STATE OF NEW YORK

3093

2021-2022 Regular Sessions

IN SENATE

January 27, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to authorizing police officers to arrest a driver of a motor vehicle in certain circumstances

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

Section 1. Subdivisions (a), (b) and (c) of section 1146 of the vehicle and traffic law, as amended by chapter 333 of the laws of 2010, are amended to read as follows:

(a) Notwithstanding the provisions of any other law to the contrary, every driver of a vehicle shall exercise due care to avoid colliding with any bicyclist, pedestrian, **including any highway worker,** or domestic animal upon any roadway and shall give warning by sounding the horn when necessary. For the purposes of this section, the term **"highway worker" shall mean any person engaged in work on a highway who is working on behalf of the United States, this state, or any county, city, town, district or any other political subdivision of the state; and the term** "domestic animal" shall mean domesticated sheep, cattle, and goats which are under the supervision and control of a pedestrian.

(b) 1. A driver of a motor vehicle who causes physical injury as defined in article ten of the penal law to a pedestrian**, including any highway worker** or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than five hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment.

2. If such driver of a motor vehicle causes physical injury while failing to exercise due care in violation of subdivision (a) of this section, then there shall be a rebuttable presumption that, as a result

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

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of such failure to exercise due care, such person operated the motor vehicle in a manner that caused such physical injury.

(c) 1. A driver of a motor vehicle who causes serious physical injury as defined in article ten of the penal law to a pedestrian**, including any highway worker** or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than fifteen days or by required participation in a motor vehicle accident prevention course pursuant to paragraph (e-1) of subdivision two of section 65.10 of the penal law or by any combination of such fine, imprisonment or course, and by suspension of a license or registration pursuant to subparagraph (xiv) or (xv) of paragraph b of subdivision two of section five hundred ten of this chapter.

2. If such driver of a motor vehicle causes serious physical injury while failing to exercise due care in violation of subdivision (a) of this section, then there shall be a rebuttable presumption that, as a result of such failure to exercise due care, such person operated the motor vehicle in a manner that caused such serious physical injury.

§ 2. Section 1146 of the vehicle and traffic law is amended by adding a new subdivision (f) to read as follows:

(f) Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of subdivision (b) or (c) of this section, if such violation is coupled with an accident or collision in which such person is involved, which in fact has been committed, though not in the police officer's presence, when the officer has reasonable cause to believe that the violation was committed by such person.

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