

# 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 Assem-  
bly, do enact as follows:

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

3 § 1221-a. Endangerment of a highway worker. 1. A person commits endan-  
4 germent of a highway worker if the person is operating a motor vehicle  
5 within a work area as defined in section one hundred sixty-one of this  
6 chapter at any time one or more highway workers are in the work area and  
7 does any of the following:

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

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

13 (i) an emergency;

14 (ii) the avoidance of an obstacle; or

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

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

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

23 (c) A person who violates this section where the highway worker  
24 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.

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

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

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

14 § 2. The vehicle and traffic law is amended by adding a new section  
15 1221-b to read as follows:

16 § 1221-b. Work zone safety and outreach. The governor's traffic safety  
17 committee, upon consultation with the commissioner of transportation,  
18 the superintendent of state police, the commissioner, the chairman of  
19 the New York state thruway authority, local law enforcement agencies,  
20 and representatives for contractors, laborers, and public employees,  
21 shall design and implement a public education and outreach program to  
22 increase motorist awareness of the importance of highway work zone safe-  
23 ty, to reduce the number of work zone incidents, including speeding,  
24 unauthorized intrusions into work zones, and any conduct resulting in  
25 threats or injuries to highway workers, and to increase and promote work  
26 zone safety.

27 § 3. Section 161 of the vehicle and traffic law, as added by chapter  
28 92 of the laws of 1984 and as renumbered by chapter 303 of the laws of  
29 2014, is amended to read as follows:

30 § 161. Work area or work zone. [~~That part of a highway being used or~~  
31 ~~occupied for the conduct of highway work, within which workers, vehi-~~  
32 ~~cles, equipment, materials, supplies, excavations, or other obstructions~~  
33 ~~are present.~~] An area of a highway, bridge, shoulder, median, or associ-  
34 ated right-of-way, where construction, maintenance, utility work, acci-  
35 dent response, or other incident response is being performed. The work  
36 area must be marked by signs, traffic control devices, traffic-control  
37 signals, barriers, pavement markings, authorized emergency vehicles, or  
38 hazard vehicles, and extends from the first traffic control device  
39 erected for purposes of controlling the flow of motor vehicles through  
40 the work area, including signs reducing the normal speed limit, to the  
41 "END ROAD WORK" sign or the last temporary traffic control device. The  
42 signs, traffic control devices, traffic control signals, barriers, pave-  
43 ment markings, or authorized emergency vehicles, or hazard vehicles must  
44 meet department of transportation standards and the provisions of this  
45 chapter, and must be installed properly.

46 § 4. The vehicle and traffic law is amended by adding a new section  
47 118-a to read as follows:

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

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

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

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

17 § 99-ii. Work zone safety fund. 1. There is hereby established in the  
18 joint custody of the state comptroller and the commissioner of taxation  
19 and finance a special revenue fund to be known as the "work zone safety  
20 fund."

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

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

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