOUS PHYSICAL INJURY TO ANOTHER  
9 PERSON.  
10 2. FOR PURPOSES OF THIS SECTION:  
11 A. "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA OF A HIGHWAY,  
12 STREET OR PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY  
13 WORK IS BEING CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING  
14 DEVICES, BARRIERS, PAVEMENT MARKINGS, AND/OR WORK VEHICLES; AND  
15 B. "PERMISSION" SHALL MEAN DIRECTION FROM A FLAG PERSON, POLICE OFFI-  
16 CER OR OTHER DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION  
17 FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN.  
18 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE SECOND DEGREE IS A  
19 CLASS E FELONY.  
20 S 120.75 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE FIRST DEGREE.  
21 1. A PERSON IS GUILTY OF VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN  
22 THE FIRST DEGREE WHEN HE OR SHE RECKLESSLY:  
23 A. ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WITHOUT PERMISSION  
24 WHILE OPERATING A MOTOR VEHICLE; AND

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

LBD02616-02-9

1 B. SUCH ENTRY OR INTRUSION CAUSES SERIOUS PHYSICAL INJURY TO ANOTHER  
2 PERSON.

3 2. FOR PURPOSES OF THIS SECTION:

4 A. "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA OF A HIGHWAY,  
5 STREET OR PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY  
6 WORK IS BEING CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING  
7 DEVICES, BARRIERS, PAVEMENT MARKINGS, AND/OR WORK VEHICLES; AND

8 B. "PERMISSION" SHALL MEAN DIRECTION FROM A FLAG PERSON, POLICE OFFI-  
9 CER OR OTHER DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION  
10 FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN.

11 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE FIRST DEGREE IS A  
12 CLASS D FELONY.

13 S 2. The penal law is amended by adding two new sections 125.65 and  
14 125.70 to read as follows:

15 S 125.65 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE SECOND  
16 DEGREE.

17 1. A PERSON IS GUILTY OF VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE  
18 IN THE SECOND DEGREE WHEN, WITH CRIMINAL NEGLIGENCE, HE OR SHE:

19 (A) ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WITHOUT PERMISSION  
20 WHILE OPERATING A MOTOR VEHICLE; AND

21 (B) SUCH ENTRY OR INTRUSION CAUSES THE DEATH OF ANOTHER PERSON.

22 2. FOR PURPOSES OF THIS SECTION:

23 (A) "ACTIVE WORK ZONE" SHALL MEAN THE AREA OF A HIGHWAY, STREET OR  
24 PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING  
25 CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING DEVICES, BARRIERS,  
26 PAVEMENT MARKINGS, AND/OR WORK VEHICLES; AND

27 (B) "PERMISSION" SHALL MEAN DIRECTION FROM A FLAG PERSON, POLICE OFFI-  
28 CER OR OTHER DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION  
29 FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN.

30 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE SECOND DEGREE IS  
31 A CLASS C FELONY.

32 S 125.70 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE FIRST  
33 DEGREE.

34 1. A PERSON IS GUILTY OF VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE  
35 IN THE FIRST DEGREE WHEN HE OR SHE RECKLESSLY:

36 (A) ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WITHOUT PERMISSION  
37 WHILE OPERATING A MOTOR VEHICLE; AND

38 (B) SUCH ENTRY OR INTRUSION CAUSES THE DEATH OF ANOTHER PERSON.

39 2. FOR PURPOSES OF THIS SECTION:

40 (A) "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA OF A HIGHWAY,  
41 STREET OR PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY  
42 WORK IS BEING CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING  
43 DEVICES, BARRIERS, PAVEMENT MARKINGS, AND/OR WORK VEHICLES; AND

44 (B) "PERMISSION" SHALL MEAN DIRECTION FROM A FLAG PERSON, POLICE OFFI-  
45 CER OR OTHER DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION  
46 FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN.

47 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE FIRST DEGREE IS A  
48 CLASS B FELONY.

49 S 3. The vehicle and traffic law is amended by adding a new section  
50 1221-a to read as follows:

51 S 1221-A. INTRUSION INTO AN ACTIVE WORK ZONE. 1. NO DRIVER OF A VEHI-  
52 CLE SHALL ENTER OR INTRUDE INTO AN ACTIVE WORK ZONE EXCEPT UPON DIREC-  
53 TION FROM A FLAG PERSON, POLICE OFFICER OR OTHER VISIBLY DESIGNATED  
54 PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION FROM A TRAFFIC CONTROL  
55 DEVICE REGULATING ENTRY THEREIN. FOR PURPOSES OF THIS SECTION, THE TERM  
56 "ACTIVE WORK ZONE" SHALL MEAN THE AREA OF A HIGHWAY, STREET OR PRIVATE

1 ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING  
2 CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING DEVICES, BARRIERS,  
3 PAVEMENT MARKINGS, AND/OR WORK VEHICLES.

4 2. A VIOLATION OF SUBDIVISION ONE OF THIS SECTION SHALL CONSTITUTE A  
5 CLASS B MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN TWO HUNDRED  
6 FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS, OR BY A PERIOD OF  
7 IMPRISONMENT NOT TO EXCEED THREE MONTHS, OR BY BOTH SUCH FINE AND IMPRI-  
8 SONMENT.

9 S 4. This act shall take effect immediately.