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

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I N S E N A T E

June 9, 2014

Introduced by Sens. LIBOUS, GRISANTI, RANZENHOFER, SEWARD, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, the penal law and the state finance law, in relation to enacting the "crash zone safety act"

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

Section 1. Short title. This act shall be known and may be cited as the "crash zone safety act".

S 2. The vehicle and traffic law is amended by adding a new section 114-e to read as follows:

S 114-E. EMERGENCY ZONE. THAT DISTANCE ALONG A HIGHWAY EXTENDING FIVE HUNDRED FEET OF LONGITUDINAL DISTANCE WITH THE FLOW OF TRAFFIC AND VISIBILITY FROM THE REAR OF AN AUTHORIZED EMERGENCY VEHICLE, HAZARD VEHICLE OR VOLUNTEER FIRST RESPONDER WHICH IS PARKED, STOPPED OR STANDING ON THE SHOULDER OR ANY PORTION OF SUCH HIGHWAY WHILE SUCH VEHICLE OPERATED IN THE COURSE OF RESPONDING TO AN EMERGENCY AND WHILE SUCH VEHICLE IS DISPLAYING ONE OR MORE RED OR COMBINATION RED AND WHITE LIGHTS PURSUANT TO THE PROVISIONS OF PARAGRAPH TWO AND SUBPARAGRAPH B OF PARAGRAPH FOUR OF SUBDIVISION FORTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS CHAPTER, OR ONE OR MORE AMBER LIGHTS PURSUANT TO PARAGRAPH THREE OF SUBDIVISION FORTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS CHAPTER, OR A BLUE LIGHT PURSUANT TO SUBPARAGRAPH A OF PARAGRAPH FOUR OF SUBDIVISION FORTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS CHAPTER, OR A GREEN LIGHT PURSUANT TO PARAGRAPH FIVE OF SUBDIVISION FORTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS CHAPTER, TO A POINT FIVE HUNDRED FEET PAST ANY SUCH VEHICLE, OR FIVE HUNDRED FEET PAST AN EMERGENCY ZONE SIGN TO A POINT FIVE HUNDRED FEET PAST ANY SUCH VEHICLE, WHICHEVER SHALL BE A GREATER DISTANCE.

S 3. The vehicle and traffic law is amended by adding a new section 224-b to read as follows:

S 224-B. ESTABLISHMENT OF THE EMERGENCY ZONE EDUCATION PROGRAM. THE COMMISSIONER OF TRANSPORTATION, AFTER CONSULTATION WITH THE COMMISSIONER, SHALL PROMULGATE RULES AND REGULATIONS REGARDING THE ESTABLISHMENT

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

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AND IMPLEMENTATION OF AN EMERGENCY ZONE EDUCATION PROGRAM. THE EMERGENCY ZONE EDUCATION PROGRAM SHALL BE ESTABLISHED FOR THE PURPOSE OF PROVIDING EDUCATION, ADVOCACY AND LAWS PERTAINING TO PROTECTING THE SAFETY OF PERSONS OPERATING MOTOR VEHICLES WITHIN AN EMERGENCY ZONE AND THE VICTIMS OF EMERGENCIES. THE PROGRAM SHALL PROVIDE FUNDING FROM MONEY APPROPRIATED TO THE DEPARTMENT FROM THE EMERGENCY ZONE SAFETY EDUCATION FUND, AS ESTABLISHED BY SECTION EIGHTY-FIVE OF THE STATE FINANCE LAW FOR ACTIVITIES SUCH AS PUBLIC SERVICE ANNOUNCEMENTS, PUBLIC EDUCATION AND AWARENESS CAMPAIGNS, DISTRIBUTION OF LITERATURE, AND ANY OTHER ACTIVITIES THAT ARE CONSISTENT WITH SUCH PURPOSES.

2. IT SHALL BE THE DUTY OF THE COMMISSIONER OF TRANSPORTATION TO SUBMIT, ON OR BEFORE APRIL FIRST COMMENCING IN TWO THOUSAND SIXTEEN, A BIENNIAL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY WHICH SHALL INCLUDE AN ASSESSMENT OF THE EFFECTIVENESS OF THE PROGRAM, RECOMMENDATIONS FOR EXPANDING OR IMPROVING THE PROGRAM, AND ANY PROBLEMS OR OTHER MATTERS RELATED TO THE ADMINISTRATION OF THE PROGRAM.

