

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.

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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

1 nurse, emergency medical service paramedic, or emergency medical service
2 technician, he or she causes physical injury to such train operator,
3 ticket inspector, conductor, signalperson, bus operator, station agent,
4 station cleaner ~~[or]~~, terminal cleaner, station customer assistant,
5 person whose official duties include the sale or collection of tickets,
6 passes, vouchers or other fare payment media for use on a train or bus,
7 person whose official duties include the maintenance, repair,
8 inspection, troubleshooting, testing or cleaning of a transit signal
9 system, elevated or underground subway tracks, transit station struc-
10 ture, train yard, revenue train in passenger service, or a train or bus
11 station or terminal, or a supervisor of such personnel, city marshal,
12 school crossing guard appointed pursuant to section two hundred eight-a
13 of the general municipal law, traffic enforcement officer, traffic
14 enforcement agent, highway worker as defined in section one hundred
15 eighteen-a of the vehicle and traffic law, motor vehicle inspector and
16 motor carrier investigator as defined in section one hundred eighteen-b
17 of the vehicle and traffic law, motor vehicle license examiner as
18 defined in section one hundred eighteen-c of the vehicle and traffic
19 law, highway inspector as referenced by section 19-152 of the adminis-
20 trative code of the city of New York, prosecutor as defined in subdivi-
21 sion thirty-one of section 1.20 of the criminal procedure law, regis-
22 tered nurse, licensed practical nurse, public health sanitarian, New
23 York city public health sanitarian, sanitation enforcement agent, New
24 York city sanitation worker, emergency medical service paramedic, or
25 emergency medical service technician, while such employee is performing
26 an assigned duty on, or directly related to, the operation of a train or
27 bus, ~~[including the cleaning of a train or bus station or terminal]~~
28 cleaning of a train or bus station or terminal or maintenance of a train
29 or bus station or terminal, signal system, elevated or underground
30 subway tracks, transit station structure, train yard or revenue train in
31 passenger service, or such city marshal, school crossing guard, traffic
32 enforcement officer, traffic enforcement agent, highway worker as
33 defined in section one hundred eighteen-a of the vehicle and traffic
34 law, motor vehicle inspector and motor carrier investigator as defined
35 in section one hundred eighteen-b of the vehicle and traffic law, motor
36 vehicle license examiner as defined in section one hundred eighteen-c of
37 the vehicle and traffic law, highway inspector as referenced by section
38 19-152 of the administrative code of the city of New York, prosecutor as
39 defined in subdivision thirty-one of section 1.20 of the criminal proce-
40 dure law, registered nurse, licensed practical nurse, public health
41 sanitarian, New York city public health sanitarian, sanitation enforce-
42 ment agent, New York city sanitation worker, emergency medical service
43 paramedic, or emergency medical service technician is performing an
44 assigned duty; or

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

47 § 118-a. Highway worker. Any person employed by or on behalf of the
48 state, a county, city, town or village, a public authority, a local
49 authority, or a public utility company, or the agent or contractor of
50 any such entity, who has been assigned to perform work on a highway,
51 including maintenance, repair, flagging, utility work, construction,
52 reconstruction or operation of equipment on public highway infrastruc-
53 ture and associated rights-of-way in highway work areas, and shall also
54 include any flag person as defined in section one hundred fifteen-b of
55 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.