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

7917

2009-2010 Regular Sessions

I N A S S E M B L Y

April 28, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to defining a vulnerable user of a public way, establishing the offense of careless driving and procedures and penalties relating thereto, and authorizing the commissioner of motor vehicles to revoke or suspend the license or driving privileges of a person convicted of careless driving if such person causes injury to a vulnerable user of a public way

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

Section 1. This act shall be known and may be cited as "the Hailey Ng and Diego Martinez law".

S 2. The vehicle and traffic law is amended by adding a new section 159-a to read as follows:

S 159-A. VULNERABLE USER. A PEDESTRIAN, A HIGHWAY WORKER, A PERSON RIDING AN ANIMAL OR A PERSON OPERATING ANY OF THE FOLLOWING ON A PUBLIC WAY, CROSSWALK OR SHOULDER OF THE HIGHWAY:

1. A FARM TRACTOR OR IMPLEMENT OF HUSBANDRY WITHOUT AN ENCLOSED SHELL;

2. A SKATEBOARD;

3. ROLLER SKATES OR IN-LINE SKATES;

4. A SCOOTER; OR

5. A BICYCLE.

S 3. The vehicle and traffic law is amended by adding a new section 1146-b to read as follows:

S 1146-B. CARELESS DRIVING; PROCEDURE; PENALTIES. 1. A PERSON COMMITS THE OFFENSE OF CARELESS DRIVING IF THE PERSON DRIVES ANY VEHICLE UPON A HIGHWAY, INCLUDING THE SHOULDER OF A HIGHWAY, OR OTHER PREMISES OPEN TO THE PUBLIC WITHOUT DUE CARE OR IN A MANNER THAT ENDANGERS OR WOULD BE LIKELY TO ENDANGER ANY PERSON OR PROPERTY.

2. IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR AN OFFENSE COMMITTED UNDER THIS SECTION PURSUANT TO THIS CHAPTER, IF THE COURT DETERMINES

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

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THAT THE COMMISSION OF THE OFFENSE DESCRIBED IN THIS SECTION CONTRIBUTED TO THE SERIOUS PHYSICAL INJURY OR DEATH OF A VULNERABLE USER OF A PUBLIC WAY, THE COURT SHALL:

(A) IMPOSE A SENTENCE THAT REQUIRES THE PERSON TO COMPLETE A TRAFFIC SAFETY COURSE AND PERFORM UP TO SIXTY DAYS OF COMMUNITY SERVICE WHICH SHALL INCLUDE ACTIVITIES RELATED TO DRIVER IMPROVEMENT AND PROVIDING PUBLIC EDUCATION ON TRAFFIC SAFETY;

(B) IMPOSE, BUT SUSPEND, ON THE CONDITION THAT THE PERSON COMPLETE THE REQUIREMENTS OF PARAGRAPH (A) OF THIS SUBDIVISION, A FINE OF UP TO TEN THOUSAND DOLLARS AND A SUSPENSION OF UP TO ONE YEAR OR REVOCATION OF DRIVING PRIVILEGES AS PROVIDED IN SECTION FIVE HUNDRED TEN OF THIS CHAPTER; AND

(C) SET A HEARING DATE UP TO ONE YEAR FROM THE DATE OF SENTENCING.

3. AT THE HEARING DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION, THE COURT SHALL:

(A) IF THE PERSON HAS SUCCESSFULLY COMPLETED THE REQUIREMENTS DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, DISMISS THE PENALTIES IMPOSED UNDER PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION; OR

(B) IF THE PERSON HAS NOT SUCCESSFULLY COMPLETED THE REQUIREMENTS DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION:

(1) GRANT THE PERSON AN EXTENSION OF TIME, FOR GOOD CAUSE SHOWN, TO COMPLETE THE REQUIREMENTS DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION AND SET A DATE FOR A SUBSEQUENT HEARING; OR

(2) IMPOSE THE PENALTIES UNDER PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION.

4. (A) WITHIN TEN DAYS OF IMPOSING A SUSPENSION UNDER SUBPARAGRAPH TWO OF PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, THE COURT SHALL PREPARE AND SEND TO THE DEPARTMENT AN ORDER OF SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES OF THE PERSON CONVICTED. UPON RECEIPT OF SUCH ORDER, THE DEPARTMENT SHALL IMMEDIATELY MAKE PROPER ENTRY IN ITS FILES AND RECORDS, SUSPEND OR REVOKE THE LICENSE OR DRIVING PRIVILEGE OF THE CONVICTED PERSON AS SPECIFIED IN THE ORDER AND TAKE SUCH OTHER ACTION AS IS NECESSARY TO IMPLEMENT THE PROVISIONS OF THE ORDER.

(B) ANY SUSPENSION OF DRIVING PRIVILEGES ORDERED PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL REMAIN IN FORCE FOR THE PERIOD OF TIME OF THE SUSPENSION AS SPECIFIED IN THE ORDER OR, IF NO PERIOD IS SPECIFIED, UNTIL THE DEPARTMENT IS NOTIFIED BY THE COURT THAT THE SUSPENSION IS ENDED; PROVIDED THAT, IF THE DEPARTMENT IS ORDERED TO AUTOMATICALLY RESTORE THE DRIVING PRIVILEGES UPON THE SUCCESSFUL COMPLETION OF A PROGRAM, THE DEPARTMENT SHALL DO SO IMMEDIATELY AND SHALL NOTIFY THE JUDGE THAT THE PERSON HAS COMPLIED WITH THE ORDER OF THE JUDGE.

5. A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION AND CAUSES SERIOUS PHYSICAL INJURY TO OR THE DEATH OF A VULNERABLE USER OF A PUBLIC WAY SHALL PERSONALLY APPEAR BEFORE THE COURT AT THE TIME INDICATED IN THE SUMMONS ISSUED FOR THE VIOLATION AND FOR ALL HEARINGS PERTAINING TO THE MATTER. AS USED IN THIS SECTION, SERIOUS PHYSICAL INJURY SHALL HAVE THE MEANING SPECIFIED IN SUBDIVISION TEN OF SECTION 10.00 OF THE PENAL LAW.

6. THE POLICE OFFICER ISSUING THE CITATION FOR AN OFFENSE UNDER THIS SECTION SHALL NOTE ON THE CITATION IF THE CITED OFFENSE CONTRIBUTED TO THE SERIOUS PHYSICAL INJURY OR DEATH OF A VULNERABLE USER OF A PUBLIC WAY.

S 4. Subdivision 2 of section 510 of the vehicle and traffic law is amended by adding a new paragraph e to read as follows:

E. MANDATORY SUSPENSION OR REVOCATION OF A LICENSE; INJURY TO VULNERABLE USER OF A PUBLIC WAY. A LICENSE OR PRIVILEGE SHALL BE SUSPENDED OR REVOKED BY THE COMMISSIONER WHERE THE HOLDER IS CONVICTED OF A VIOLATION OF SECTION ELEVEN HUNDRED FORTY-SIX-B OF THIS CHAPTER, WHICH VIOLATION RESULTED IN INJURY TO OR THE DEATH OF A VULNERABLE USER OF A PUBLIC WAY AS SPECIFIED IN SUBDIVISION TWO OF SECTION ELEVEN HUNDRED FORTY-SIX-B OF THIS CHAPTER, IN ACCORDANCE WITH THE PROVISIONS OF THE ORDER OF THE COURT RENDERING THE CONVICTION.

S 5. This act shall take effect on the first of November next succeeding the date upon which it shall become a law.