

# STATE OF NEW YORK

---

6016

2019-2020 Regular Sessions

## IN SENATE

May 16, 2019

---

Introduced by Sen. KENNEDY -- 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 work zone safety and classifying the assault of certain highway and transportation workers as second degree assault

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

1 Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law,  
2 subdivision 3 as amended by chapter 267 of the laws of 2016 and subdivi-  
3 sion 11 as separately amended by chapters 268 and 281 of the laws of  
4 2016, are amended to read as follows:

5 3. With intent to prevent a peace officer, a police officer, prosecu-  
6 tor as defined in subdivision thirty-one of section 1.20 of the criminal  
7 procedure law, registered nurse, licensed practical nurse, public health  
8 sanitarian, New York city public health sanitarian, sanitation enforce-  
9 ment agent, New York city sanitation worker, a firefighter, including a  
10 firefighter acting as a paramedic or emergency medical technician admin-  
11 istering first aid in the course of performance of duty as such fire-  
12 fighter, an emergency medical service paramedic or emergency medical  
13 service technician, or medical or related personnel in a hospital emer-  
14 gency department, a city marshal, a school crossing guard appointed  
15 pursuant to section two hundred eight-a of the general municipal law, a  
16 traffic enforcement officer, traffic enforcement agent, highway worker  
17 as defined in section one hundred eighteen-a of the vehicle and traffic  
18 law, motor vehicle inspector and motor carrier investigator as defined  
19 in section one hundred eighteen-b of the vehicle and traffic law, motor  
20 vehicle license examiner as defined in section one hundred eighteen-c of  
21 the vehicle and traffic law, highway inspector as referenced by section  
22 19-152 of the administrative code of the city of New York, or employee  
23 of any entity governed by the public service law in the course of  
24 performing an essential service, from performing a lawful duty, by means

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

LBD11241-01-9

1 including releasing or failing to control an animal under circumstances  
2 evincing the actor's intent that the animal obstruct the lawful activity  
3 of such peace officer, police officer, prosecutor as defined in subdivi-  
4 sion thirty-one of section 1.20 of the criminal procedure law, regis-  
5 tered nurse, licensed practical nurse, public health sanitarian, New  
6 York city public health sanitarian, sanitation enforcement agent, New  
7 York city sanitation worker, firefighter, paramedic, technician, city  
8 marshal, school crossing guard appointed pursuant to section two hundred  
9 eight-a of the general municipal law, traffic enforcement officer, traf-  
10 fic enforcement agent, highway worker as defined in section one hundred  
11 eighteen-a of the vehicle and traffic law, motor vehicle inspector and  
12 motor carrier investigator as defined in section one hundred eighteen-b  
13 of the vehicle and traffic law, motor vehicle license examiner as  
14 defined in section one hundred eighteen-c of the vehicle and traffic  
15 law, highway inspector as referenced by section 19-152 of the adminis-  
16 trative code of the city of New York, or employee of an entity governed  
17 by the public service law, he or she causes physical injury to such  
18 peace officer, police officer, prosecutor as defined in subdivision  
19 thirty-one of section 1.20 of the criminal procedure law, registered  
20 nurse, licensed practical nurse, public health sanitarian, New York city  
21 public health sanitarian, sanitation enforcement agent, New York city  
22 sanitation worker, firefighter, paramedic, technician or medical or  
23 related personnel in a hospital emergency department, city marshal,  
24 school crossing guard, traffic enforcement officer, traffic enforcement,  
25 highway worker as defined in section one hundred eighteen-a of the vehi-  
26 cle and traffic law, motor vehicle inspector and motor carrier investi-  
27 gator as defined in section one hundred eighteen-b of the vehicle and  
28 traffic law, motor vehicle license examiner as defined in section one  
29 hundred eighteen-c of the vehicle and traffic law, highway inspector as  
30 referenced by section 19-152 of the administrative code of the city of  
31 New York, agent or employee of an entity governed by the public service  
32 law; or

33 11. With intent to cause physical injury to a train operator, ticket  
34 inspector, conductor, signalperson, bus operator, station agent, station  
35 cleaner [ex], terminal cleaner, station customer assistant, person whose  
36 official duties include the sale or collection of tickets, passes,  
37 vouchers or other fare payment media for use on a train or bus, person  
38 whose official duties include the maintenance, repair, inspection, trou-  
39 bleshooting, testing or cleaning of a transit signal system, elevated or  
40 underground subway tracks, transit station structure, train yard, reven-  
41 ue train in passenger service, or a train or bus station or terminal, or  
42 a supervisor of such personnel employed by any transit agency, authority  
43 or company, public or private, whose operation is authorized by New York  
44 state or any of its political subdivisions, a city marshal, a school  
45 crossing guard appointed pursuant to section two hundred eight-a of the  
46 general municipal law, a traffic enforcement officer, traffic enforce-  
47 ment agent, highway worker as defined in section one hundred eighteen-a  
48 of the vehicle and traffic law, motor vehicle inspector and motor carri-  
49 er investigator as defined in section one hundred eighteen-b of the  
50 vehicle and traffic law, motor vehicle license examiner as defined in  
51 section one hundred eighteen-c of the vehicle and traffic law, highway  
52 inspector as referenced by section 19-152 of the administrative code of  
53 the city of New York, prosecutor as defined in subdivision thirty-one of  
54 section 1.20 of the criminal procedure law, sanitation enforcement  
55 agent, New York city sanitation worker, public health sanitarian, New  
56 York city public health sanitarian, registered nurse, licensed practical