S 4. Article 11 of the vehicle and traffic law is amended by adding a new section 389 to read as follows:

S 389. OPERATION OF A VEHICLE IN AN EMERGENCY ZONE; CIVIL LIABILITY. EVERY OWNER OF A MOTOR VEHICLE OPERATED IN THIS STATE AND EVERY OPERATOR OF SUCH A VEHICLE SHALL BE JOINTLY AND SEVERALLY LIABLE FOR TREBLE DAMAGES IN ANY CAUSE OF ACTION FOR PROPERTY DAMAGE, PERSONAL INJURY AND/OR WRONGFUL DEATH WHEN SUCH MOTOR VEHICLE WAS OPERATED IN VIOLATION OF SUBDIVISION (F-1) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER AND THE DAMAGE, INJURY OR DEATH WAS PROXIMATELY CAUSED BY SUCH VIOLATION.

S 5. Subdivision 3 of section 502 of the vehicle and traffic law, as amended by chapter 458 of the laws of 2011, is amended to read as follows:

3. Application for learner's permit. An application for a learner's permit shall be included in the application for a license. A learner's permit shall be issued in such form as the commissioner shall determine but shall not be issued unless the applicant has successfully passed the vision test required by this section and the test set forth in paragraph (a) of subdivision four of this section with respect to laws relating to traffic and ability to read and comprehend traffic signs and symbols and has satisfactorily completed any course required pursuant to paragraph (a) of subdivision four of this section. Upon acceptance of an application for a learner's permit the commissioner shall provide the applicant with a driver's manual which includes but is not limited to the laws relating to traffic, the laws relating to and physiological effects of driving while ability impaired and driving while intoxicated, the law for exercising due care to avoid colliding with a parked, stopped or standing authorized emergency vehicle or hazard vehicle pursuant to section eleven hundred forty-four-a of this chapter, THE LAW RELATING TO THE SPEED LIMIT WITHIN AN EMERGENCY ZONE PURSUANT TO SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER, explanations of traffic signs and symbols and such other matters as the commissioner may prescribe.

S 6. Subparagraph (i) of paragraph (a) of subdivision 4 of section 502 of the vehicle and traffic law, as amended by chapter 458 of the laws of 2011, is amended to read as follows:

(i) Upon submission of an application for a driver's license, the applicant shall be required to take and pass a test, or submit evidence of passage of a test, with respect to the laws relating to traffic, the laws relating to driving while ability is impaired and while intoxicat-

ed, under the overpowering influence of "Road Rage", or "Work Zone Safety" awareness as defined by the commissioner, the law relating to exercising due care to avoid colliding with a parked, stopped or standing authorized emergency vehicle or hazard vehicle pursuant to section eleven hundred forty-four-a of this chapter, THE LAW RELATING TO THE SPEED LIMIT WITHIN AN EMERGENCY ZONE PURSUANT TO SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER, the ability to read and comprehend traffic signs and symbols and such other matters as the commissioner may prescribe, and to satisfactorily complete a course prescribed by the commissioner of not less than four hours and not more than five hours, consisting of classroom driver training and highway safety instruction or the equivalent thereof. Such test shall include at least seven written questions concerning the effects of consumption of alcohol or drugs on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from violations of section eleven hundred ninety-two of this chapter, prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs. Such test shall include one or more written questions concerning the devastating effects of "Road Rage" on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from assaulting, threatening or interfering with the lawful conduct of another person legally using the roadway. Such test shall include one or more questions concerning the potential dangers to persons and equipment resulting from the unsafe operation of a motor vehicle in a work zone. Such test may include one or more questions concerning the law for exercising due care to avoid colliding with a parked, stopped or standing authorized emergency vehicle or hazard vehicle pursuant to section eleven hundred forty-four-a of this chapter. Such test shall be administered by the commissioner. The commissioner shall cause the applicant to take a vision test and a test for color blindness. Upon passage of the vision test, the application may be accepted and the application fee shall be payable.

