

7726

I N S E N A T E

May 5, 2010

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

AN ACT to amend the vehicle and traffic law, in relation to the liability of owners of motor vehicles used to overtake or pass a stopped school bus receiving or discharging passengers and authorizing the use of photographic evidence in the prosecution of such traffic infraction; and to amend the penal law, in relation to assault in the third degree and criminally negligent homicide

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

1 Section 1. The vehicle and traffic law is amended by adding a new
2 section 225-a to read as follows:
3 S 225-A. OWNERSHIP AND OPERATION OF VEHICLES; LIABILITY FOR PASSING OR
4 OVERTAKING STOPPED SCHOOL BUS. 1. DEFINITIONS. WHENEVER USED IN THIS
5 ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
6 A. "OWNER" MEANS ANY PERSON, CORPORATION, PARTNERSHIP, FIRM, AGENCY,
7 ASSOCIATION, LESSOR OR ORGANIZATION WHO AT THE TIME OF THE ISSUANCE OF A
8 NOTICE OF VIOLATION:
9 (1) IS THE BENEFICIAL OR EQUITABLE OWNER OF A VEHICLE; OR
10 (2) HAS TITLE TO A VEHICLE; OR
11 (3) IS THE REGISTRANT OR CO-REGISTRANT OF A VEHICLE WHICH IS REGIS-
12 TERED WITH THE DEPARTMENT OR THE DEPARTMENT OF MOTOR VEHICLES OF ANY
13 OTHER STATE, TERRITORY, DISTRICT, PROVINCE, NATION OR OTHER JURISDIC-
14 TION; OR
15 (4) USES A VEHICLE IN ITS VEHICLE RENTING AND/OR LEASING BUSINESS; OR
16 (5) IS AN OWNER OF A VEHICLE AS DEFINED BY SECTION ONE HUNDRED TWEN-
17 TY-EIGHT OF THIS CHAPTER.
18 B. "LESSOR" MEANS ANY PERSON, CORPORATION, FIRM, PARTNERSHIP, AGENCY,
19 ASSOCIATION OR ORGANIZATION ENGAGED IN THE BUSINESS OF RENTING OR LEAS-
20 ING VEHICLES TO ANY LESSEE OR BAILEE UNDER A RENTAL AGREEMENT, LEASE OR
21 OTHERWISE, WHEREIN THE SAID LESSEE OR BAILEE HAS THE EXCLUSIVE USE OF
22 SAID VEHICLE FOR ANY PERIOD OF TIME.
23 C. "LESSEE" MEANS ANY PERSON, CORPORATION, FIRM, PARTNERSHIP, AGENCY,
24 ASSOCIATION OR ORGANIZATION THAT RENTS, BAILS, LEASES OR CONTRACTS FOR

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

LBD06945-01-9

1 THE USE OF ONE OR MORE VEHICLES AND HAS THE EXCLUSIVE USE THEREOF FOR
2 ANY PERIOD OF TIME.

3 D. "VEHICLE" MEANS A VEHICLE AS DEFINED IN SECTION ONE HUNDRED FIFTY-
4 NINE OF THIS CHAPTER.

5 E. "OPERATOR" MEANS ANY PERSON, CORPORATION, FIRM, PARTNERSHIP, AGEN-
6 CY, ASSOCIATION, ORGANIZATION OR LESSEE THAT USES OR OPERATES A VEHICLE
7 WITH OR WITHOUT THE PERMISSION OF THE OWNER, AND AN OWNER WHO OPERATES
8 HIS OR HER OWN VEHICLE.

9 F. "NOTICE OF VIOLATION" MEANS A NOTICE OF VIOLATION AS DEFINED IN
10 PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWENTY-SIX OF
11 THIS ARTICLE.

12 G. "FISCAL YEAR" MEANS A PERIOD OF ONE YEAR COMMENCING ON THE FIRST
13 DAY OF JULY AND TERMINATING ON THE THIRTIETH DAY OF JUNE.

14 H. "PRIMARY FILING" MEANS THE INITIAL FILING OF REGISTRATION PLATE
15 NUMBERS BY A LESSOR PRIOR TO THE COMMENCEMENT OF EACH FISCAL YEAR.

