

6098

2009-2010 Regular Sessions

I N S E N A T E

July 22, 2009

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

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 four new sections
2 120.65, 120.66, 125.65 and 125.70 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 ON A PUBLIC HIGH-
12 WAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY
13 WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN
14 ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES
15 AND WHERE WORKERS ARE PHYSICALLY PRESENT; AND
16 B. "PERMISSION" SHALL MEAN DIRECTION FROM A FLAG PERSON, POLICE OFFI-
17 CER OR OTHER DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION
18 FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN.
19 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE SECOND DEGREE IS A
20 CLASS E FELONY.
21 S 120.66 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE FIRST DEGREE.
22 1. A PERSON IS GUILTY OF VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN
23 THE FIRST DEGREE WHEN HE OR SHE RECKLESSLY:
24 A. ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WITHOUT PERMISSION
25 WHILE OPERATING A MOTOR VEHICLE; AND

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

LBD14571-01-9

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 ON A PUBLIC HIGH-
5 WAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY
6 WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN
7 ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES
8 AND WHERE WORKERS ARE PHYSICALLY PRESENT; AND

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

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

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

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

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

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

21 2. FOR PURPOSES OF THIS SECTION:

22 (A) "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA ON A PUBLIC HIGH-
23 WAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY
24 WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN
25 ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES
26 AND WHERE WORKERS ARE PHYSICALLY PRESENT; 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 ON A PUBLIC HIGH-
41 WAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY
42 WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN
43 ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES
44 AND WHERE WORKERS ARE PHYSICALLY PRESENT; AND

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

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

50 S 2. The vehicle and traffic law is amended by adding a new section
51 1221-a to read as follows:

52 S 1221-A. INTRUSION INTO AN ACTIVE WORK ZONE. 1. NO DRIVER OF A VEHI-
53 CLE, OPERATOR OF A BICYCLE OR PEDESTRIAN SHALL ENTER OR INTRUDE INTO AN
54 ACTIVE WORK ZONE, EXCEPT UPON DIRECTION FROM A FLAG PERSON, POLICE OFFI-
55 CER OR OTHER DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION
56 FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN. FOR PURPOSES OF

1 THIS SECTION, THE TERM "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA
2 ON A PUBLIC HIGHWAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES AND WHERE WORKERS ARE PHYSICALLY PRESENT.

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

11 S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.