

1685

2015-2016 Regular Sessions

I N S E N A T E

January 14, 2015

Introduced by Sen. LIBOUS -- 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:

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

3 S 2. The vehicle and traffic law is amended by adding a new section
4 114-e to read as follows:

5 S 114-E. EMERGENCY ZONE. THAT DISTANCE ALONG A HIGHWAY EXTENDING FIVE
6 HUNDRED FEET OF LONGITUDINAL DISTANCE WITH THE FLOW OF TRAFFIC AND VISI-
7 BILITY FROM THE REAR OF AN AUTHORIZED EMERGENCY VEHICLE, HAZARD VEHICLE
8 OR VOLUNTEER FIRST RESPONDER WHICH IS PARKED, STOPPED OR STANDING ON THE
9 SHOULDER OR ANY PORTION OF SUCH HIGHWAY WHILE SUCH VEHICLE OPERATED IN
10 THE COURSE OF RESPONDING TO AN EMERGENCY AND WHILE SUCH VEHICLE IS
11 DISPLAYING ONE OR MORE RED OR COMBINATION RED AND WHITE LIGHTS PURSUANT
12 TO THE PROVISIONS OF PARAGRAPH TWO AND SUBPARAGRAPH B OF PARAGRAPH FOUR
13 OF SUBDIVISION FORTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS
14 CHAPTER, OR ONE OR MORE AMBER LIGHTS PURSUANT TO PARAGRAPH THREE OF
15 SUBDIVISION FORTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS
16 CHAPTER, OR A BLUE LIGHT PURSUANT TO SUBPARAGRAPH A OF PARAGRAPH FOUR OF
17 SUBDIVISION FORTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS
18 CHAPTER, OR A GREEN LIGHT PURSUANT TO PARAGRAPH FIVE OF SUBDIVISION
19 FORTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS CHAPTER, TO A
20 POINT FIVE HUNDRED FEET PAST ANY SUCH VEHICLE, OR FIVE HUNDRED FEET PAST
21 AN EMERGENCY ZONE SIGN TO A POINT FIVE HUNDRED FEET PAST ANY SUCH VEHI-
22 CLE, WHICHEVER SHALL BE A GREATER DISTANCE.

23 S 3. The vehicle and traffic law is amended by adding a new section
24 224-b to read as follows:

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

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1 S 224-B. ESTABLISHMENT OF THE EMERGENCY ZONE EDUCATION PROGRAM. THE
2 COMMISSIONER OF TRANSPORTATION, AFTER CONSULTATION WITH THE COMMISSION-
3 ER, SHALL PROMULGATE RULES AND REGULATIONS REGARDING THE ESTABLISHMENT
4 AND IMPLEMENTATION OF AN EMERGENCY ZONE EDUCATION PROGRAM. THE EMERGEN-
5 CY ZONE EDUCATION PROGRAM SHALL BE ESTABLISHED FOR THE PURPOSE OF
6 PROVIDING EDUCATION, ADVOCACY AND LAWS PERTAINING TO PROTECTING THE
7 SAFETY OF PERSONS OPERATING MOTOR VEHICLES WITHIN AN EMERGENCY ZONE AND
8 THE VICTIMS OF EMERGENCIES. THE PROGRAM SHALL PROVIDE FUNDING FROM
9 MONEY APPROPRIATED TO THE DEPARTMENT FROM THE EMERGENCY ZONE SAFETY
10 EDUCATION FUND, AS ESTABLISHED BY SECTION EIGHTY-FIVE OF THE STATE
11 FINANCE LAW FOR ACTIVITIES SUCH AS PUBLIC SERVICE ANNOUNCEMENTS, PUBLIC
12 EDUCATION AND AWARENESS CAMPAIGNS, DISTRIBUTION OF LITERATURE, AND ANY
13 OTHER ACTIVITIES THAT ARE CONSISTENT WITH SUCH PURPOSES.

14 2. IT SHALL BE THE DUTY OF THE COMMISSIONER OF TRANSPORTATION TO
15 SUBMIT, ON OR BEFORE APRIL FIRST COMMENCING IN TWO THOUSAND SEVENTEEN, A
16 BIENNIAL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE
17 AND THE SPEAKER OF THE ASSEMBLY WHICH SHALL INCLUDE AN ASSESSMENT OF THE
18 EFFECTIVENESS OF THE PROGRAM, RECOMMENDATIONS FOR EXPANDING OR IMPROVING
19 THE PROGRAM, AND ANY PROBLEMS OR OTHER MATTERS RELATED TO THE ADMINIS-
20 TRATION OF THE PROGRAM.

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

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

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

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

53 S 6. Subparagraph (i) of paragraph (a) of subdivision 4 of section 502
54 of the vehicle and traffic law, as amended by chapter 458 of the laws of
55 2011, is amended to read as follows:

1 (i) Upon submission of an application for a driver's license, the
2 applicant shall be required to take and pass a test, or submit evidence
3 of passage of a test, with respect to the laws relating to traffic, the
4 laws relating to driving while ability is impaired and while intoxicat-
5 ed, under the overpowering influence of "Road Rage", or "Work Zone Safe-
6 ty" awareness as defined by the commissioner, the law relating to exer-
7 cising due care to avoid colliding with a parked, stopped or standing
8 authorized emergency vehicle or hazard vehicle pursuant to section elev-
9 en hundred forty-four-a of this chapter, THE LAW RELATING TO THE SPEED
10 LIMIT WITHIN AN EMERGENCY ZONE PURSUANT TO SECTION ELEVEN HUNDRED EIGHTY
11 OF THIS CHAPTER, the ability to read and comprehend traffic signs and
12 symbols and such other matters as the commissioner may prescribe, and to
13 satisfactorily complete a course prescribed by the commissioner of not
14 less than four hours and not more than five hours, consisting of class-
15 room driver training and highway safety instruction or the equivalent
16 thereof. Such test shall include at least seven written questions
17 concerning the effects of consumption of alcohol or drugs on the ability
18 of a person to operate a motor vehicle and the legal and financial
19 consequences resulting from violations of section eleven hundred nine-
20 ty-two of this chapter, prohibiting the operation of a motor vehicle
21 while under the influence of alcohol or drugs. Such test shall include
22 one or more written questions concerning the devastating effects of
23 "Road Rage" on the ability of a person to operate a motor vehicle and
24 the legal and financial consequences resulting from assaulting, threat-
25 ening or interfering with the lawful conduct of another person legally
26 using the roadway. Such test shall include one or more questions
27 concerning the potential dangers to persons and equipment resulting from
28 the unsafe operation of a motor vehicle in a work zone. Such test may
29 include one or more questions concerning the law for exercising due care
30 to avoid colliding with a parked, stopped or standing authorized emer-
31 gency vehicle or hazard vehicle pursuant to section eleven hundred
32 forty-four-a of this chapter. Such test shall be administered by the
33 commissioner. The commissioner shall cause the applicant to take a
34 vision test and a test for color blindness. Upon passage of the vision
35 test, the application may be accepted and the application fee shall be
36 payable.

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

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

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

48 (e) The driver of every vehicle shall, consistent with the require-
49 ments of subdivision (a) of this section, drive at an appropriate
50 reduced speed when approaching and crossing an intersection or railway
51 grade crossing, when approaching and going around a curve, when
52 approaching a hill crest, [when approaching and passing by an emergency
53 situation involving any authorized emergency vehicle which is parked,
54 stopped or standing on a highway and which is displaying one or more red
55 or combination red, white, and/or blue lights pursuant to the provisions
56 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 appli-

1 cable provisions of the state administrative procedure act. PROVIDED,
2 FURTHER, THAT THE COMMISSIONER OF TRANSPORTATION SHALL ESTABLISH SPEC-
3 IFICATIONS FOR THE FORM, CONSTRUCTION, USE AND PLACEMENT OF EMERGENCY
4 ZONE SIGNS, WHICH SHALL BE INCLUDED IN THE MANUAL. The manual and its
5 specifications is adopted as the state standard for traffic control
6 devices on any street, highway, or bicycle path open to public travel.
7 No person shall install or maintain in any area of private property used
8 by the public any sign, signal, marking or other device intended to
9 regulate, warn or guide traffic unless it conforms with the state manual
10 and specifications maintained under this section. Unless otherwise
11 provided for by the adoption of a supplement by the commissioner of
12 transportation, the operational practices related to emergency incident
13 responses provided in the manual shall apply to police officers and
14 other emergency responders responding to an emergency only in so far as
15 such officers or emergency responders deem compliance with the manual
16 practicable.

17 S 11. The vehicle and traffic law is amended by adding a new section
18 1809-f to read as follows:

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

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

37 S 12. The penal law is amended by adding two new sections 120.63 and
38 120.65 to read as follows:

39 S 120.63 VEHICULAR ASSAULT IN AN EMERGENCY ZONE.

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

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

47 S 120.65 AGGRAVATED VEHICULAR ASSAULT IN AN EMERGENCY ZONE.

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

54 AGGRAVATED VEHICULAR ASSAULT IN AN EMERGENCY ZONE IS A CLASS A MISDE-
55 MEANOR.

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

3 S 125.65 VEHICULAR MANSLAUGHTER IN AN EMERGENCY ZONE.

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

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

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

13 S 145.28 CRIMINAL MISCHIEF IN AN EMERGENCY ZONE.

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

20 CRIMINAL MISCHIEF IN AN EMERGENCY ZONE IS A VIOLATION.

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

23 S 85. EMERGENCY ZONE SAFETY EDUCATION FUND. 1. THERE IS HEREBY ESTAB-
24 LISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSION-
25 ER OF TAXATION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN AS THE
26 "EMERGENCY ZONE SAFETY EDUCATION FUND".

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

35 3. MONIES OF THE FUND, WHEN ALLOCATED, SHALL BE DISBURSED TO IMPLEMENT
36 THE PROVISIONS OF SECTION TWO HUNDRED TWENTY-FOUR-B OF THE VEHICLE AND
37 TRAFFIC LAW AND MAY BE USED TO EXECUTE CONTRACTS WITH PRIVATE ORGANIZA-
38 TIONS FOR SUCH PURPOSES. SUCH CONTRACTS SHALL BE AWARDED UPON COMPET-
39 ITIVE BIDS AFTER THE ISSUANCE OF REQUESTS FOR PROPOSALS.

40 S 16. On or before September 1, 2020, the commissioner of transporta-
41 tion shall submit a report to the governor, the temporary president of
42 the senate and the speaker of the assembly detailing and analyzing the
43 effectiveness of the provisions of this act in improving the safety at
44 the scenes of highway emergencies.

45 S 17. This act shall take effect November 1, 2015; provided, however,
46 that effective immediately, the addition, amendment and/or repeal of any
47 rule or regulation necessary for the implementation of this act on its
48 effective date are authorized and directed to be made and completed on
49 or before such effective date.