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2021-2022 Regular Sessions

IN SENATE

April 15, 2021

Introduced by Sens. KENNEDY, GOUNARDES, HOYLMAN -- 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 and the insurance law, in relation to reckless driving and the implementation of a reckless driving and vehicular violence awareness component of the pre-licensing course for driver's licenses

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

1 Section 1. Legislative intent. The Legislature recognizes the height-
2 ened responsibility of operating a multi-ton car or truck and that such
3 motor vehicle is a dangerous instrument under state law that, in an
4 instant, can cause lethal physical harm. For example, when operating a
5 car at 30 miles per hour the average risk of a pedestrian dying upon
6 impact with such car is 40%, at 40 miles per hour the risk of death is
7 80%, and at speeds greater than 50 miles per hour the likelihood of
8 death is near certain at nearly 100%.

9 When deaths resulting from alcohol-impaired driving were reduced from
10 approximately 30,000 annually in the early 1980s across the United
11 States to approximately 10,000 annually in recent years, that remarkable
12 reduction was achieved in part by the certainty experienced by drivers
13 that they would suffer legal consequences for driving impaired and risk-
14 ing the lives of themselves and others, resulting from changes in laws
15 prohibiting impaired driving. However, that certainty does not exist for
16 other types of dangerous driving. A 2016 survey by the National Safety
17 Council showed that "although 83% of drivers surveyed believe driving is
18 a safety concern, a startling number say they are comfortable speeding
19 (64%) and texting either manually or through voice controls (47%),"
20 whereas far fewer (10%) say they are comfortable driving after they feel
21 they've had too much alcohol. This shows that, while drunk driving has
22 become socially unacceptable, most other forms of dangerous driving have

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

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1 not, and New Yorkers are paying the price with lives lost and bodies and
2 families shattered. Moreover, the New York City Department of Transpor-
3 tation estimated in 2010 that the annual cost of all traffic crashes
4 just in New York City to be \$4.29 billion annually, about 1% of the
5 Gross City Product.

6 As evidenced by our country's experience combatting drunk driving,
7 research has shown that perceived certainty of legal consequences is
8 necessary to deter or prevent harmful acts, including dangerous driving.
9 The original statutory language of the New York vehicle and traffic law
10 section 1212, in and of itself, is favorable to a reasonable standard
11 for reckless or dangerous driving, specifying that driving in a manner
12 that "unreasonably interferes with" or "unreasonably endangers others"
13 constitutes a violation of that section and is an unclassified misdemea-
14 nor. However, that reasonableness standard has subsequently been height-
15 ened by New York judicial interpretations that require factors such as a
16 finding of seriously blameworthy conduct, an "affirmative act" by the
17 driver, a "gross deviation" from the standard of conduct a reasonable
18 person would observe, and additional "aggravating factors" on behalf of
19 the driver -- all judicial interpretations not required by the original
20 statutory text. This judicially imposed requirement fails to recognize
21 the awesome responsibility that operating a multi-ton car or truck is
22 and as a consequence, evidenced in part by the staggering injuries and
23 deaths in our state, the statute has failed to achieve what it intended.
24 Cars and trucks are dangerous instruments under state law and should be
25 recognized as such when applying vehicle and traffic law section 1212.
26 For these reasons the Legislature is correcting the misapplication of
27 vehicle and traffic law section 1212 and restore the statute to its
28 original intent to deter and prevent dangerous operation of heavy motor
29 vehicles that pose a daily threat to public health and risk the lives of
30 New Yorkers throughout our state.

31 § 2. Section 1212 of the vehicle and traffic law, as added by chapter
32 47 of the laws of 1988, is amended to read as follows:

33 § 1212. Reckless driving. (a) Reckless driving shall mean [~~driving~~
34 operating or using any motor vehicle, motorcycle or any other vehicle
35 propelled by any power other than muscular power or any appliance or
36 accessory thereof in a manner which unreasonably interferes with the
37 free and [~~propex~~] safe use of the public highway, or unreasonably endan-
38 gers users of the public highway. Reckless driving is prohibited. Every
39 person violating this provision shall be guilty of a misdemeanor.
40 Notwithstanding any other provision of this chapter or the penal law,
41 there shall be a rebuttable presumption that every person violating this
42 section and who causes physical injury, serious physical injury or death
43 to another person shall be found to have acted with criminal negligence
44 under section 15.05 of the penal law, and every person violating this
45 section while acting with criminal negligence shall be guilty of a class
46 A misdemeanor. A violation of this section does not require a finding of
47 a minimum number of violations of law or a finding that a person was
48 aware of, had perceived, or had created the risk of harm to another
49 person.