S 7. Paragraph b of subdivision 2 of section 510 of the vehicle and traffic law is amended by adding a new subparagraph (xviii) to read as follows:

(XVIII) FOR A PERIOD OF SIXTY DAYS WHERE THE HOLDER IS CONVICTED OF A VIOLATION OF SUBDIVISION (F-1) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER WITHIN THIRTY-SIX MONTHS OF A PREVIOUS VIOLATION OF SUCH SUBDIVISION.

S 8. Subdivisions (e) and (f) of section 1180 of the vehicle and traffic law, subdivision (e) as amended by chapter 465 of the laws of 2010 and subdivision (f) as amended by chapter 432 of the laws of 1997, are amended and a new subdivision (f-1) is added to read as follows:

(e) The driver of every vehicle shall, consistent with the requirements of subdivision (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, [when approaching and passing by an emergency situation involving any authorized emergency vehicle which is parked, stopped or standing on a highway and which is displaying one or more red or combination red, white, and/or blue lights pursuant to the provisions of paragraph two and subparagraph b of paragraph four of subdivision forty-one of section three hundred seventy-five of this chapter,] when traveling upon any narrow or winding roadway, and when any special hazard exists with respect to pedestrians, or other traffic by reason of

weather or highway conditions, including, but not limited to a highway construction or maintenance work area.

(f) Except as provided in [subdivision] SUBDIVISIONS (F-1) AND (g) of this section and except when a special hazard exists that requires lower speed for compliance with subdivision (a) or (e) of this section or when a lower maximum speed limit has been established, no person shall drive a vehicle through a highway construction or maintenance work area at a speed in excess of the posted work area speed limit. The agency having jurisdiction over the affected street or highway may establish work area speed limits which are less than the normally posted speed limits; provided, however, that such normally posted speed limit may exceed the work area speed limit by no more than twenty miles per hour; and provided further that no such work area speed limit may be established at less than twenty-five miles per hour.

(F-1) NO PERSON SHALL OPERATE A VEHICLE THROUGH AN EMERGENCY ZONE AT A SPEED IN EXCESS OF TWENTY MILES PER HOUR BELOW THE POSTED SPEED LIMIT OR IN EXCESS OF TWENTY MILES PER HOUR, WHICHEVER SHALL BE GREATER.

S 9. The opening paragraph and the opening paragraph of paragraph 4 of subdivision (h) of section 1180 of the vehicle and traffic law, the opening paragraph as amended by chapter 173 of the laws of 1990 and the opening paragraph of paragraph 4 as amended by section 7 of part C of chapter 62 of the laws of 2003, are amended to read as follows:

Upon a conviction for a violation of subdivision (b), (c), (d), (f), (F-1) or (g) of this section, the court shall record the speed upon which the conviction was based on the certificate required to be filed with the commissioner pursuant to section five hundred fourteen of this chapter, or if the conviction occurs in an administrative tribunal established pursuant to article two-A of this chapter, the speed upon which the conviction was based shall be entered in the department's records.

Every person convicted of a violation of subdivision (c) of this section when such violation occurs in a school speed zone during a school day between the hours of seven o'clock A.M. and six o'clock P.M., OR A VIOLATION OF SUBDIVISION (F-1) OF THIS SECTION shall be punished as follows:

S 10. Subdivision (a) of section 1680 of the vehicle and traffic law, as amended by chapter 722 of the laws of 2006, is amended to read as follows:

(a) The department of transportation shall maintain a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this chapter for use upon highways within this state. Such uniform system shall correlate with and so far as practicable conform to nationally accepted standards. To the extent that the National Manual on Uniform Traffic Control Devices (hereinafter referred to in this section as MUTCD), promulgated by the Federal Highway Administration pursuant to subpart F of part 655 of Title 23 of the Code of Federal Regulations and subject to a public comment period under federal law, does not conflict with the provisions of this chapter and the provisions of other laws of the state, the National MUTCD shall constitute such state manual and specifications; provided, however, such manual and specifications may be modified by the commissioner of transportation by the adoption of a supplement or supplements as such commissioner of transportation determines warranted and in compliance with the applicable provisions of the state administrative procedure act. PROVIDED, FURTHER, THAT THE COMMISSIONER OF TRANSPORTATION SHALL ESTABLISH SPECIFICATIONS FOR THE FORM, CONSTRUCTION, USE AND PLACEMENT OF EMERGENCY