16 2. LIABILITY. A. THE OPERATOR OF A VEHICLE SHALL BE LIABLE FOR THE
17 FINES OR PENALTIES IMPOSED PURSUANT TO THIS ARTICLE. EXCEPT AS OTHERWISE
18 PROVIDED IN PARAGRAPHS B AND E OF THIS SUBDIVISION, THE OWNER OF THE
19 VEHICLE, EVEN IF NOT THE OPERATOR THEREOF, SHALL BE JOINTLY AND
20 SEVERALLY LIABLE WITH THE OPERATOR THEREOF FOR ANY VIOLATION OF SUBDIVI-
21 SION (A) OF SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THIS CHAPTER, IF SUCH
22 VEHICLE WAS USED OR OPERATED WITH THE PERMISSION OF THE OWNER, EXPRESS
23 OR IMPLIED, BUT IN SUCH CASE THE OWNER MAY RECOVER ANY FINE OR PENALTIES
24 PAID BY HIM OR HER FROM THE OPERATOR.

25 B. THE LESSOR OF A MOTOR VEHICLE SHALL NOT BE LIABLE FOR FINES OR
26 PENALTIES IMPOSED PURSUANT TO THIS ARTICLE FOR ANY VIOLATION OF SUBDIVI-
27 SION (A) OF SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THIS CHAPTER IF:

28 (1) PRIOR TO THE INFRACTION, THE LESSOR HAS FILED WITH THE OFFICE OF
29 THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION THE REGISTRATION
30 PLATE NUMBER, PLATE TYPE, AND PLACE OF REGISTRATION OF THE VEHICLE TO
31 WHICH THE NOTICE OF VIOLATION WAS ISSUED AND PAID THE REQUIRED FILING
32 FEE PROVIDED IN PARAGRAPH F OF THIS SUBDIVISION AND,

33 (2) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM THE OFFICE OF
34 THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION OF THE DATE AND
35 TIME OF A VIOLATION, TOGETHER WITH THE OTHER INFORMATION CONTAINED IN
36 THE ORIGINAL NOTICE OF VIOLATION, THE LESSOR SUBMITS TO THE OFFICE OF
37 THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION THE CORRECT NAME
38 AND ADDRESS OF THE LESSEE OF THE VEHICLE IDENTIFIED IN THE NOTICE OF
39 VIOLATION AT THE TIME OF SUCH VIOLATION, TOGETHER WITH SUCH OTHER ADDI-
40 TIONAL INFORMATION CONTAINED IN THE RENTAL, LEASE OR OTHER CONTRACT
41 DOCUMENT, AS MAY BE REASONABLY REQUIRED BY THE OFFICE OF THE DEPARTMENT
42 SPECIFIED IN SUCH NOTICE OF VIOLATION PURSUANT TO REGULATIONS THAT MAY
43 BE PROMULGATED FOR SUCH PURPOSE.

44 C. IF THE LESSOR HAS COMPLIED WITH SUBPARAGRAPH ONE OF PARAGRAPH B OF
45 THIS SUBDIVISION SUCH LESSOR SHALL NOT BE LIABLE FOR ANY PENALTIES IN
46 EXCESS OF THE SCHEDULED FINE UNLESS SUCH LESSOR FAILS TO APPEAR WITHIN
47 THIRTY-SEVEN DAYS OF ACTUAL RECEIPT OF A NOTICE OF VIOLATION PURSUANT TO
48 PARAGRAPH E OF THIS SUBDIVISION.

