STATE OF NEW YORK

7298

IN SENATE

January 16, 2020

Introduced by Sens. KENNEDY, HOYLMAN -- 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 and the penal law, in relation to enacting the "vehicular violence accountability act"

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

Section 1. Short title. This act shall be known and may be cited as the "vehicular violence accountability act".

§ 2. Subparagraph (i) of paragraph (a) and paragraphs (b) and (d) of subdivision 4 of section 502 of the vehicle and traffic law, as amended by chapter 513 of the laws of 2019, are amended and a new paragraph (c-5) is added to read as follows:

(i) Upon submission of an application for a driver's license, the applicant shall be required to take and pass a test, or submit evidence of passage of a test, with respect to the laws relating to traffic, the laws relating to driving while ability is impaired and while intoxicated, under the overpowering influence of "Road Rage", "Work Zone Safety" awareness and "Motorcycle Safety" awareness as defined by the commissioner, "School Bus Safety" awareness, ***the laws relating to vehicular violence,*** the law relating to exercising due care to avoid colliding with a parked, stopped or standing authorized emergency vehicle or hazard vehicle pursuant to section eleven hundred forty-four-a of this chapter, the ability to read and comprehend traffic signs and symbols and such other matters as the commissioner may prescribe, and to satisfactorily complete a course prescribed by the commissioner of not less than four hours and not more than five hours, consisting of classroom driver training and highway safety instruction or the equivalent thereof. Such test shall include at least seven written questions concerning the effects of consumption of alcohol or drugs on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from violations of section eleven hundred ninety-two of this chapter, prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs. Such test shall include one or more written questions concerning the devastating effects of "Road Rage"

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

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on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from assaulting, threatening or interfering with the lawful conduct of another person legally using the roadway. Such test shall include one or more questions concerning the potential dangers to persons and equipment resulting from the unsafe operation of a motor vehicle in a work zone. Such test may include one or more questions concerning motorcycle safety. Such test may include one or more questions concerning the law for exercising due care to avoid colliding with a parked, stopped or standing vehicle pursuant to section eleven hundred forty-four-a of this chapter. Such test may include one or more questions concerning school bus safety. **Such test may include one or more questions concerning vehicular violence.** Such test shall be administered by the commissioner. The commissioner shall cause the applicant to take a vision test and a test for color blindness. Upon passage of the vision test, the application may be accepted and the application fee shall be payable.

(b) Upon successful completion of the requirements set forth in paragraph (a) of this subdivision which shall include an alcohol and drug education component as described in paragraph (c) of this subdivision, a "Road Rage" awareness component as described in paragraph (c-1) of this subdivision and a "Work Zone Safety" awareness component as described in paragraph (c-2) of this subdivision, a "Motorcycle Safety" awareness component as described in paragraph (c-3) of this subdivision, [~~and~~] a "School Bus Safety" awareness component as described in paragraph (c-4) of this subdivision**, and a vehicular violence awareness component as described in paragraph (c-5) of this subdivision** the commissioner shall cause the applicant to take a road test in a representative vehicle of a type prescribed by the commissioner which shall be appropriate to the type of license for which application is made, except that the commissioner may waive the road test requirements for certain classes of applicants. The commissioner shall have the power to establish a program to allow persons other than employees of the department to conduct road tests in representative vehicles when such tests are required for applicants to obtain a class A, B or C license. If she chooses to do so, she shall set forth her reasons in writing and conduct a public hearing on the matter. She shall only establish such a program after holding the public hearing.

(c-5) Vehicular violence awareness component. (i) The commissioner shall provide in the pre-licensing course, set forth in paragraph (b) of this subdivision, a mandatory component in vehicular violence awareness education as a prerequisite for obtaining a license to operate a motor vehicle. The purpose of the component is to educate prospective licensees on the dangers of committing a vehicular crime that causes injury or death to another individual.

(ii) The commissioner shall establish a curriculum for the vehicular violence awareness component which shall include, but shall not be limited to, an overview of laws governing conduct committed while operating a motorized vehicle that causes injury or death to another person, including but not limited to an explanation of the laws contained in article one hundred twenty-six of the penal law.

(iii) In developing such curriculum, the commissioner shall consult with the commissioner of transportation.

(d) The commissioner shall make available for distribution upon registration at each location where the pre-licensing course will be given, instructional handbooks outlining the content of the entire curriculum of the pre-licensing course including the information required to be

included in the course pursuant to paragraphs (c), (c-1), (c-2), (c-3) [~~and~~], (c-4) and (c-5) of this subdivision. The commissioner shall also provide for the additional training of the instructors necessary for the competent instruction of the alcohol and drug education, "Road Rage" awareness, "Work Zone Safety" awareness, "Motorcycle Safety" awareness [~~and~~], "School Bus Safety" awareness and vehicular violence awareness subject matters of the pre-licensing course.

§ 3. The penal law is amended by adding a new article 126 to read as follows:

ARTICLE 126
VEHICULAR VIOLENCE

Section 126.00 Vehicular violence defined.
126.05 Serious physical injury by vehicle.
126.10 Aggravated serious physical injury by vehicle.
126.15 Death by vehicle.
126.20 Aggravated death by vehicle.

§ 126.00 Vehicular violence defined.

The following definitions are applicable to this article:

1. "Vehicular violence" means conduct committed while operating a motorized vehicle, other than driving under the influence of alcohol or drugs, that negligently causes injury or death to another individual.

2. "Failure to exercise due care" means ordinary or civil negligence.