ZONE SIGNS, WHICH SHALL BE INCLUDED IN THE MANUAL. The manual and its specifications is adopted as the state standard for traffic control devices on any street, highway, or bicycle path open to public travel. No person shall install or maintain in any area of private property used by the public any sign, signal, marking or other device intended to regulate, warn or guide traffic unless it conforms with the state manual and specifications maintained under this section. Unless otherwise provided for by the adoption of a supplement by the commissioner of transportation, the operational practices related to emergency incident responses provided in the manual shall apply to police officers and other emergency responders responding to an emergency only in so far as such officers or emergency responders deem compliance with the manual practicable.

S 11. The vehicle and traffic law is amended by adding a new section 1809-f to read as follows:

S 1809-F. MANDATORY SURCHARGE FOR VIOLATION OF MAXIMUM SPEED LIMITS IN EMERGENCY ZONE. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHENEVER PROCEEDINGS IN AN ADMINISTRATIVE TRIBUNAL OR COURT RESULT IN A FINDING OF LIABILITY OR CONVICTION FOR A VIOLATION OF SUBDIVISION (F-1) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER, THERE SHALL BE LEVIED A MANDATORY SURCHARGE IN ADDITION TO ANY OTHER SENTENCE, FINE OR PENALTY OTHERWISE PERMITTED OR REQUIRED, IN AN AMOUNT OF NOT LESS THAN ONE HUNDRED DOLLARS, NOR MORE THAN TWO HUNDRED FIFTY DOLLARS. SUCH SURCHARGE SHALL NOT BE DEEMED A MONETARY PENALTY FOR THE PURPOSES OF SECTION TWO HUNDRED THIRTY-SEVEN OF THIS CHAPTER OR SECTION 19-203 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

2. THE MANDATORY SURCHARGE PROVIDED FOR IN SUBDIVISION ONE OF THIS SECTION SHALL BE PAID TO THE CLERK OF THE COURT OR ADMINISTRATIVE TRIBUNAL THAT MADE THE DETERMINATION OF LIABILITY. WITHIN THE FIRST TEN DAYS OF THE MONTH NEXT SUCCEEDING THE COLLECTION OF SUCH SURCHARGE, THE COLLECTING AUTHORITY SHALL PAY SUCH MONEY TO THE STATE COMPTROLLER TO BE DEPOSITED IN THE EMERGENCY ZONE SAFETY EDUCATION FUND ESTABLISHED BY SECTION EIGHTY-FIVE OF THE STATE FINANCE LAW.

S 12. The penal law is amended by adding two new sections 120.63 and 120.65 to read as follows:

S 120.63 VEHICULAR ASSAULT IN AN EMERGENCY ZONE.

A PERSON IS GUILTY OF VEHICULAR ASSAULT IN AN EMERGENCY ZONE WHEN HE OR SHE CAUSES PHYSICAL INJURY TO ANOTHER PERSON, WHILE HE OR SHE OPERATES A MOTOR VEHICLE IN VIOLATION OF SUBDIVISION (F-1) OF SECTION ELEVEN HUNDRED EIGHTY OF THE VEHICLE AND TRAFFIC LAW, AFTER HAVING PREVIOUSLY BEEN CONVICTED, WITHIN THE PREVIOUS THREE YEARS, OF A VIOLATION OF SUCH SUBDIVISION.

VEHICULAR ASSAULT IN AN EMERGENCY ZONE IS A CLASS B MISDEMEANOR.

S 120.65 AGGRAVATED VEHICULAR ASSAULT IN AN EMERGENCY ZONE.

