

6386

I N   S E N A T E

January 21, 2014

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Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to including within the offense of vehicular assault in the second degree, the causing of serious injury or death while knowingly operating a motor vehicle with a revoked or suspended license or while not holding a license

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

1     Section 1. Section 120.03 of the penal law, as amended by chapter 732  
2     of the laws of 2006, is amended to read as follows:  
3     S 120.03 Vehicular assault in the second degree.  
4     A person is guilty of vehicular assault in the second degree when he  
5     or she causes:  
6     1. serious physical injury to another person, and either:  
7     [(1)] (A) operates a motor vehicle in violation of subdivision two,  
8     three, four or four-a of section eleven hundred ninety-two of the vehicle and traffic law or operates a vessel or public vessel in violation  
9     of paragraph (b), (c), (d) or (e) of subdivision two of section forty-nine-a of the navigation law, and as a result of such intoxication or  
10    impairment by the use of a drug, or by the combined influence of drugs  
11    or of alcohol and any drug or drugs, operates such motor vehicle, vessel  
12    or public vessel in a manner that causes such serious physical injury to  
13    such other person, or  
14    [(2)](B) operates a motor vehicle with a gross vehicle weight rating  
15    of more than eighteen thousand pounds which contains flammable gas,  
16    radioactive materials or explosives in violation of subdivision one of  
17    section eleven hundred ninety-two of the vehicle and traffic law, and  
18    such flammable gas, radioactive materials or explosives is the cause of  
19    such serious physical injury, and as a result of such impairment by the  
20    use of alcohol, operates such motor vehicle in a manner that causes such  
21    serious physical injury to such other person, or  
22    [(3)] (C) operates a snowmobile in violation of paragraph (b), (c) or  
23    (d) of subdivision one of section 25.24 of the parks, recreation and  
24    historic preservation law or operates an all terrain vehicle as defined  
25  
26

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

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1 in paragraph (a) of subdivision one of section twenty-two hundred eight-  
2 y-one of the vehicle and traffic law and in violation of subdivision  
3 two, three, four, or four-a of section eleven hundred ninety-two of the  
4 vehicle and traffic law, and as a result of such intoxication or impair-  
5 ment by the use of a drug, or by the combined influence of drugs or of  
6 alcohol and any drug or drugs, operates such snowmobile or all terrain  
7 vehicle in a manner that causes such serious physical injury to such  
8 other person.

9 If it is established that the person operating such motor vehicle,  
10 vessel, public vessel, snowmobile or all terrain vehicle caused such  
11 serious physical injury while unlawfully intoxicated or impaired by the  
12 use of alcohol or a drug, then there shall be a rebuttable presumption  
13 that, as a result of such intoxication or impairment by the use of alco-  
14 hol or a drug, or by the combined influence of drugs or of alcohol and  
15 any drug or drugs, such person operated the motor vehicle, vessel,  
16 public vessel, snowmobile or all terrain vehicle in a manner that caused  
17 such serious physical injury, as required by this [section.] SUBDIVI-  
18 SION; OR

19 2. SERIOUS PHYSICAL INJURY OR DEATH TO ANOTHER PERSON, WHILE OPERATING  
20 A MOTOR VEHICLE, KNOWING OR HAVING REASON TO KNOW THAT HIS OR HER  
21 LICENSE TO OR PRIVILEGE TO OPERATE A MOTOR VEHICLE IS SUSPENDED OR  
22 REVOKED PURSUANT TO SUBDIVISION TWO OR THREE OF SECTION FIVE HUNDRED TEN  
23 OR SECTION FIVE HUNDRED TEN-A OF THE VEHICLE AND TRAFFIC LAW FOR CONDUCT  
24 RELATING TO THE OPERATION OF A MOTOR VEHICLE, OR KNOWING OR HAVING  
25 REASON TO KNOW THAT HE OR SHE IS NOT DULY LICENSED PURSUANT TO ARTICLE  
26 NINETEEN OF THE VEHICLE AND TRAFFIC LAW OR IS A NON-RESIDENT WHO IS NOT  
27 LICENSED TO OPERATE A MOTOR VEHICLE IN THE JURISDICTION IN WHICH HE OR  
28 SHE RESIDES.

29 Vehicular assault in the second degree is a class E felony.

30 S 2. This act shall take effect on the one hundred eightieth day after  
31 it shall have become a law.