

# STATE OF NEW YORK

4347

2017-2018 Regular Sessions

## IN ASSEMBLY

February 2, 2017

Introduced by M. of A. SCHIMMINGER, WALTER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to aggravated vehicular homicide

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as "Jocelyn's  
2 Law".

3 § 2. Section 125.14 of the penal law, as amended by chapter 496 of the  
4 laws of 2009, is amended to read as follows:

5 § 125.14 Aggravated vehicular homicide.

6 A person is guilty of aggravated vehicular homicide when he or she  
7 either:

8 (1) engages in reckless driving as defined by section twelve hundred  
9 twelve of the vehicle and traffic law, and commits the crime of vehicu-  
10 lar manslaughter in the second degree as defined in section 125.12 of  
11 this article, and either:

12 [~~(1)~~] (a) commits such crimes while operating a motor vehicle while  
13 such person has .18 of one per centum or more by weight of alcohol in  
14 such person's blood as shown by chemical analysis of such person's  
15 blood, breath, urine or saliva made pursuant to the provisions of  
16 section eleven hundred ninety-four of the vehicle and traffic law;

17 [~~(2)~~] (b) commits such crimes while knowing or having reason to know  
18 that: [~~(a)~~] (i) his or her license or his or her privilege of operating  
19 a motor vehicle in another state or his or her privilege of obtaining a  
20 license to operate a motor vehicle in another state is suspended or  
21 revoked and such suspension or revocation is based upon a conviction in  
22 such other state for an offense which would, if committed in this state,  
23 constitute a violation of any of the provisions of section eleven  
24 hundred ninety-two of the vehicle and traffic law; or [~~(b)~~] (ii) his or  
25 her license or his or her privilege of operating a motor vehicle in this

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

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1 state or his or her privilege of obtaining a license issued by the  
2 commissioner of motor vehicles is suspended or revoked and such suspen-  
3 sion or revocation is based upon either a refusal to submit to a chemi-  
4 cal test pursuant to section eleven hundred ninety-four of the vehicle  
5 and traffic law or following a conviction for a violation of any of the  
6 provisions of section eleven hundred ninety-two of the vehicle and traf-  
7 fic law;

8 [~~(3)~~] (c) has previously been convicted of violating any of the  
9 provisions of section eleven hundred ninety-two of the vehicle and traf-  
10 fic law within the preceding ten years, provided that, for the purposes  
11 of this subdivision, a conviction in any other state or jurisdiction for  
12 an offense which, if committed in this state, would constitute a  
13 violation of section eleven hundred ninety-two of the vehicle and traf-  
14 fic law, shall be treated as a violation of such law;

15 [~~(4)~~] (d) causes the death of more than one other person;

16 [~~(5)~~] (e) causes the death of one person and the serious physical  
17 injury of at least one other person;

18 [~~(6)~~] (f) has previously been convicted of violating any provision of  
19 this article or article one hundred twenty of this title involving the  
20 operation of a motor vehicle, or was convicted in any other state or  
21 jurisdiction of an offense involving the operation of a motor vehicle  
22 which, if committed in this state, would constitute a violation of this  
23 article or article one hundred twenty of this title; or

24 [~~(7)~~] (g) commits such crime while operating a motor vehicle while a  
25 child who is fifteen years of age or less is a passenger in such motor  
26 vehicle and causes the death of such child~~[-]~~; or

27 (2) commits the crime of vehicular manslaughter in the second degree  
28 as defined in section 125.12 of this article, and has previously been  
29 convicted three times of violating any provisions of section eleven  
30 hundred ninety-two of the vehicle and traffic law within the preceding  
31 ten years, provided that, for the purposes of this subdivision, a  
32 conviction in any other state or jurisdiction for an offense which, if  
33 committed in this state, would constitute a violation of section eleven  
34 hundred ninety-two of the vehicle and traffic law, shall be treated as a  
35 violation of such law.

36 If it is established that the person operating such motor vehicle  
37 caused such death or deaths while unlawfully intoxicated or impaired by  
38 the use of alcohol or a drug, or by the combined influence of drugs or  
39 of alcohol and any drug or drugs, then there shall be a rebuttable  
40 presumption that, as a result of such intoxication or impairment by the  
41 use of alcohol or a drug, or by the combined influence of drugs or of  
42 alcohol and any drug or drugs, such person operated the motor vehicle in  
43 a manner that caused such death or deaths, as required by this section  
44 and section 125.12 of this article.

45 Aggravated vehicular homicide is a class B felony.

46 § 3. This act shall take effect on the first of November next succeed-  
47 ing the date on which it shall have become a law.