

# 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 Assem-  
bly, do enact as follows:

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

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

7 (i) Upon submission of an application for a driver's license, the  
8 applicant shall be required to take and pass a test, or submit evidence  
9 of passage of a test, with respect to the laws relating to traffic, the  
10 laws relating to driving while ability is impaired and while intoxicat-  
11 ed, under the overpowering influence of "Road Rage", "Work Zone Safety"  
12 awareness and "Motorcycle Safety" awareness as defined by the commis-  
13 sioner, "School Bus Safety" awareness, the laws relating to vehicular  
14 violence, the law relating to exercising due care to avoid colliding  
15 with a parked, stopped or standing authorized emergency vehicle or  
16 hazard vehicle pursuant to section eleven hundred forty-four-a of this  
17 chapter, the ability to read and comprehend traffic signs and symbols  
18 and such other matters as the commissioner may prescribe, and to satis-  
19 factorily complete a course prescribed by the commissioner of not less  
20 than four hours and not more than five hours, consisting of classroom  
21 driver training and highway safety instruction or the equivalent there-  
22 of. Such test shall include at least seven written questions concerning  
23 the effects of consumption of alcohol or drugs on the ability of a  
24 person to operate a motor vehicle and the legal and financial conse-  
25 quences resulting from violations of section eleven hundred ninety-two  
26 of this chapter, prohibiting the operation of a motor vehicle while  
27 under the influence of alcohol or drugs. Such test shall include one or  
28 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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1 on the ability of a person to operate a motor vehicle and the legal and  
2 financial consequences resulting from assaulting, threatening or inter-  
3 fering with the lawful conduct of another person legally using the road-  
4 way. Such test shall include one or more questions concerning the poten-  
5 tial dangers to persons and equipment resulting from the unsafe  
6 operation of a motor vehicle in a work zone. Such test may include one  
7 or more questions concerning motorcycle safety. Such test may include  
8 one or more questions concerning the law for exercising due care to  
9 avoid colliding with a parked, stopped or standing vehicle pursuant to  
10 section eleven hundred forty-four-a of this chapter. Such test may  
11 include one or more questions concerning school bus safety. Such test  
12 may include one or more questions concerning vehicular violence. Such  
13 test shall be administered by the commissioner. The commissioner shall  
14 cause the applicant to take a vision test and a test for color blind-  
15 ness. Upon passage of the vision test, the application may be accepted  
16 and the application fee shall be payable.

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

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

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

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

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

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

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

10 ARTICLE 126

11 VEHICULAR VIOLENCE

12 Section 126.00 Vehicular violence defined.

13 126.05 Serious physical injury by vehicle.

14 126.10 Aggravated serious physical injury by vehicle.

15 126.15 Death by vehicle.

16 126.20 Aggravated death by vehicle.

17 § 126.00 Vehicular violence defined.

18 The following definitions are applicable to this article:

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

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

23 3. "A specified traffic infraction" means any moving violation reason-  
24 ably related to the safety of pedestrians and bicyclists as well as any  
25 of the following traffic rules or regulations as defined in section  
26 eleven hundred ten (obedience to and required traffic-control devices);  
27 section eleven hundred eleven (traffic-control signal indications);  
28 section eleven hundred thirteen (flashing signal indications); section  
29 eleven hundred twenty (drive on right side of roadway; exceptions);  
30 section eleven hundred forty-two (vehicle entering stop or yield inter-  
31 section); section eleven hundred forty-five (vehicle approaching rotary  
32 traffic circle or island); section eleven hundred forty-six (drivers to  
33 exercise due care) section eleven hundred fifty-one-a (pedestrians'  
34 right of way on sidewalks); section eleven hundred sixty (required posi-  
35 tion and method of turning at intersections); section eleven hundred  
36 sixty- one (U turns in certain areas prohibited); section eleven hundred  
37 sixty-three (turning movements and required signal); section eleven  
38 hundred seventy (obedience to signal indicating approach of train);  
39 section eleven hundred seventy-one (certain vehicles must stop at all  
40 railroad grade crossings); section eleven hundred seventy-two (stop  
41 signs and yield signs); section eleven hundred seventy-three (emerging  
42 from alley, driveway, private road or building); section eleven hundred  
43 seventy-four (overtaking and passing school bus); section eleven hundred  
44 eighty (basic rule and maximum limits); section eleven hundred eighty-  
45 two (speed contests and races); section twelve hundred twelve (reckless  
46 driving); section twelve hundred twenty-five (avoiding intersections or  
47 traffic-control device); section twelve hundred twenty-five-a (driving  
48 on sidewalks); section twelve hundred twenty-five-c (use of mobile tele-  
49 phones); section twelve hundred twenty-five-d (use of portable electron-  
50 ic devices) of the vehicle and traffic law; or any state or local stat-  
51 ute reasonably related to the safe operation of a motor vehicle.

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

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

3     § 126.05 Serious physical injury by vehicle.

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

10     Serious physical injury by vehicle is a class B misdemeanor.

11     § 126.10 Aggravated serious physical injury by vehicle.

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

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

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

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

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

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

41     Aggravated serious physical injury by vehicle is a class A misdemea-  
42 nor.

43     § 126.15 Death by vehicle.

44     A person is guilty of death by vehicle when such person fails to exer-  
45 cise due care while operating a motorized vehicle and commits a speci-  
46 fied traffic infraction as defined in subdivision three of section  
47 126.00 of this article, and the commission of the specified traffic  
48 infraction is the proximate cause of the death of another person.

49     Death by vehicle is a class A misdemeanor.

50     § 126.20 Aggravated death by vehicle.

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

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

1 suspended, revoked or otherwise withdrawn by the commissioner if: (a)  
2 the suspension, revocation, or withdrawal was based upon a conviction of  
3 any provision of section eleven hundred ninety-two of the vehicle and  
4 traffic law; or (b) the suspension, revocation, or withdrawal was based  
5 upon a refusal to submit to a chemical test, pursuant to section eleven  
6 hundred ninety-four of the vehicle and traffic law; or (c) the suspen-  
7 sion was a mandatory suspension pending prosecution of a charge of a  
8 violation of section eleven hundred ninety-two of the vehicle and traf-  
9 fic law ordered pursuant to paragraph (e) of subdivision two of section  
10 eleven hundred ninety-three of the vehicle and traffic law or other  
11 similar statute;

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

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

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

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

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

26 Aggravated death by vehicle is a class E felony.

27 § 4. This act shall take effect on the first of November next succeed-  
28 ing the date on which it shall have become a law; provided, however,  
29 that if chapter 513 of the laws of 2019 shall not have taken effect on  
30 or before such date then section two of this act shall take effect on  
31 the same date and in the same manner as such chapter of the laws of  
32 2019, takes effect.