A PERSON IS GUILTY OF AGGRAVATED VEHICULAR ASSAULT IN AN EMERGENCY ZONE WHEN HE OR SHE CAUSES SERIOUS PHYSICAL INJURY TO ANOTHER PERSON, WHILE HE OR SHE OPERATES A MOTOR VEHICLE IN VIOLATION OF SUBDIVISION (F-1) OF SECTION ELEVEN HUNDRED EIGHTY OF THE VEHICLE AND TRAFFIC LAW, AFTER HAVING PREVIOUSLY BEEN CONVICTED, WITHIN THE PREVIOUS THREE YEARS, OF A VIOLATION OF SUCH SUBDIVISION.

AGGRAVATED VEHICULAR ASSAULT IN AN EMERGENCY ZONE IS A CLASS A MISDEMEANOR.

S 13. The penal law is amended by adding a new section 125.65 to read as follows:

S 125.65 VEHICULAR MANSLAUGHTER IN AN EMERGENCY ZONE.

A PERSON IS GUILTY OF VEHICULAR MANSLAUGHTER IN AN EMERGENCY ZONE WHEN HE OR SHE CAUSES THE DEATH OF ANOTHER PERSON, WHILE HE OR SHE OPERATES A MOTOR VEHICLE IN VIOLATION OF SUBDIVISION (F-1) OF SECTION ELEVEN HUNDRED EIGHTY OF THE VEHICLE AND TRAFFIC LAW, AFTER HAVING PREVIOUSLY BEEN CONVICTED, WITHIN THE PREVIOUS THREE YEARS, OF A VIOLATION OF SUCH SUBDIVISION.

VEHICULAR MANSLAUGHTER IN AN EMERGENCY ZONE IS A CLASS E FELONY.

S 14. The penal law is amended by adding a new section 145.28 to read as follows:

S 145.28 CRIMINAL MISCHIEF IN AN EMERGENCY ZONE.

A PERSON IS GUILTY OF CRIMINAL MISCHIEF IN AN EMERGENCY ZONE WHEN HE OR SHE CAUSES DAMAGE TO THE PROPERTY OF ANOTHER PERSON, WHILE HE OR SHE OPERATES A MOTOR VEHICLE IN VIOLATION OF SUBDIVISION (F-1) OF SECTION ELEVEN HUNDRED EIGHTY OF THE VEHICLE AND TRAFFIC LAW, AFTER HAVING PREVIOUSLY BEEN CONVICTED, WITHIN THE PREVIOUS THREE YEARS, OF A VIOLATION OF SUCH SUBDIVISION.

CRIMINAL MISCHIEF IN AN EMERGENCY ZONE IS A VIOLATION.

S 15. The state finance law is amended by adding a new section 85 to read as follows:

S 85. EMERGENCY ZONE SAFETY EDUCATION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN AS THE "EMERGENCY ZONE SAFETY EDUCATION FUND".

2. THE FUNDS SHALL CONSIST OF ALL MONIES APPROPRIATED FOR ITS PURPOSE, ALL MONIES REQUIRED BY THIS SECTION OR ANY OTHER PROVISIONS OF LAW TO BE PAID INTO OR CREDITED TO SUCH FUND, COLLECTED BY THE MANDATORY SURCHARGES IMPOSED PURSUANT TO SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED NINE-F OF THE VEHICLE AND TRAFFIC LAW. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE DEPARTMENT OF MOTOR VEHICLES FROM RECEIVING GRANTS OR OTHER APPROPRIATIONS FOR THE PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW.

3. MONIES OF THE FUND, WHEN ALLOCATED, SHALL BE DISBURSED TO IMPLEMENT THE PROVISIONS OF SECTION TWO HUNDRED TWENTY-FOUR-B OF THE VEHICLE AND TRAFFIC LAW AND MAY BE USED TO EXECUTE CONTRACTS WITH PRIVATE ORGANIZATIONS FOR SUCH PURPOSES. SUCH CONTRACTS SHALL BE AWARDED UPON COMPETITIVE BIDS AFTER THE ISSUANCE OF REQUESTS FOR PROPOSALS.

S 16. On or before September 1, 2019, the commissioner of transportation shall submit a report to the governor, the temporary president of the senate and the speaker of the assembly detailing and analyzing the effectiveness of the provisions of this act in improving the safety at the scenes of highway emergencies.

S 17. This act shall take effect November 1, 2014; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.