3. "A specified traffic infraction" means any moving violation reasonably related to the safety of pedestrians and bicyclists as well as any of the following traffic rules or regulations as defined in section eleven hundred ten (obedience to and required traffic-control devices); section eleven hundred eleven (traffic-control signal indications); section eleven hundred thirteen (flashing signal indications); section eleven hundred twenty (drive on right side of roadway; exceptions); section eleven hundred forty-two (vehicle entering stop or yield intersection); section eleven hundred forty-five (vehicle approaching rotary traffic circle or island); section eleven hundred forty-six (drivers to exercise due care) section eleven hundred fifty-one-a (pedestrians' right of way on sidewalks); section eleven hundred sixty (required position and method of turning at intersections); section eleven hundred sixty- one (U turns in certain areas prohibited); section eleven hundred sixty-three (turning movements and required signal); section eleven hundred seventy (obedience to signal indicating approach of train); section eleven hundred seventy-one (certain vehicles must stop at all railroad grade crossings); section eleven hundred seventy-two (stop signs and yield signs); section eleven hundred seventy-three (emerging from alley, driveway, private road or building); section eleven hundred seventy-four (overtaking and passing school bus); section eleven hundred eighty (basic rule and maximum limits); section eleven hundred eighty-two (speed contests and races); section twelve hundred twelve (reckless driving); section twelve hundred twenty-five (avoiding intersections or traffic-control device); section twelve hundred twenty-five-a (driving on sidewalks); section twelve hundred twenty-five-c (use of mobile telephones); section twelve hundred twenty-five-d (use of portable electronic devices) of the vehicle and traffic law; or any state or local statute reasonably related to the safe operation of a motor vehicle.

4. "Motorized vehicle" means any motor vehicle defined in the vehicle and traffic law; or any motorcycle, ATV, or motor driven cycle or wheeled device, other than an electrically driven mobility assistance device.

5. "Commissioner" means the commissioner of motor vehicles of this state.

§ 126.05 Serious physical injury by vehicle.

A person is guilty of serious physical injury by vehicle when such person fails to exercise due care while operating a motorized vehicle and commits a specified traffic infraction, as defined in subdivision three of section 126.00 of this article, and the commission of the specified traffic infraction is the proximate cause of serious physical injury to another person.

Serious physical injury by vehicle is a class B misdemeanor.

§ 126.10 Aggravated serious physical injury by vehicle.

A person is guilty of aggravated serious physical injury by vehicle when such person commits the crime of serious physical injury by vehicle as defined in section 126.05 of this article, and:

1. Knows or has reason to know that such person's license or privilege of operating a motor vehicle in this state, or privilege of obtaining a license to operate a motor vehicle issued by the commissioner is suspended, revoked or otherwise withdrawn by the commissioner if: (a) the suspension, revocation, or withdrawal was based upon a conviction of a violation of any provision of section eleven hundred ninety-two of the vehicle and traffic law; or (b) the suspension, revocation, or withdrawal was based upon a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law; or (c) the suspension was a mandatory suspension pending prosecution of a charge of a violation of section eleven hundred ninety-two of the vehicle and traffic law ordered pursuant to paragraph (e) of subdivision two of section eleven hundred ninety-three of the vehicle and traffic law or other similar statute;

2. Has previously been convicted of violating any provision of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years. For purposes of this subdivision, a conviction in any other state or jurisdiction of an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law;

3. Was driving twenty or more miles per hour above the legal speed limit;

4. Was committing more than one specified traffic infraction as defined in subdivision three of section 126.00 of this article; or

5. Thereby caused serious physical injury to more than one person.

Aggravated serious physical injury by vehicle is a class A misdemeanor.

§ 126.15 Death by vehicle.

A person is guilty of death by vehicle when such person fails to exercise due care while operating a motorized vehicle and commits a specified traffic infraction as defined in subdivision three of section 126.00 of this article, and the commission of the specified traffic infraction is the proximate cause of the death of another person.

Death by vehicle is a class A misdemeanor.

§ 126.20 Aggravated death by vehicle.

A person is guilty of aggravated death by vehicle when such person commits the crime of death by vehicle as defined in section 126.15 of this article, and:

1. Knows or has reason to know that such person's license or privilege of operating a motor vehicle in this state, or privilege of obtaining a license to operate a motor vehicle issued by the commissioner is

suspended, revoked or otherwise withdrawn by the commissioner if: (a) the suspension, revocation, or withdrawal was based upon a conviction of any provision of section eleven hundred ninety-two of the vehicle and traffic law; or (b) the suspension, revocation, or withdrawal was based upon a refusal to submit to a chemical test, pursuant to section eleven hundred ninety-four of the vehicle and traffic law; or (c) the suspension was a mandatory suspension pending prosecution of a charge of a violation of section eleven hundred ninety-two of the vehicle and traffic law ordered pursuant to paragraph (e) of subdivision two of section eleven hundred ninety-three of the vehicle and traffic law or other similar statute;

2. Has previously been convicted of violating any provision of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years. For purposes of this subdivision, a conviction in any other state or jurisdiction of an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law;

3. Was driving twenty or more miles per hour above the legal speed limit;

4. Was committing more than one specified traffic infraction as defined in subdivision three of section 126.00 of this article;

5. Thereby caused the death of more than one person; or

6. Thereby caused the death of one person and the serious physical injury of at least one other person.

Aggravated death by vehicle is a class E felony.

§ 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided, however, that if chapter 513 of the laws of 2019 shall not have taken effect on or before such date then section two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2019, takes effect.