

# STATE OF NEW YORK

6999

2021-2022 Regular Sessions

## IN ASSEMBLY

April 19, 2021

Introduced by M. of A. CUSICK, BENEDETTO, ASHBY -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the vehicle and traffic law, in relation to safety in active work zones

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

1 Section 1. The penal law is amended by adding two new sections 120.75  
2 and 120.80 to read as follows:

3 § 120.75 Vehicular assault in an active work zone in the second degree.

4 1. A person is guilty of vehicular assault in an active work zone in  
5 the second degree when, with criminal negligence, he or she:

6 a. enters or intrudes into an active work zone without permission  
7 while operating a motor vehicle; and

8 b. such entry or intrusion causes serious physical injury to another  
9 person.

10 2. For purposes of this section:

11 a. "active work zone" shall mean the physical area of a highway,  
12 street or private road on which construction, maintenance or utility  
13 work is being conducted, which area is marked by signs, channeling  
14 devices, barriers, pavement markings, and/or work vehicles, and where  
15 workers are physically present; and

16 b. "permission" shall mean direction from a flag person, police offi-  
17 cer or other visibly designated person in charge of traffic control or  
18 direction from a traffic control device regulating entry therein.

19 Vehicular assault in an active work zone in the second degree is a  
20 class E felony.

21 § 120.80 Vehicular assault in an active work zone in the first degree.

22 1. A person is guilty of vehicular assault in an active work zone in  
23 the first degree when he or she recklessly:

24 a. enters or intrudes into an active work zone without permission  
25 while operating a motor vehicle; and

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

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1 b. such entry or intrusion causes serious physical injury to another  
2 person.

3 2. For purposes of this section:

4 a. "active work zone" shall mean the physical area of a highway,  
5 street or private road on which construction, maintenance or utility  
6 work is being conducted, which area is marked by signs, channeling  
7 devices, barriers, pavement markings, and/or work vehicles, and where  
8 workers are physically present; and

9 b. "permission" shall mean direction from a flag person, police offi-  
10 cer or other visibly designated person in charge of traffic control or  
11 direction from a traffic control device regulating entry therein.

12 Vehicular assault in an active work zone in the first degree is a  
13 class D felony.

14 § 2. The penal law is amended by adding two new sections 125.65 and  
15 125.70 to read as follows:

16 § 125.65 Vehicular manslaughter in an active work zone in the second  
17 degree.

18 1. A person is guilty of vehicular manslaughter in an active work zone  
19 in the second degree when, with criminal negligence, he or she:

20 (a) enters or intrudes into an active work zone without permission  
21 while operating a motor vehicle; and

22 (b) such entry or intrusion causes the death of another person.

23 2. For purposes of this section:

24 (a) "active work zone" shall mean the physical area of a highway,  
25 street or private road on which construction, maintenance or utility  
26 work is being conducted, which area is marked by signs, channeling  
27 devices, barriers, pavement markings, and/or work vehicles, and where  
28 workers are physically present; and

29 (b) "permission" shall mean direction from a flag person, police offi-  
30 cer or other visibly designated person in charge of traffic control or  
31 direction from a traffic control device regulating entry therein.

32 Vehicular manslaughter in an active work zone in the second degree is  
33 a class C felony.

34 § 125.70 Vehicular manslaughter in an active work zone in the first  
35 degree.

36 1. A person is guilty of vehicular manslaughter in an active work zone  
37 in the first degree when he or she recklessly:

38 (a) enters or intrudes into an active work zone without permission  
39 while operating a motor vehicle; and

40 (b) such entry or intrusion causes the death of another person.

41 2. For purposes of this section:

42 (a) "active work zone" shall mean the physical area of a highway,  
43 street or private road on which construction, maintenance or utility  
44 work is being conducted, which area is marked by signs, channeling  
45 devices, barriers, pavement markings, and/or work vehicles, and where  
46 workers are physically present; and

47 (b) "permission" shall mean direction from a flag person, police offi-  
48 cer or other visibly designated person in charge of traffic control or  
49 direction from a traffic control device regulating entry therein.

50 Vehicular manslaughter in an active work zone in the first degree is a  
51 class B felony.

52 § 3. The vehicle and traffic law is amended by adding a new section  
53 1221-a to read as follows:

54 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-  
55 cle shall enter or intrude into an active work zone except upon direc-  
56 tion from a flag person, police officer or other visibly designated

1 person in charge of traffic control or direction from a traffic control  
2 device regulating entry therein. For purposes of this section, the term  
3 "active work zone" shall mean the physical area of a highway, street or  
4 private road on which construction, maintenance or utility work is being  
5 conducted, which area is marked by signs, channeling devices, barriers,  
6 pavement markings, and/or work vehicles, and where workers are phys-  
7 ically present.

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

13 § 4. This act shall take effect immediately.