STATE OF NEW YORK

1277

2021-2022 Regular Sessions

IN ASSEMBLY

January 8, 2021

Introduced by M. of A. MAGNARELLI, WOERNER, STECK, JACOBSON -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the transportation law, in relation to work zone safety; and to amend the state finance law, in relation to establishing the work zone safety fund

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

Section 1. The vehicle and traffic law is amended by adding a new section 1221-a to read as follows:

§ 1221-a. Endangerment of a highway worker. 1. A person commits endangerment of a highway worker if the person is operating a motor vehicle within a work area as defined in section one hundred sixty-one of this chapter at any time one or more highway workers are in the work area and does any of the following:

(a) drives through or around a work area in any lane not clearly designated for use by motor vehicles traveling through or around a work area; or

(b) fails to obey traffic control devices controlling the flow of motor vehicles through the work area for any reason other than:

(i) an emergency;

(ii) the avoidance of an obstacle; or

(iii) the protection of the health and safety of another person.

2. (a) A person who violates this section where the highway worker suffers no physical injury shall be fined not more than one thousand dollars and not less than five hundred dollars.

(b) A person who violates this section where the highway worker suffers physical injury and the violation was the sole proximate cause of the injury shall be fined not more than two thousand dollars and not less than one thousand dollars.

(c) A person who violates this section where the highway worker suffers serious physical injury, as defined in section 10.00 of the

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

LBD01824-01-1

penal law and the violation was the sole proximate cause of the injury shall be fined not more than five thousand dollars and not less than two thousand dollars.

3. Any fine imposed pursuant to this section is mandatory and may not be waived or reduced below the minimum as provided in subdivision two of this section. Sixty percent of fines collected pursuant to this section shall be paid to the work zone safety fund established by section ninety-nine-ii of the state finance law.

4. No person shall be cited for endangerment of a highway worker for any act or omission otherwise constituting a violation under this section if the act or omission results, in whole or in part, from mechanical failure of the person's motor vehicle or from the negligence of a highway worker or another person.

§ 2. 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, laborers, and public employees, 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.

§ 3. Section 161 of the vehicle and traffic law, as added by chapter 92 of the laws of 1984 and as renumbered by chapter 303 of the laws of 2014, is amended to read as follows:

§ 161. Work area or work zone. [~~That part of a highway being used or occupied for the conduct of highway work, within which workers, vehicles, equipment, materials, supplies, excavations, or other obstructions are present.~~] An area of a highway, bridge, shoulder, median, or associated right-of-way, where construction, maintenance, utility work, accident response, or other incident response is being performed. The work area must be marked by signs, traffic control devices, traffic-control signals, barriers, pavement markings, authorized emergency vehicles, or hazard vehicles, and extends from the first traffic control device erected for purposes of controlling the flow of motor vehicles through the work area, including signs reducing the normal speed limit, to the "END ROAD WORK" sign or the last temporary traffic control device. The signs, traffic control devices, traffic control signals, barriers, pavement markings, or authorized emergency vehicles, or hazard vehicles must meet department of transportation standards and the provisions of this chapter, and must be installed properly.

§ 4. The vehicle and traffic law is amended by adding a new section 118-a 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 flagperson as defined in section one hundred fifteen-b of this article.

§ 5. Section 22 of the transportation law, as added by chapter 223 of the laws of 2005, is amended to read as follows:

§ 22. Work zone safety and enforcement. The department shall, in cooperation with the superintendent of state police, the commissioner of motor vehicles, the chairman of the New York state thruway authority, local law enforcement agencies and representatives for contractors [~~and~~] , laborers and public employees, develop and implement rules and regulations for the increased safety of work zones. Such rules and regulations shall include, but shall not be limited to, a police presence at all major active work zones as defined by rules and regulations set forth by the commissioner, the use of radar speed display signs at all major active work zones as defined by rules and regulations set forth by the commissioner, and a system for reviewing work zone safety and design for all work zones under the jurisdiction of the department.

§ 6. The state finance law is amended by adding a new section 99-ii to read as follows:

§ 99-ii. Work zone safety fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special revenue fund to be known as the "work zone safety fund."

2. The fund shall consist of all monies appropriated for its purpose, all monies required by this section or any other provision of law to be paid into or credited to such fund, collected by the mandatory fines imposed pursuant to section twelve hundred twenty-one-a of the vehicle and traffic law.

3. Monies of the fund, when allocated, shall be disbursed to provide work area safety enforcement, work area markings, radar speed display signs, and police monitoring of work areas pursuant to section twenty-two of the transportation law. Such monies shall be used to supplement and not supplant any other funds which would otherwise have been expended for work zone safety and enforcement.

§ 7. This act shall take effect on the ninetieth day after it shall have become a law.