nurse, emergency medical service paramedic, or emergency medical service technician, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner ~~[or]~~, terminal cleaner, station customer assistant, person whose official duties include the sale or collection of tickets, passes, vouchers or other fare payment media for use on a train or bus, person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of a transit signal system, elevated or underground subway tracks, transit station structure, train yard, revenue train in passenger service, or a train or bus station or terminal, or a supervisor of such personnel, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, motor vehicle license examiner as defined in section one hundred eighteen-c of the vehicle and traffic law, highway inspector as referenced by section 19-152 of the administrative code of the city of New York, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, ~~[including the cleaning of a train or bus station or terminal]~~ cleaning of a train or bus station or terminal or maintenance of a train or bus station or terminal, signal system, elevated or underground subway tracks, transit station structure, train yard or revenue train in passenger service, or such city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, motor vehicle license examiner as defined in section one hundred eighteen-c of the vehicle and traffic law, highway inspector as referenced by section 19-152 of the administrative code of the city of New York, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician is performing an assigned duty; or

§ 2. The vehicle and traffic law is amended by adding three new sections 118-a, 118-b and 118-c to read as follows:

§ 118-a. Highway worker. Any person employed by or on behalf of the state, a county, city, town or village, a public authority, a local authority, or a public utility company, or the agent or contractor of any such entity, who has been assigned to perform work on a highway, including maintenance, repair, flagging, utility work, construction, reconstruction or operation of equipment on public highway infrastructure and associated rights-of-way in highway work areas, and shall also include any flag person as defined in section one hundred fifteen-b of this article.

1     § 118-b. Motor vehicle inspector and motor carrier investigator. Any  
2 person employed by the New York State department of transportation who  
3 has been assigned to perform inspections of any motor vehicles or inves-  
4 tigation of any carriers regulated by the commissioner of transporta-  
5 tion.

6     § 118-c. Motor vehicle license examiner. Any person employed by the  
7 department who conducts road tests to ensure that only qualified persons  
8 are licensed to operate motor vehicles or performs field inspections of  
9 the licensing aspect of driving schools, private service bureaus, and  
10 motor carriers, or any employee of the department who directly super-  
11 vises such employees.

12     § 3. The vehicle and traffic law is amended by adding a new section  
13 1221-a to read as follows:

14     § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-  
15 cle shall enter or intrude into an active work zone except upon direc-  
16 tion from a flag person, police officer or other visibly designated  
17 person in charge of traffic control or direction from a traffic control  
18 device regulating entry therein. For purposes of this section, the term  
19 "active work zone" shall mean the physical area of a highway, street or  
20 private road on which construction, maintenance or utility work is being  
21 conducted, which area is marked by any signs, channeling devices, barri-  
22 ers, pavement markings, or work vehicles, and where workers are phys-  
23 ically present.

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

29     § 4. The vehicle and traffic law is amended by adding a new section  
30 1221-b to read as follows:

31     § 1221-b. Work zone safety and outreach. The governor's traffic safety  
32 committee, upon consultation with the commissioner of transportation,  
33 the superintendent of state police, the commissioner, the chairman of  
34 the New York state thruway authority, local law enforcement agencies,  
35 and representatives for contractors and laborers, shall design and  
36 implement a public education and outreach program to increase motorist  
37 awareness of the importance of highway work zone safety, to reduce the  
38 number of work zone incidents, including speeding, unauthorized intru-  
39 sions into work zones, and any conduct resulting in threats or injuries  
40 to highway workers, and to increase and promote work zone safety.

41     § 5. Section 120.05 of the penal law is amended by adding a new subdivi-  
42 sion 11-d to read as follows:

43     11-d. With intent to cause physical injury to a terminal cleaner,  
44 cabin cleaner, facilities cleaner, wheelchair assist employee, baggage  
45 handler, skycap, ticket agent, customer services employee, security  
46 guard, queue management employee, shuttle bus driver, or any employee  
47 whose duties require him or her to work on the tarmac, employed by any  
48 airport, airport authority or company, public or private, that performs  
49 such services at an airport, he or she causes physical injury to such  
50 terminal cleaner, cabin cleaner, facilities cleaner, wheelchair assist  
51 employee, baggage handler, skycap, ticket agent, customer services  
52 employee, security guard, queue management employee, shuttle bus driver,  
53 or any employee whose duties require him or her to work on the tarmac,  
54 while such employee is performing an assigned duty of, or directly  
55 related to, such services at an airport in the state of New York; or

56     § 6. This act shall take effect immediately.