

7877

2013-2014 Regular Sessions

I N A S S E M B L Y

June 6, 2013

Introduced by M. of A. CUSICK, BOYLAND, GABRYSZAK, MARKEY, TITONE, WEIS-
ENBERG -- read once and referred to the Committee on Codes

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 ASSEM-
BLY, 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:
24 A. ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WITHOUT PERMISSION
25 WHILE OPERATING A MOTOR VEHICLE; AND

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

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1 B. SUCH ENTRY OR INTRUSION CAUSES SERIOUS PHYSICAL INJURY TO ANOTHER
2 PERSON.

3 2. FOR PURPOSES OF THIS SECTION:

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

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

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

14 S 2. The penal law is amended by adding two new sections 125.65 and
15 125.70 to read as follows:

16 S 125.65 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE SECOND
17 DEGREE.

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

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

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

23 2. FOR PURPOSES OF THIS SECTION:

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

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

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

34 S 125.70 VEHICULAR MANSLAUGHTER IN AN ACTIVE WORK ZONE IN THE FIRST
35 DEGREE.

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

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

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

41 2. FOR PURPOSES OF THIS SECTION:

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

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

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

52 S 3. The vehicle and traffic law is amended by adding a new section
53 1221-a to read as follows:

54 S 1221-A. INTRUSION INTO AN ACTIVE WORK ZONE. 1. NO DRIVER OF A VEHI-
55 CLE SHALL ENTER OR INTRUDE INTO AN ACTIVE WORK ZONE EXCEPT UPON DIREC-
56 TION FROM A FLAG PERSON, POLICE OFFICER OR OTHER VISIBLY DESIGNATED

1 PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION FROM A TRAFFIC CONTROL
2 DEVICE REGULATING ENTRY THEREIN. FOR PURPOSES OF THIS SECTION, THE TERM
3 "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA OF A HIGHWAY, STREET OR
4 PRIVATE ROAD ON WHICH CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING
5 CONDUCTED, WHICH AREA IS MARKED BY SIGNS, CHANNELING DEVICES, BARRIERS,
6 PAVEMENT MARKINGS, AND/OR WORK VEHICLES, AND WHERE WORKERS ARE PHYS-
7 ICALLY PRESENT.

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

13 S 4. This act shall take effect immediately.