

3536--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 23, 2015

---

Introduced by M. of A. MARKEY, LENTOL, McDONOUGH -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 while knowingly operating a motor vehicle with a revoked or suspended license or while not holding a license and establishing the offense of vehicular homicide

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     
20

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

LBD05721-05-5

1 such serious physical injury, and as a result of such impairment by the  
2 use of alcohol, operates such motor vehicle in a manner that causes such  
3 serious physical injury to such other person, or

4 [(3)] (C) operates a snowmobile in violation of paragraph (b), (c) or  
5 (d) of subdivision one of section 25.24 of the parks, recreation and  
6 historic preservation law or operates an all terrain vehicle as defined  
7 in paragraph (a) of subdivision one of section twenty-two hundred eight-  
8 y-one of the vehicle and traffic law and in violation of subdivision  
9 two, three, four, or four-a of section eleven hundred ninety-two of the  
10 vehicle and traffic law, and as a result of such intoxication or impair-  
11 ment by the use of a drug, or by the combined influence of drugs or of  
12 alcohol and any drug or drugs, operates such snowmobile or all terrain  
13 vehicle in a manner that causes such serious physical injury to such  
14 other person.

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

25 2. SERIOUS PHYSICAL INJURY TO ANOTHER PERSON, WHILE OPERATING A MOTOR  
26 VEHICLE, KNOWING OR HAVING REASON TO KNOW THAT HIS OR HER LICENSE TO OR  
27 PRIVILEGE TO OPERATE A MOTOR VEHICLE IS SUSPENDED OR REVOKED PURSUANT TO  
28 SUBDIVISION TWO OR TWO-A OF SECTION FIVE HUNDRED TEN OR SUBDIVISION ONE  
29 OR THREE OF SECTION FIVE HUNDRED TEN-A OF THE VEHICLE AND TRAFFIC LAW  
30 FOR CONDUCT RELATING TO THE OPERATION OF A MOTOR VEHICLE, OR KNOWING OR  
31 HAVING REASON TO KNOW THAT HE OR SHE IS NOT LICENSED TO OPERATE A MOTOR  
32 VEHICLE ON A PUBLIC HIGHWAY PURSUANT TO THE VEHICLE AND TRAFFIC LAW.

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

34 S 2. The opening paragraph of section 120.04 of the penal law, as  
35 amended by chapter 496 of the laws of 2009, is amended to read as  
36 follows:

37 A person is guilty of vehicular assault in the first degree when he or  
38 she commits the crime of vehicular assault in the second degree as  
39 defined in SUBDIVISION ONE OF section 120.03 of this article, and  
40 either:

41 S 3. The penal law is amended by adding a new section 125.16 to read  
42 as follows:

43 S 125.16 VEHICULAR HOMICIDE.

44 A PERSON IS GUILTY OF VEHICULAR HOMICIDE WHEN HE OR SHE CAUSES THE  
45 DEATH OF ANOTHER PERSON, WHILE OPERATING A MOTOR VEHICLE, KNOWING OR  
46 HAVING REASON TO KNOW THAT HIS OR HER LICENSE TO OR PRIVILEGE TO OPERATE  
47 A MOTOR VEHICLE IS SUSPENDED OR REVOKED PURSUANT TO SUBDIVISION TWO OR  
48 TWO-A OF SECTION FIVE HUNDRED TEN OR SUBDIVISION ONE OR THREE OF SECTION  
49 FIVE HUNDRED TEN-A OF THE VEHICLE AND TRAFFIC LAW FOR CONDUCT RELATING  
50 TO THE OPERATION OF A MOTOR VEHICLE, OR KNOWING OR HAVING REASON TO KNOW  
51 THAT HE OR SHE IS NOT LICENSED TO OPERATE A MOTOR VEHICLE ON A PUBLIC  
52 HIGHWAY PURSUANT TO THE VEHICLE AND TRAFFIC LAW.

53 VEHICULAR HOMICIDE IS A CLASS D FELONY.

54 S 4. This act shall take effect on the one hundred eightieth day after  
55 it shall have become a law.