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

3097

2011-2012 Regular Sessions

I N A S S E M B L Y

January 24, 2011

Introduced by M. of A. SPANO, MAYERSOHN, GABRYSZAK, BROOK-KRASNY, STEVENSON -- Multi-Sponsored by -- M. of A. ABBATE, GALEF, HOOPER, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to enacting the "Johnny Lopez law"; and to repeal subdivision 1 of section 125.13 of such law relating to vehicular manslaughter in the first degree

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

Section 1. Short title. This act shall be known and may be cited as the "Johnny Lopez law".

S 2. Subdivision 1 of section 125.13 of the penal law is REPEALED.

S 3. Subdivision 2 of section 125.25 of the penal law, as amended by chapter 791 of the laws of 1967, is amended to read as follows:

2. Under circumstances evincing a depraved indifference to human life, he OR SHE recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person. FOR THE PURPOSES OF THIS SUBDIVISION, "CIRCUMSTANCES EVINCING A DEPRAVED INDIFFERENCE TO HUMAN LIFE" SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE OPERATION OF A MOTOR VEHICLE IN VIOLATION OF SUBDIVISION TWO-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW. PROVIDED FURTHER THAT IF IT IS ESTABLISHED THAT THE PERSON OPERATED A MOTOR VEHICLE IN VIOLATION OF SUCH SUBDIVISION, THEN THERE SHALL BE A REBUTTABLE PRESUMPTION, THAT AS A RESULT OF SUCH VIOLATION, SUCH PERSON ENGAGED IN RECKLESS CONDUCT WHICH CREATES A GRAVE RISK OF DEATH TO ANOTHER PERSON; or

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

REPEAL NOTE.--Subdivision 1 of section 125.13 of the penal law, proposed to be repealed by section two of this act, includes within the class C felony of vehicular manslaughter in the first degree, the commission of vehicular manslaughter in the second degree while having a blood/alcohol content of .18 of one per centum or greater.

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

LBD07822-01-1