49 D. IF THE LESSOR WHO HAS COMPLIED WITH SUBPARAGRAPH ONE OF PARAGRAPH B
50 OF THIS SUBDIVISION HAS PAID ANY FINE OR PENALTY FOR WHICH HE OR SHE IS
51 LIABLE AND THE OFFICE OF THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF
52 VIOLATION SUBSEQUENTLY COLLECTS FROM THE OPERATOR OR LESSEE THE AMOUNT
53 OF THE SCHEDULED FINE AND PENALTY OWED BY SUCH PERSON, OR ANY PORTION
54 THEREOF, THE LESSOR SHALL BE ENTITLED TO REIMBURSEMENT FROM THE OFFICE
55 OF THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION OF THE AMOUNT OF

1 THE FINE AND PENALTY PAID BY THE LESSOR, LESS THE COSTS OF COLLECTION
2 INCURRED BY SUCH OFFICE OF THE DEPARTMENT.

3 E. THE LESSOR SHALL NOT BE LIABLE FOR ANY FINES OR PENALTIES IN
4 CONNECTION WITH A NOTICE OF VIOLATION FOR A VEHICLE WHOSE REGISTRATION
5 PLATE NUMBER IS FILED AND THE FEE THEREFOR PAID PRIOR TO THE TIME OF THE
6 ISSUANCE OF NOTICE OF VIOLATION, UNLESS THE LESSOR SHALL RECEIVE NOTICE
7 FROM THE OFFICE OF THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION
8 OF THE DATE AND TIME OF SUCH VIOLATION, TOGETHER WITH THE OTHER INFORMA-
9 TION CONTAINED IN THE ORIGINAL NOTICE OF VIOLATION, WITHIN NINETY DAYS
10 AFTER SERVICE OF THE NOTICE OF VIOLATION, IN ACCORDANCE WITH SUBDIVISION
11 ONE OF SECTION TWO HUNDRED TWENTY-SIX OF THIS ARTICLE.

12 F. THE ANNUAL FEE FOR FILING A REGISTRATION PLATE NUMBER WITH THE
13 DEPARTMENT BY LESSORS UNDER THIS SECTION SHALL BE TWELVE DOLLARS PER
14 FISCAL YEAR. LESSORS SHALL ALSO PROVIDE THE OFFICE OF THE DEPARTMENT
15 SPECIFIED IN SUCH NOTICE OF VIOLATION WITH SUCH OTHER ADDITIONAL INFOR-
16 MATION IN SUCH FORMAT AS THE COMMISSIONER BY REGULATION MAY REASONABLY
17 REQUIRE. THE REGISTRATION PLATE NUMBER SHALL NOT BE CONSIDERED FILED
18 WITH THE OFFICE OF THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION
19 UNLESS THE ANNUAL FILING FEE PROVIDED FOR IN THIS SUBDIVISION SHALL HAVE
20 BEEN PAID. LESSORS SHALL NOT BE ENTITLED TO A REFUND, REDUCTION, CREDIT
21 OR OTHER CONSIDERATION IN CONNECTION WITH SUCH ANNUAL FILING FEE IN THE
22 EVENT THAT SUCH REGISTRATION PLATE NUMBER IS WITHDRAWN FROM SERVICE,
23 DESTROYED OR SURRENDERED DURING THE FISCAL YEAR FOR WHICH SUCH REGISTRA-
24 TION PLATE NUMBER SHALL HAVE BEEN FILED. IN THE EVENT THAT A LESSOR
25 FILES WITH THE OFFICE OF THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF
26 VIOLATION REGISTRATION PLATE NUMBERS DURING THE FISCAL YEAR, THE ANNUAL
27 FILING FEE FOR SAME SHALL BE PRORATED ON A MONTHLY BASIS, IN ACCORDANCE
28 WITH A SCHEDULE THAT THE COMMISSIONER SHALL PROMULGATE BY REGULATION FOR
29 SUCH PURPOSE. THE PRIMARY FILING BY EACH LESSOR FOR EACH FISCAL YEAR
30 SHALL BE MADE AT LEAST THIRTY DAYS PRIOR TO THE COMMENCEMENT OF THE
31 FISCAL YEAR.

