

# STATE OF NEW YORK

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7031

## IN SENATE

(Prefiled)

January 3, 2018

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Introduced by Sen. KAVANAGH -- 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, in relation to authorizing police officers to arrest a driver of a motor vehicle in certain circumstances

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

1 Section 1. Subdivisions (a), (b) and (c) of section 1146 of the vehicle and traffic law, as amended by chapter 333 of the laws of 2010, are amended to read as follows:

2 (a) Notwithstanding the provisions of any other law to the contrary, every driver of a vehicle shall exercise due care to avoid colliding with any bicyclist, pedestrian, including any highway worker, or domestic animal upon any roadway and shall give warning by sounding the horn when necessary. For the purposes of this section, the term "highway worker" shall mean any person engaged in work on a highway who is working on behalf of the United States, this state, or any county, city, town, district or any other political subdivision of the state; and the term "domestic animal" shall mean domesticated sheep, cattle, and goats which are under the supervision and control of a pedestrian.

3 (b) 1. A driver of a motor vehicle who causes physical injury as defined in article ten of the penal law to a pedestrian, including any highway worker or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than five hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment.

2. If such driver of a motor vehicle causes physical injury while failing to exercise due care in violation of subdivision (a) of this section, then there shall be a rebuttable presumption that, as a result of such failure to exercise due care, such person operated the motor vehicle in a manner that caused such physical injury.

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

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1 (c) 1. A driver of a motor vehicle who causes serious physical injury  
2 as defined in article ten of the penal law to a pedestrian, including  
3 any highway worker or bicyclist while failing to exercise due care in  
4 violation of subdivision (a) of this section, shall be guilty of a traf-  
5 fic infraction punishable by a fine of not more than seven hundred fifty  
6 dollars or by imprisonment for not more than fifteen days or by required  
7 participation in a motor vehicle accident prevention course pursuant to  
8 paragraph (e-1) of subdivision two of section 65.10 of the penal law or  
9 by any combination of such fine, imprisonment or course, and by suspen-  
10 sion of a license or registration pursuant to subparagraph (xiv) or (xv)  
11 of paragraph b of subdivision two of section five hundred ten of this  
12 chapter.

13 2. If such driver of a motor vehicle causes serious physical injury  
14 while failing to exercise due care in violation of subdivision (a) of  
15 this section, then there shall be a rebuttable presumption that, as a  
16 result of such failure to exercise due care, such person operated the  
17 motor vehicle in a manner that caused such serious physical injury.

18 § 2. Section 1146 of the vehicle and traffic law is amended by adding  
19 a new subdivision (f) to read as follows:

20 (f) Notwithstanding the provisions of section 140.10 of the criminal  
21 procedure law, a police officer may, without a warrant, arrest a person,  
22 in case of a violation of subdivision (b) or (c) of this section, if  
23 such violation is coupled with an accident or collision in which such  
24 person is involved, which in fact has been committed, though not in the  
25 police officer's presence, when the officer has reasonable cause to  
26 believe that the violation was committed by such person.

27 § 3. This act shall take effect on the ninetieth day after it shall  
28 have become a law.