

2012--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KAVANAGH, QUART -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to authorizing police officers to arrest a driver of a motor vehicle in certain circumstances

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

1 Section 1. Subdivisions (a), (b) and (c) of section 1146 of the vehi-  
2 cle and traffic law, as amended by chapter 333 of the laws of 2010, are  
3 amended to read as follows:

4 (a) Notwithstanding the provisions of any other law to the contrary,  
5 every driver of a vehicle shall exercise due care to avoid colliding  
6 with any bicyclist, pedestrian, INCLUDING ANY HIGHWAY WORKER, or domes-  
7 tic animal upon any roadway and shall give warning by sounding the horn  
8 when necessary. For the purposes of this section, the term "HIGHWAY  
9 WORKER" SHALL MEAN ANY PERSON ENGAGED IN WORK ON A HIGHWAY WHO IS WORK-  
10 ING ON BEHALF OF THE UNITED STATES, THIS STATE, OR ANY COUNTY, CITY,  
11 TOWN, DISTRICT OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE; AND THE  
12 TERM "domestic animal" shall mean domesticated sheep, cattle, and goats  
13 which are under the supervision and control of a pedestrian.

14 (b) 1. A driver of a motor vehicle who causes physical injury as  
15 defined in article ten of the penal law to a pedestrian, INCLUDING ANY  
16 HIGHWAY WORKER or bicyclist while failing to exercise due care in  
17 violation of subdivision (a) of this section, shall be guilty of a traf-  
18 fic infraction punishable by a fine of not more than five hundred  
19 dollars or by imprisonment for not more than fifteen days or by both  
20 such fine and imprisonment.

21 2. If such driver of a motor vehicle causes physical injury while  
22 failing to exercise due care in violation of subdivision (a) of this

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

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1 section, then there shall be a rebuttable presumption that, as a result  
2 of such failure to exercise due care, such person operated the motor  
3 vehicle in a manner that caused such physical injury.

4 (c) 1. A driver of a motor vehicle who causes serious physical injury  
5 as defined in article ten of the penal law to a pedestrian, INCLUDING  
6 ANY HIGHWAY WORKER or bicyclist while failing to exercise due care in  
7 violation of subdivision (a) of this section, shall be guilty of a traf-  
8 fic infraction punishable by a fine of not more than seven hundred fifty  
9 dollars or by imprisonment for not more than fifteen days or by required  
10 participation in a motor vehicle accident prevention course pursuant to  
11 paragraph (e-1) of subdivision two of section 65.10 of the penal law or  
12 by any combination of such fine, imprisonment or course, and by suspen-  
13 sion of a license or registration pursuant to subparagraph (xiv) or (xv)  
14 of paragraph b of subdivision two of section five hundred ten of this  
15 chapter.

16 2. If such driver of a motor vehicle causes serious physical injury  
17 while failing to exercise due care in violation of subdivision (a) of  
18 this section, then there shall be a rebuttable presumption that, as a  
19 result of such failure to exercise due care, such person operated the  
20 motor vehicle in a manner that caused such serious physical injury.

21 S 2. Section 1146 of the vehicle and traffic law is amended by adding  
22 a new subdivision (f) to read as follows:

23 (F) NOTWITHSTANDING THE PROVISIONS OF SECTION 140.10 OF THE CRIMINAL  
24 PROCEDURE LAW, A POLICE OFFICER MAY, WITHOUT A WARRANT, ARREST A PERSON,  
25 IN CASE OF A VIOLATION OF SUBDIVISION (B) OR (C) OF THIS SECTION, IF  
26 SUCH VIOLATION IS COUPLED WITH AN ACCIDENT OR COLLISION IN WHICH SUCH  
27 PERSON IS INVOLVED, WHICH IN FACT HAS BEEN COMMITTED, THOUGH NOT IN THE  
28 POLICE OFFICER'S PRESENCE, WHEN THE OFFICER HAS REASONABLE CAUSE TO  
29 BELIEVE THAT THE VIOLATION WAS COMMITTED BY SUCH PERSON.

30 S 3. This act shall take effect on the ninetieth day after it shall  
31 have become a law.