32 G. WHERE THE UNITED STATES POSTAL AUTHORITIES RETURN TO THE OFFICE OF
33 THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION A DELINQUENCY
34 NOTICE FORWARDED BY THE OFFICE OF THE DEPARTMENT SPECIFIED IN SUCH
35 NOTICE OF VIOLATION TO A NAME AND ADDRESS OF A LESSEE FURNISHED BY A
36 LESSOR IN ACCORDANCE WITH PROVISIONS OF THIS SECTION, SUCH RETURN NOTICE
37 SHALL BE PRESUMPTIVE EVIDENCE OF THE FURNISHING OF AN INCORRECT NAME AND
38 ADDRESS BY THE LESSOR. THE LESSOR MAY, HOWEVER, CONCLUSIVELY REBUT SUCH
39 PRESUMPTION IF WITHIN SIXTY DAYS AFTER RECEIVING NOTIFICATION FROM THE
40 OFFICE OF THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION OF SUCH
41 RETURNED MAIL NOTICE, THE LESSOR SHALL PROVIDE TO THE OFFICE OF THE
42 DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION A COPY OF THE RENTAL
43 AGREEMENT OR LEASE AGREEMENT FOR SUCH LESSEE CONTAINING THE NAME AND
44 ADDRESS PREVIOUSLY FURNISHED TO THE OFFICE OF THE DEPARTMENT SPECIFIED
45 IN SUCH NOTICE OF VIOLATION. IN THE EVENT THAT A LESSOR SHALL FAIL TO
46 REBUT THE PRESUMPTION ESTABLISHED BY THIS SUBDIVISION, THE LESSOR SHALL
47 BE LIABLE FOR THE FINES IMPOSED PURSUANT TO THIS ARTICLE AND IN ACCORD-
48 ANCE WITH THE RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER.

49 H. THE COMMISSIONER SHALL BY RULES AND REGULATIONS PRESCRIBE THE
50 MANNER AND METHOD OF GIVING NOTICE OF OUTSTANDING VIOLATIONS TO THE
51 LESSEES. ALL NOTICES TO LESSORS UNDER THIS SECTION SHALL BE BY FIRST
52 CLASS MAIL TO THE ADDRESS ON FILE WITH THE OFFICE OF THE DEPARTMENT
53 SPECIFIED IN SUCH NOTICE OF VIOLATION OR BY SUCH OTHER MEANS AS SHALL BE
54 PROVIDED FOR IN THE RULES AND REGULATIONS OF THE COMMISSIONER.

55 I. A LESSOR SHALL COOPERATE BY PROVIDING THE OFFICE OF THE DEPARTMENT
56 SPECIFIED IN SUCH NOTICE OF VIOLATION, OR ITS DESIGNATED AGENTS, WITH

1 SUCH OTHER ADDITIONAL INFORMATION AS SHALL BE CONTAINED IN SUCH LESSOR'S
2 RENTAL OR LEASE AGREEMENTS WITH THEIR LESSEES AS SHALL BE AVAILABLE TO
3 THEM.

4 3. STOLEN VEHICLES. IF ANY OWNER OF A MOTOR VEHICLE RECEIVES A NOTICE
5 OF VIOLATION AS SUCH OWNER FOR A PERIOD DURING WHICH THE DESCRIBED VEHI-
6 CLE WAS REPORTED TO ANY POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT
7 SHALL BE A VALID DEFENSE TO ANY CHARGE OF A VIOLATION OF SUBDIVISION (A)
8 OF SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THIS CHAPTER CHARGED PURSUANT
9 TO THIS ARTICLE THAT THE MOTOR VEHICLE HAD BEEN REPORTED TO THE POLICE
10 AS STOLEN PRIOR TO THE TIME THE VIOLATION OCCURRED AND HAD NOT BEEN
11 RECOVERED BY SUCH TIME. FOR THE PURPOSES OF ASSERTING THE DEFENSE
12 PROVIDED BY THIS SUBDIVISION, IT SHALL BE SUFFICIENT THAT A CERTIFIED
13 COPY OF THE POLICE REPORT OF THE STOLEN VEHICLE BE MAILED TO THE OFFICE
14 OF THE DEPARTMENT SPECIFIED IN SUCH NOTICE OF VIOLATION.

