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:

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

3. With intent to prevent a peace officer, a police officer, 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, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a 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,** or employee of any entity governed by the public service law in the course of 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.

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including releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, 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, firefighter, paramedic, technician, 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,** or employee of an entity governed by the public service law, he or she causes physical injury to such peace officer, police officer, 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, firefighter, paramedic, technician or medical or related personnel in a hospital emergency department, city marshal, school crossing guard, traffic enforcement officer, traffic enforcement**, 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,** agent or employee of an entity governed by the public service law; or

11. With intent to cause physical injury to a 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** employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a 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, sanitation enforcement agent, New York city sanitation worker, public health sanitarian, New 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.

§ 118-b. Motor vehicle inspector and motor carrier investigator. Any person employed by the New York State department of transportation who has been assigned to perform inspections of any motor vehicles or investigation of any carriers regulated by the commissioner of transportation.

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

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

§ 1221-a. Intrusion into an active work zone. 1. No driver of a vehicle shall enter or intrude into an active work zone except upon direction from a flag person, police officer or other visibly designated person in charge of traffic control or direction from a traffic control device regulating entry therein. For purposes of this section, the term "active work zone" shall mean the physical area of a highway, street or private road on which construction, maintenance or utility work is being conducted, which area is marked by any signs, channeling devices, barriers, pavement markings, or work vehicles, and where workers are physically present.

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

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

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

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

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

§ 6. This act shall take effect immediately.