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

4886

2011-2012 Regular Sessions

I N A S S E M B L Y

February 9, 2011

Introduced by M. of A. CALHOUN -- 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 operating a vehicle while under the influence of alcohol or drugs with a developmentally disabled person in the vehicle

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

Section 1. Paragraph (b) of subdivision 2-a of section 1192 of the vehicle and traffic law, as amended by chapter 496 of the laws of 2009, is amended to read as follows:

(b) With a child OR DEVELOPMENTALLY DISABLED PERSON. No person shall operate a motor vehicle in violation of subdivision two, three, four or four-a of this section while a child who is fifteen years of age or less OR A PERSON WITH A DEVELOPMENTAL DISABILITY AS DEFINED IN SUBDIVISION TWENTY-TWO OF SECTION 1.03 OF THE MENTAL HYGIENE LAW OR A PERSON WHOSE MEDICAL CONDITION WOULD BE CONSIDERED A DEVELOPMENTAL DISABILITY IF ITS ONSET ORIGINATED AT AGE TWENTY-TWO OR AFTER is a passenger in such motor vehicle.

S 2. The subdivision heading and paragraph (a) of subdivision 12 of section 1192 of the vehicle and traffic law, as amended by chapter 496 of the laws of 2009, are amended to read as follows:

Driving while intoxicated or while ability impaired by drugs--serious physical injury or death or child OR DEVELOPMENTALLY DISABLED PERSON in the vehicle. (a) In every case where a person is charged with a violation of subdivision two, two-a, three, four or four-a of this section, the law enforcement officer alleging such charge shall make a clear notation in the "Description of Violation" section of a simplified traffic information (i) if, arising out of the same incident, someone other than the person charged was killed or suffered serious physical injury as defined in section 10.00 of the penal law; such notation shall be in the form of a "D" if someone other than the person charged was

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

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killed and such notation shall be in the form of a "S.P.I." if someone other than the person charged suffered serious physical injury; [and] (ii) if a child aged fifteen years or less OR A DEVELOPMENTALLY DISABLED PERSON was present in the vehicle of the person charged with a violation of subdivision two, two-a, three, four or four-a of this section; such notation shall be in the form of "C.I.V."; AND (III) IF A DEVELOPMENTALLY DISABLED PERSON WAS PRESENT IN THE VEHICLE OF THE PERSON CHARGED WITH A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR OR FOUR-A OF THIS SECTION; SUCH NOTATION SHALL BE IN THE FORM OF "D.D.P.". Provided, however, that the failure to make such notations shall in no way affect a charge for a violation of subdivision two, two-a, three, four or four-a of this section.

S 3. Subdivision 6 of section 120.04 of the penal law, as added by chapter 496 of the laws of 2009, is amended to read as follows:

(6) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less OR A DEVELOPMENTALLY DISABLED PERSON is a passenger in such motor vehicle and causes serious physical injury to such child.

S 4. Subdivision 6 of section 120.04-a of the penal law, as added by chapter 496 of the laws of 2009, is amended to read as follows:

(6) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less OR A DEVELOPMENTALLY DISABLED PERSON is a passenger in such motor vehicle and causes serious physical injury to such child.

S 5. Subdivision 6 of section 125.13 of the penal law, as added by chapter 496 of the laws of 2009, is amended to read as follows:

(6) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less OR A DEVELOPMENTALLY DISABLED PERSON is a passenger in such motor vehicle and causes the death of such child.

S 6. Subdivision 7 of section 125.14 of the penal law, as added by chapter 496 of the laws of 2009, is amended to read as follows:

(7) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less OR A DEVELOPMENTALLY DISABLED PERSON is a passenger in such motor vehicle and causes the death of such child.

S 7. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.