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

4560

2013-2014 Regular Sessions

I N A S S E M B L Y

February 6, 2013

Introduced by M. of A. HAWLEY, MARKEY, DUPREY, DIPIETRO, MONTESANO, CROUCH, OAKS, FINCH, GRAF -- Multi-Sponsored by -- M. of A. CERETTO -- 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The penal law is amended by adding four new sections 120.65, 120.66, 125.65 and 125.70 to read as follows:

S 120.65 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE SECOND DEGREE.

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

A. ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WHILE OPERATING A MOTOR VEHICLE; AND

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

2. FOR PURPOSES OF THIS SECTION THE TERM "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA ON A PUBLIC HIGHWAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES AND WHERE WORKERS ARE PHYSICALLY PRESENT.

VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE SECOND DEGREE IS A CLASS E FELONY.

S 120.66 VEHICULAR ASSAULT IN AN ACTIVE WORK ZONE IN THE FIRST DEGREE.

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

A. ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WHILE OPERATING A MOTOR VEHICLE; AND

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

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

LBD02069-01-3

2. FOR PURPOSES OF THIS SECTION THE TERM "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA ON A PUBLIC HIGHWAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES AND WHERE WORKERS ARE PHYSICALLY PRESENT.

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

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

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

(A) ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WHILE OPERATING A MOTOR VEHICLE; AND

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

2. FOR PURPOSES OF THIS SECTION THE TERM "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA ON A PUBLIC HIGHWAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES AND WHERE WORKERS ARE PHYSICALLY PRESENT.

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

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

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

(A) ENTERS OR INTRUDES INTO AN ACTIVE WORK ZONE WHILE OPERATING A MOTOR VEHICLE; AND

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

2. FOR PURPOSES OF THIS SECTION THE TERM "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA ON A PUBLIC HIGHWAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES AND WHERE WORKERS ARE PHYSICALLY PRESENT.

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

S 2. The vehicle and traffic law is amended by adding a new section 1221-a to read as follows:

S 1221-A. INTRUSION INTO AN ACTIVE WORK ZONE. 1. NO DRIVER OF A VEHICLE, OPERATOR OF A BICYCLE OR PEDESTRIAN SHALL ENTER OR INTRUDE INTO AN ACTIVE WORK ZONE, EXCEPT UPON DIRECTION FROM A FLAG PERSON, POLICE OFFICER OR OTHER DESIGNATED PERSON IN CHARGE OF TRAFFIC CONTROL OR DIRECTION FROM A TRAFFIC CONTROL DEVICE REGULATING ENTRY THEREIN. FOR PURPOSES OF THIS SECTION, THE TERM "ACTIVE WORK ZONE" SHALL MEAN THE PHYSICAL AREA ON A PUBLIC HIGHWAY, STREET OR PRIVATE ROAD WHERE CONSTRUCTION, MAINTENANCE OR UTILITY WORK IS BEING CONDUCTED, WHICH AREA IS PROPERLY DESIGNATED TO BE AN ACTIVE WORK ZONE BY SIGNS, CONES AND/OR OTHER TRAFFIC CONTROL DEVICES AND WHERE WORKERS ARE PHYSICALLY PRESENT.

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

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.