

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

3912--A

2011-2012 Regular Sessions

I N S E N A T E

March 9, 2011

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- 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 two new sections 120.75
2 and 120.80 to read as follows:
3 S 120.75 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 WITHOUT PERMISSION
7 WHILE OPERATING A MOTOR VEHICLE; AND
8 B. SUCH ENTRY OR INTRUSION CAUSES SERIOUS PHYSICAL INJURY TO ANOTHER
9 PERSON.
10 2. FOR PURPOSES OF THIS SECTION:
11 A. "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA OF A HIGHWAY,
12 STREET OR PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY
13 WORK IS BEING CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING
14 DEVICES, BARRIERS, PAVEMENT MARKINGS, AND/OR WORK VEHICLES, AND WHERE
15 WORKERS ARE PHYSICALLY PRESENT; AND
16 B. "PERMISSION" SHALL MEAN DIRECTION FROM A FLAG PERSON, POLICE OFFI-
17 CER OR OTHER VISIBLY DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR
18 DIRECTION FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN.
19 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE SECOND DEGREE IS A
20 CLASS E FELONY.
21 S 120.80 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE FIRST DEGREE.
22 1. A PERSON IS GUILTY OF VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN
23 THE FIRST DEGREE WHEN HE OR SHE RECKLESSLY:

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

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1 A. ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WITHOUT PERMISSION
2 WHILE OPERATING A MOTOR VEHICLE; AND

3 B. SUCH ENTRY OR INTRUSION CAUSES SERIOUS PHYSICAL INJURY TO ANOTHER
4 PERSON.

5 2. FOR PURPOSES OF THIS SECTION:

6 A. "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA OF A HIGHWAY,
7 STREET OR PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY
8 WORK IS BEING CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING
9 DEVICES, BARRIERS, PAVEMENT MARKINGS, AND/OR WORK VEHICLES, AND WHERE
10 WORKERS ARE PHYSICALLY PRESENT; AND

11 B. "PERMISSION" SHALL MEAN DIRECTION FROM A FLAG PERSON, POLICE OFFI-
12 CER OR OTHER VISIBLY DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR
13 DIRECTION FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN.

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

16 S 2. The penal law is amended by adding two new sections 125.65 and
17 125.70 to read as follows:

18 S 125.65 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE SECOND
19 DEGREE.

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

22 (A) ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WITHOUT PERMISSION
23 WHILE OPERATING A MOTOR VEHICLE; AND

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

25 2. FOR PURPOSES OF THIS SECTION:

26 (A) "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA OF A HIGHWAY,
27 STREET OR PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY
28 WORK IS BEING CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING
29 DEVICES, BARRIERS, PAVEMENT MARKINGS, AND/OR WORK VEHICLES, AND WHERE
30 WORKERS ARE PHYSICALLY PRESENT; AND

31 (B) "PERMISSION" SHALL MEAN DIRECTION FROM A FLAG PERSON, POLICE OFFI-
32 CER OR OTHER VISIBLY DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR
33 DIRECTION FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN.

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

36 S 125.70 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE FIRST
37 DEGREE.

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

40 (A) ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WITHOUT PERMISSION
41 WHILE OPERATING A MOTOR VEHICLE; AND

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

43 2. FOR PURPOSES OF THIS SECTION:

44 (A) "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA OF A HIGHWAY,
45 STREET OR PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY
46 WORK IS BEING CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING
47 DEVICES, BARRIERS, PAVEMENT MARKINGS, AND/OR WORK VEHICLES, AND WHERE
48 WORKERS ARE PHYSICALLY PRESENT; AND

49 (B) "PERMISSION" SHALL MEAN DIRECTION FROM A FLAG PERSON, POLICE OFFI-
50 CER OR OTHER VISIBLY DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR
51 DIRECTION FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN.

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

54 S 3. The vehicle and traffic law is amended by adding a new section
55 1221-a to read as follows:

1 S 1221-A. INTRUSION INTO AN ACTIVE WORK ZONE. 1. NO DRIVER OF A VEHI-
2 CLE SHALL ENTER OR INTRUDE INTO AN ACTIVE WORK ZONE EXCEPT UPON DIREC-
3 TION FROM A FLAG PERSON, POLICE OFFICER OR OTHER VISIBLY DESIGNATED
4 PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION FROM A TRAFFIC CONTROL
5 DEVICE REGULATING ENTRY THEREIN. FOR PURPOSES OF THIS SECTION, THE TERM
6 "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA OF A HIGHWAY, STREET OR
7 PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING
8 CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING DEVICES, BARRIERS,
9 PAVEMENT MARKINGS, AND/OR WORK VEHICLES, AND WHERE WORKERS ARE PHYS-
10 ICALLY PRESENT.

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

16 S 4. This act shall take effect immediately.