15 S 2. The section heading and subdivision 1 of section 226 of the vehi-
16 cle and traffic law, as added by chapter 1074 of the laws of 1969, are
17 amended to read as follows:

18 Summons; NOTICE OF VIOLATION; answer. 1. Summons. (A) GENERAL. The
19 commissioner shall be authorized to prescribe by regulation the form for
20 the summons and complaint to be used for all traffic violations speci-
21 fied in subdivision one of section two hundred twenty-five of this chap-
22 ter, and to establish procedures for proper administrative controls over
23 the disposition thereof. Such summons may be the same as the uniform
24 summons provided for in section two hundred seven of this chapter. The
25 chief executive officer of each local police force which is required to
26 use the summons and complaint provided for herein shall prepare or cause
27 to be prepared such records and reports as may be prescribed by the
28 commissioner.

29 (B) NOTICE OF VIOLATION. WHENEVER PHOTOGRAPHIC EVIDENCE OF OR THE
30 OPERATOR OF A SCHOOL BUS REPORTS A VIOLATION OF SUBDIVISION (A) OF
31 SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THIS CHAPTER, A SUMMONS MAY BE
32 SERVED BY MAIL UPON THE OWNER OF THE VEHICLE OBSERVED IN SUCH VIOLATION
33 AS SET FORTH IN THE RECORDS OF THE DEPARTMENT PROVIDED, HOWEVER, THAT
34 SUCH SUMMONS IS ACCOMPANIED BY A NOTICE OF VIOLATION REFERRING TO SUCH
35 SUMMONS, BOTH IN FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER FOR
36 THIS PURPOSE, SUCH VEHICLE IS IDENTIFIED IN SUCH NOTICE OF VIOLATION
37 BOTH BY ITS REGISTRATION PLATE NUMBER AND A DESCRIPTION THEREOF, INCLUD-
38 ING ITS MAKE, MODEL, BODY TYPE AND COLOR, AND SUCH NOTICE IS ACCOMPANIED
39 BY SAID OFFICER'S CERTIFICATION OF THE EVIDENCE WHICH IS THE BASIS FOR
40 SUCH VIOLATION AUTHORIZING THE MAILING THEREOF. WHEN SUCH SUMMONS AND
41 NOTICE OF VIOLATION ARE SO SERVED BY MAIL PURSUANT TO THIS PARAGRAPH
42 DUPLICATES OR FACSIMILES THEREOF SHALL BE FILED WITH AND RETAINED BY THE
43 OFFICE OF THE DEPARTMENT SPECIFIED ON SUCH NOTICE OF VIOLATION, SHALL BE
44 DEEMED RECORDS KEPT IN THE ORDINARY COURSE OF BUSINESS AND SHALL BE
45 PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN; IN ADDITION, SUCH
46 NOTICE OF VIOLATION AND SUMMONS SERVED BY MAIL AS HEREIN PROVIDED SHALL
47 HAVE THE SAME FORCE AND EFFECT AND THE RECIPIENT THEREOF SHALL BE
48 SUBJECT TO THE SAME PENALTIES FOR DISREGARD THEREOF AS THOUGH THE SAME
49 WERE PERSONALLY SERVED ON THE PERSON CHARGED WITH THE VIOLATION SET
50 FORTH THEREIN, EXCEPT AS MAY OTHERWISE BE SET FORTH IN THIS ARTICLE, AND
51 SHALL HAVE CLEARLY IMPRINTED THEREON IN EASILY VISIBLE BLOCK LETTERS:
52 YOUR FAILURE TO ANSWER THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR
53 LICENSE OR DRIVING PRIVILEGE PURSUANT TO S 226 OF THE VEHICLE AND TRAF-
54 FIC LAW.