50 (b) Provided further, if the operator of a motor vehicle, motorcycle
51 or any other vehicle propelled by any power other than muscular power or
52 any appliance or accessory thereof operates in a manner that causes
53 physical injury, serious physical injury or death to another person
54 while violating one or more sections of this chapter or of a law, ordi-
55 nance, order, rule or regulation relating to traffic, except parking,
56 standing, or stopping offenses, then there shall be a rebuttable

1 presumption such driver was operating in violation of subdivision (a) of
2 this section. Nothing contained in this section shall be deemed to
3 supersede the provisions of any other applicable section of law.

4 (c) A driver of a motor vehicle or motorcycle guilty of violating this
5 section shall additionally be required to participate in a motor vehicle
6 accident prevention course approved by the commissioner pursuant to
7 article twelve-B of this chapter.

8 § 3. Section 1146 of the vehicle and traffic law, as amended by chap-
9 ter 333 of the laws of 2010, is amended to read as follows:

10 § 1146. Drivers to exercise due care. [~~(a)~~] Notwithstanding the
11 provisions of any other law to the contrary, every driver of a vehicle
12 shall exercise due care to avoid colliding with any bicyclist, pedestri-
13 an, or domestic animal upon any roadway and shall give warning by sound-
14 ing the horn when necessary. For the purposes of this section, the term
15 "domestic animal" shall mean domesticated sheep, cattle, and goats which
16 are under the supervision and control of a pedestrian.

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

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

28 [~~(c) 1. A driver of a motor vehicle who causes serious physical injury~~
29 ~~as defined in article ten of the penal law to a pedestrian or bicyclist~~
30 ~~while failing to exercise due care in violation of subdivision (a) of~~
31 ~~this section, shall be guilty of a traffic infraction punishable by a~~
32 ~~fine of not more than seven hundred fifty dollars or by imprisonment for~~
33 ~~not more than fifteen days or by required participation in a motor vehi-~~
34 ~~cle accident prevention course pursuant to paragraph (e-1) of subdivi-~~
35 ~~sion two of section 65.10 of the penal law or by any combination of such~~
36 ~~fine, imprisonment or course, and by suspension of a license or regis-~~
37 ~~tration pursuant to subparagraph (xiv) or (xv) of paragraph b of subdivi-~~
38 ~~sion two of section five hundred ten of this chapter.~~

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

44 [~~(d) A violation of subdivision (b) or (c) of this section committed by~~
45 ~~a person who has previously been convicted of any violation of such~~
46 ~~subdivisions within the preceding five years, shall constitute a class B~~
47 ~~misdemeanor punishable by a fine of not more than one thousand dollars~~
48 ~~in addition to any other penalties provided by law.~~

49 [~~(e) Nothing contained in this section shall prevent the court from~~
50 ~~imposing any other authorized disposition, including a period of commu-~~
51 ~~nity service.]~~

52 § 4. Subparagraph (i) of paragraph (a) and paragraphs (b) and (d) of
53 subdivision 4 of section 502 of the vehicle and traffic law, as amended
54 by chapter 513 of the laws of 2019, are amended and a new paragraph
55 (c-5) is added to read as follows:

1 (i) Upon submission of an application for a driver's license, the
2 applicant shall be required to take and pass a test, or submit evidence
3 of passage of a test, with respect to the laws relating to traffic, the
4 laws relating to driving while ability is impaired and while intoxicat-
5 ed, under the overpowering influence of "Road Rage", "Work Zone Safety"
6 awareness and "Motorcycle Safety" awareness as defined by the commis-
7 sioner, "School Bus Safety" awareness, the laws relating to "Reckless
8 Driving and Vehicular Violence" awareness, the law relating to exercis-
9 ing due care to avoid colliding with a parked, stopped or standing
10 authorized emergency vehicle or hazard vehicle pursuant to section elev-
11 en hundred forty-four-a of this chapter, the ability to read and compre-
12 hend traffic signs and symbols and such other matters as the commis-
13 sioner may prescribe, and to satisfactorily complete a course prescribed by
14 the commissioner of not less than four hours and not more than five
15 hours, consisting of classroom driver training and highway safety
16 instruction or the equivalent thereof. Such test shall include at least
17 seven written questions concerning the effects of consumption of alcohol
18 or drugs on the ability of a person to operate a motor vehicle and the
19 legal and financial consequences resulting from violations of section
20 eleven hundred ninety-two of this chapter, prohibiting the operation of
21 a motor vehicle while under the influence of alcohol or drugs. Such test
22 shall include one or more written questions concerning the devastating
23 effects of "Road Rage" on the ability of a person to operate a motor
24 vehicle and the legal and financial consequences resulting from assault-
25 ing, threatening or interfering with the lawful conduct of another
26 person legally using the roadway. Such test shall include one or more
27 questions concerning the potential dangers to persons and equipment
28 resulting from the unsafe operation of a motor vehicle in a work zone.
29 Such test shall include one or more questions concerning reckless driv-
30 ing and exercising due care to avoid colliding with bicyclists and
31 pedestrians. Such test may include one or more questions concerning
32 motorcycle safety. Such test may include one or more questions concern-
33 ing the law for exercising due care to avoid colliding with a parked,
34 stopped or standing vehicle pursuant to section eleven hundred forty-
35 four-a of this chapter. Such test may include one or more questions
36 concerning school bus safety. Such test shall be administered by the
37 commissioner. The commissioner shall cause the applicant to take a
38 vision test and a test for color blindness. Upon passage of the vision
39 test, the application may be accepted and the application fee shall be
40 payable.

