

S T A T E O F N E W Y O R K

6098--A

2009-2010 Regular Sessions

I N S E N A T E

July 22, 2009

Introduced by Sens. MAZIARZ, ADAMS, ALESİ, HUNTLEY, LIBOUS, MORAHAN, NOZZOLIO, PADAVAN, RANZENHOFER, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 WHILE OPERATING A MOTOR
7 VEHICLE; AND
8 B. SUCH ENTRY OR INTRUSION CAUSES SERIOUS PHYSICAL INJURY TO ANOTHER
9 PERSON.
10 2. FOR PURPOSES OF THIS SECTION THE TERM "ACTIVE WORK ZONE" SHALL MEAN
11 THE PHYSICAL AREA ON A PUBLIC HIGHWAY, STREET OR PRIVATE ROAD WHERE
12 CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING CONDUCTED, WHICH AREA
13 IS PROPERLY DESIGNATED TO BE AN ACTIVE WORK ZONE BY SIGNS, CONES AND/OR
14 OTHER TRAFFIC CONTROL DEVICES AND WHERE WORKERS ARE PHYSICALLY PRESENT.
15 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE SECOND DEGREE IS A
16 CLASS E FELONY.
17 S 120.66 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE FIRST DEGREE.
18 1. A PERSON IS GUILTY OF VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN
19 THE FIRST DEGREE WHEN HE OR SHE RECKLESSLY:
20 A. ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WHILE OPERATING A MOTOR
21 VEHICLE; AND

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

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

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

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

10 S 125.65 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE SECOND
11 DEGREE.

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

14 (A) ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WHILE OPERATING A
15 MOTOR VEHICLE; AND

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

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

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

24 S 125.70 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE FIRST
25 DEGREE.

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

28 (A) ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WHILE OPERATING A
29 MOTOR VEHICLE; AND

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

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

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

38 S 2. The vehicle and traffic law is amended by adding a new section
39 1221-a to read as follows:

40 S 1221-A. INTRUSION INTO AN ACTIVE WORK ZONE. 1. NO DRIVER OF A VEHI-
41 CLE, OPERATOR OF A BICYCLE OR PEDESTRIAN SHALL ENTER OR INTRUDE INTO AN
42 ACTIVE WORK ZONE, EXCEPT UPON DIRECTION FROM A FLAG PERSON, POLICE OFFI-
43 CER OR OTHER DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION
44 FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN. FOR PURPOSES OF
45 THIS SECTION, THE TERM "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA
46 ON A PUBLIC HIGHWAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTEN-
47 NANCE OR UTILITY WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIG-
48 NATED TO BE AN ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC
49 CONTROL DEVICES AND WHERE WORKERS ARE PHYSICALLY PRESENT.

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

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