55 S 3. Subdivision 3 and paragraph a of subdivision 4 of section 227 of
56 the vehicle and traffic law, subdivision 3 as amended by chapter 337 of

the laws of 1970 and renumbered by chapter 288 of the laws of 1989 and paragraph a of subdivision 4 as amended by section 7 of part J of chapter 62 of the laws of 2003, are amended to read as follows:

3. After due consideration of the evidence and arguments offered in a contested case, the hearing officer shall determine whether the charges have been established. IN THE CASE OF AN OWNER CHARGED AS SUCH PURSUANT TO THIS ARTICLE, IT SHALL BE A COMPLETE DEFENSE TO SUCH CHARGE THAT A VEHICLE ALLEGED TO BE IN VIOLATION WAS OPERATED WITHOUT THE PERMISSION OF SUCH OWNER OR HIS AGENT AND THE ESTABLISHMENT OF LACK OF PERMISSION SHALL RESULT IN AN ORDER DISMISSING SUCH CHARGE AGAINST SUCH OWNER. Where the charges have not been established, an order dismissing the charges shall be entered. Where a determination is made that a charge has been established, either in a contested case or in an uncontested case where there is an appearance before a hearing officer, or if an answer admitting the charge otherwise has been received, an appropriate order shall be entered in the department's records.

a. An order entered upon the failure to answer or appear or after the receipt of an answer admitting the charge or where a determination is made that the charge has been established shall be civil in nature, but shall be treated as a conviction for the purposes of this chapter. The commissioner or his designee may include in such order an imposition of any penalty authorized by any provision of this chapter for a conviction of such violation, except that no penalty [therefore] THEREFOR shall include imprisonment, nor, if monetary, exceed the amount of the fine which could have been imposed had the charge been heard by a court. The driver's license or privileges, or, if the charge involves a violation of section three hundred eighty-five or section four hundred one of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or privilege of operation of any motor vehicle owned by such registrant may be suspended pending the payment of any penalty so imposed; HOWEVER, IN THE CASE OF AN OWNER CHARGED AS SUCH PURSUANT TO THIS ARTICLE, HIS OR HER DRIVER'S LICENSE OR PRIVILEGE SHALL NOT BE AFFECTED BY SUCH ORDER OR DETERMINATION OTHER THAN AS SUSPENSION THEREOF FOR FAILURE TO APPEAR OR PAY AS SET FORTH IN THIS ARTICLE, NOR SHALL A CONVICTION HEREUNDER OF SUCH OWNER AS SUCH RESULT IN DEPARTMENTAL ADMINISTRATIVE SANCTIONS AFFECTING HIS OR HER DRIVING LICENSE OR PRIVILEGE. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

S 4. Section 1174 of the vehicle and traffic law is amended by adding a new subdivision (b-1) to read as follows:

(B-1) THE DRIVER AND/OR OWNER OF A VEHICLE CHARGED WITH THE VIOLATION OF SUBDIVISION (A) OF THIS SECTION, MAY BE PROSECUTED BASED UPON THE OBSERVATIONS OF THE DRIVER OF A SCHOOL BUS OR PHOTOGRAPHIC EVIDENCE.

S 5. Section 120.00 of the penal law is amended to read as follows:

S 120.00 Assault in the third degree.

A person is guilty of assault in the third degree when:

1. With intent to cause physical injury to another person, he OR SHE causes such injury to such person or to a third person; or

2. He OR SHE recklessly causes physical injury to another person; or

3. With criminal negligence, he OR SHE causes physical injury to another person by means of a deadly weapon or a dangerous instrument[.]; OR

4. HE OR SHE CAUSES PHYSICAL INJURY TO ANOTHER PERSON WHILE OPERATING A MOTOR VEHICLE IN VIOLATION OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THE VEHICLE AND TRAFFIC LAW.

1 Assault in the third degree is a class A misdemeanor.
2 S 6. Section 125.10 of the penal law is amended to read as follows:
3 S 125.10 Criminally negligent homicide.
4 A person is guilty of criminally negligent homicide when[, with]:
5 1. WITH criminal negligence, he OR SHE causes the death of another
6 person[.]; OR
7 2. HE OR SHE CAUSES THE DEATH OF ANOTHER PERSON WHILE OPERATING A
8 MOTOR VEHICLE IN VIOLATION OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED
9 SEVENTY-FOUR OF THE VEHICLE AND TRAFFIC LAW.
10 Criminally negligent homicide is a class E felony.
11 S 7. This act shall take effect on the first of November next succeed-
12 ing the date on which it shall have become a law.