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

1161

2011-2012 Regular Sessions

I N  A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. BING, ORTIZ, CAHILL, TITUS, GABRYSZAK -- Multi-Sponsored by -- M. of A. BOYLAND, BROOK-KRASNY, COOK, CYMBROWITZ, HOOPER, LAVINE, MILLMAN, TOWNS -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the penal law, in relation to driving while drowsy

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

Section 1. The vehicle and traffic law is amended by adding a new section 1212-a to read as follows:

S 1212-A. DRIVING WHILE DROWSY. (A) A PERSON IS GUILTY OF DRIVING WHILE DROWSY WHEN HE OR SHE OPERATES ANY MOTOR VEHICLE, MOTORCYCLE, OR ANY OTHER VEHICLE PROPELLED BY ANY POWER OTHER THAN MUSCULAR POWER, WHILE HIS OR HER ABILITY TO DRIVE IS IMPAIRED BY FATIGUE. FOR PURPOSES OF THIS SECTION, PROOF THAT A PERSON FELL ASLEEP WHILE DRIVING OR PROOF THAT A PERSON HAS BEEN WITHOUT SLEEP FOR TWENTY-FOUR OR MORE CONSECUTIVE HOURS SHALL CREATE A REBUTTABLE PRESUMPTION THAT SUCH PERSON'S ABILITY TO DRIVE WAS IMPAIRED BY FATIGUE.

(B) THIS SECTION SHALL NOT APPLY TO EMERGENCY PERSONNEL ENGAGED IN THE RESPONSE TO A CATASTROPHIC EVENT WHICH AFFECTS PUBLIC SAFETY; OR MEDICAL, FIRE OR AMBULANCE PERSONNEL RESPONDING TO CERTAIN EMERGENCIES OR CALLS FOR ASSISTANCE.

(C) EVERY PERSON VIOLATING THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR. A FIRST VIOLATION OF THIS SECTION SHALL BE SUBJECT TO A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS; ANY SUBSEQUENT VIOLATION OF THIS SECTION SHALL BE SUBJECT TO A FINE NOT TO EXCEED ONE THOUSAND DOLLARS AND LICENSE REVOCATION WITHIN THE DISCRETION OF THE COURT.

S 2. Section 120.03 of the penal law is amended by adding a new subdivision 1-a to read as follows:

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

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(1-A) CAUSES SUCH SERIOUS PHYSICAL INJURY BY OPERATION OF A VEHICLE IN VIOLATION OF SECTION TWELVE HUNDRED TWELVE-A OF THE VEHICLE AND TRAFFIC LAW, OR

S 3. The penal law is amended by adding a new section 125.23 to read as follows:

S 125.23 VEHICULAR HOMICIDE CAUSED BY DRIVING WHILE ABILITY IMPAIRED BY FATIGUE.

A PERSON IS GUILTY OF VEHICULAR HOMICIDE CAUSED BY DRIVING WHILE ABILITY IMPAIRED BY FATIGUE WHEN HE OR SHE:

(1) COMMITS THE CRIME OF CRIMINALLY NEGLIGENT HOMICIDE AS DEFINED IN SECTION 125.10, AND

(2) CAUSES THE DEATH OF SUCH OTHER PERSON BY OPERATION OF A VEHICLE IN VIOLATION OF SECTION TWELVE HUNDRED TWELVE-A OF THE VEHICLE AND TRAFFIC LAW.

VEHICULAR HOMICIDE CAUSED BY DRIVING WHILE ABILITY IMPAIRED BY FATIGUE IS A CLASS E FELONY, PUNISHABLE BY AN INDETERMINATE SENTENCE OF IMPRISONMENT OF UP TO THREE YEARS AND SUBJECT TO LICENSE REVOCATION PURSUANT TO SUBDIVISION TWO OF SECTION FIVE HUNDRED TEN OF THE VEHICLE AND TRAFFIC LAW.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.