

# STATE OF NEW YORK

5271

2019-2020 Regular Sessions

## IN SENATE

April 23, 2019

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed 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 Assembly, do enact as follows:

Section 1. The penal law is amended by adding four new sections 120.65, 120.66, 125.65 and 125.70 to read as follows:

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

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

a. enters or intrudes into an active work zone while operating a motor vehicle; and

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

2. For purposes of this section the term "active work zone" shall mean the physical area on a public highway, street or private road where construction, maintenance or utility work is being conducted, which area is properly designated to be an active work zone by signs, cones and/or other traffic control devices and where workers are physically present.

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

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

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

a. enters or intrudes into an active work zone while operating a motor vehicle; and

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

2. For purposes of this section the term "active work zone" shall mean the physical area on a public highway, street or private road where

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

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1 construction, maintenance or utility work is being conducted, which area  
2 is properly designated to be an active work zone by signs, cones and/or  
3 other traffic control devices and where workers are physically present.

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

6 § 125.65 Vehicular manslaughter in an active work zone in the second  
7 degree.

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

10 (a) enters or intrudes into an active work zone while operating a  
11 motor vehicle; and

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

13 2. For purposes of this section the term "active work zone" shall mean  
14 the physical area on a public highway, street or private road where  
15 construction, maintenance or utility work is being conducted, which area  
16 is properly designated to be an active work zone by signs, cones and/or  
17 other traffic control devices and where workers are physically present.

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

20 § 125.70 Vehicular manslaughter in an active work zone in the first  
21 degree.

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

24 (a) enters or intrudes into an active work zone while operating a  
25 motor vehicle; and

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

27 2. For purposes of this section the term "active work zone" shall mean  
28 the physical area on a public highway, street or private road where  
29 construction, maintenance or utility work is being conducted, which area  
30 is properly designated to be an active work zone by signs, cones and/or  
31 other traffic control devices and where workers are physically present.

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

34 § 2. The vehicle and traffic law is amended by adding a new section  
35 1221-a to read as follows:

36 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-  
37 cle, operator of a bicycle or pedestrian shall enter or intrude into an  
38 active work zone, except upon direction from a flag person, police offi-  
39 cer or other designated person in charge of traffic control or direction  
40 from a traffic control device regulating entry therein. For purposes of  
41 this section, the term "active work zone" shall mean the physical area  
42 on a public highway, street or private road where construction, mainte-  
43 nance or utility work is being conducted, which area is properly desig-  
44 ated to be an active work zone by signs, cones and/or other traffic  
45 control devices and where workers are physically present.

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

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