

# STATE OF NEW YORK

7164

2017-2018 Regular Sessions

## IN ASSEMBLY

April 11, 2017

Introduced by M. of A. CUSICK, TITONE, BENEDETTO, ORTIZ, MOSLEY --  
Multi-Sponsored by -- M. of A. SEPULVEDA -- 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 Assem-  
bly, do enact as follows:

1 Section 1. The penal law is amended by adding two new sections 120.75  
2 and 120.80 to read as follows:

3 § 120.75 Vehicular assault in an active work zone in the second degree.

4 1. A person is guilty of vehicular assault in an active work zone in  
5 the second degree when, with criminal negligence, he or she:

6 a. enters or intrudes into an active work zone without permission  
7 while operating a motor vehicle; and

8 b. such entry or intrusion causes serious physical injury to another  
9 person.

10 2. For purposes of this section:

11 a. "active work zone" shall mean the physical area of a highway,  
12 street or private road on which construction, maintenance or utility  
13 work is being conducted, which area is marked by signs, channeling  
14 devices, barriers, pavement markings, and/or work vehicles, and where  
15 workers are physically present; and

16 b. "permission" shall mean direction from a flag person, police offi-  
17 cer or other visibly designated person in charge of traffic control or  
18 direction from a traffic control device regulating entry therein.

19 Vehicular assault in an active work zone in the second degree is a  
20 class E felony.

21 § 120.80 Vehicular assault in an active work zone in the first degree.

22 1. A person is guilty of vehicular assault in an active work zone in  
23 the first degree when he or she recklessly:

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

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1 a. enters or intrudes into an active work zone without permission  
2 while operating a motor vehicle; and

3 b. such entry or intrusion causes serious physical injury to another  
4 person.

5 2. For purposes of this section:

6 a. "active work zone" shall mean the physical area of a highway,  
7 street or private road on which construction, maintenance or utility  
8 work is being conducted, which area is marked by signs, channeling  
9 devices, barriers, pavement markings, and/or work vehicles, and where  
10 workers are physically present; and

11 b. "permission" shall mean direction from a flag person, police offi-  
12 cer or other visibly designated person in charge of traffic control or  
13 direction from a traffic control device regulating entry therein.

14 Vehicular assault in an active work zone in the first degree is a  
15 class D felony.

16 § 2. The penal law is amended by adding two new sections 125.65 and  
17 125.70 to read as follows:

18 § 125.65 Vehicular manslaughter in an active work zone in the second  
19 degree.

20 1. A person is guilty of vehicular manslaughter in an active work zone  
21 in the second degree when, with criminal negligence, he or she:

22 (a) enters or intrudes into an active work zone without permission  
23 while operating a motor vehicle; and

24 (b) such entry or intrusion causes the death of another person.

25 2. For purposes of this section:

26 (a) "active work zone" shall mean the physical area of a highway,  
27 street or private road on which construction, maintenance or utility  
28 work is being conducted, which area is marked by signs, channeling  
29 devices, barriers, pavement markings, and/or work vehicles, and where  
30 workers are physically present; and

31 (b) "permission" shall mean direction from a flag person, police offi-  
32 cer or other visibly designated person in charge of traffic control or  
33 direction from a traffic control device regulating entry therein.

34 Vehicular manslaughter in an active work zone in the second degree is  
35 a class C felony.

36 § 125.70 Vehicular manslaughter in an active work zone in the first  
37 degree.

38 1. A person is guilty of vehicular manslaughter in an active work zone  
39 in the first degree when he or she recklessly:

40 (a) enters or intrudes into an active work zone without permission  
41 while operating a motor vehicle; and

42 (b) such entry or intrusion causes the death of another person.

43 2. For purposes of this section:

44 (a) "active work zone" shall mean the physical area of a highway,  
45 street or private road on which construction, maintenance or utility  
46 work is being conducted, which area is marked by signs, channeling  
47 devices, barriers, pavement markings, and/or work vehicles, and where  
48 workers are physically present; and

49 (b) "permission" shall mean direction from a flag person, police offi-  
50 cer or other visibly designated person in charge of traffic control or  
51 direction from a traffic control device regulating entry therein.

52 Vehicular manslaughter in an active work zone in the first degree is a  
53 class B felony.

54 § 3. The vehicle and traffic law is amended by adding a new section  
55 1221-a to read as follows:

1 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-  
2 cle shall enter or intrude into an active work zone except upon direc-  
3 tion from a flag person, police officer or other visibly designated  
4 person in charge of traffic control or direction from a traffic control  
5 device regulating entry therein. For purposes of this section, the term  
6 "active work zone" shall mean the physical area of a highway, street or  
7 private road on which construction, maintenance or utility work is being  
8 conducted, which area is marked by signs, channeling devices, barriers,  
9 pavement markings, and/or work vehicles, and where workers are phys-  
10 ically present.

11 2. A violation of subdivision one of this section shall constitute a  
12 class B misdemeanor punishable by a fine of not less than two hundred  
13 fifty dollars nor more than five hundred dollars, or by a period of  
14 imprisonment not to exceed three months, or by both such fine and impri-  
15 sonment.

16 § 4. This act shall take effect immediately.