41 (b) Upon successful completion of the requirements set forth in para-
42 graph (a) of this subdivision which shall include an alcohol and drug
43 education component as described in paragraph (c) of this subdivision, a
44 "Road Rage" awareness component as described in paragraph (c-1) of this
45 subdivision and a "Work Zone Safety" awareness component as described in
46 paragraph (c-2) of this subdivision, a "Motorcycle Safety" awareness
47 component as described in paragraph (c-3) of this subdivision, ~~and~~ a
48 "School Bus Safety" awareness component as described in paragraph (c-4)
49 of this subdivision, and a "Reckless Driving and Vehicular Violence"
50 awareness component as described in paragraph (c-5) of this subdivision
51 the commissioner shall cause the applicant to take a road test in a
52 representative vehicle of a type prescribed by the commissioner which
53 shall be appropriate to the type of license for which application is
54 made, except that the commissioner may waive the road test requirements
55 for certain classes of applicants. The commissioner shall have the power
56 to establish a program to allow persons other than employees of the

1 department to conduct road tests in representative vehicles when such
2 tests are required for applicants to obtain a class A, B or C license.
3 If he or she chooses to do so, he or she shall set forth his or her
4 reasons in writing and conduct a public hearing on the matter. [~~She~~] He
5 or she shall only establish such a program after holding the public
6 hearing.

7 (c-5) "Reckless Driving and Vehicular Violence" awareness component.

8 (i) The commissioner shall provide in the pre-licensing course, set
9 forth in paragraph (b) of this subdivision, a mandatory component in
10 "Reckless Driving and Vehicular Violence" awareness education as a
11 prerequisite for obtaining a license to operate a motor vehicle. The
12 purpose of the component is to educate prospective licensees on the
13 potential dangers to pedestrians, bicyclists, and other non-motorized
14 vehicles created by motor vehicles, and the consequences of committing a
15 vehicular crime that causes injury or death to another individual.

16 (ii) The curriculum shall include, but shall not be limited to, an
17 overview of traffic laws governing motor vehicle operators' duty to
18 exercise due care with respect to pedestrians and bicyclists, including
19 but not limited to understanding bicyclists' and pedestrians' rights of
20 way, safe operation near bicyclists and pedestrians, including children
21 and blind, deaf, elderly and disabled pedestrians, bicycle lanes as
22 defined in section one hundred two-a of this chapter, safety overtaking
23 a bicycle, the dangers of distracted driving and reckless driving, driv-
24 ing at appropriate reduced speeds when special hazards exist with
25 respect to pedestrians or other weather or highway conditions, safely
26 turning, stopping, standing, and parking, motor vehicle operators' obli-
27 gations to comply with article twenty-two of this chapter, traffic
28 control devices and markings related to bicyclists and pedestrians, and
29 an overview of laws governing conduct committed while operating a motor-
30 ized vehicle that causes injury or death to another person.

31 (iii) In developing such curriculum, the commissioner shall consult
32 with the commissioner of transportation, the superintendent of state
33 police, the commissioners of transportation and police of the city of
34 New York, medical professionals and bicycle and pedestrian safety advo-
35 cates.

36 (d) The commissioner shall make available for distribution upon regis-
37 tration at each location where the pre-licensing course will be given,
38 instructional handbooks outlining the content of the entire curriculum
39 of the pre-licensing course including the information required to be
40 included in the course pursuant to paragraphs (c), (c-1), (c-2), (c-3)
41 [~~and~~], (c-4) and (c-5) of this subdivision. The commissioner shall also
42 provide for the additional training of the instructors necessary for the
43 competent instruction of the alcohol and drug education, "Road Rage"
44 awareness, "Work Zone Safety" awareness, "Motorcycle Safety" awareness
45 and "School Bus Safety" awareness subject matters of the pre-licensing
46 course.

47 § 5. Paragraph 1 of subsection (a) of section 2336 of the insurance
48 law, as amended by section 3 of chapter 4 of the laws of 2021, is
49 amended to read as follows:

50 (1) Any schedule of rates or rating plan for motor vehicle liability
51 and collision insurance submitted to the superintendent shall provide
52 for an actuarially appropriate reduction in premium charges for any
53 insured for a three year period after successfully completing a motor
54 vehicle accident prevention course, known as the national safety coun-
55 cil's defensive driving course, or any driver improvement course
56 approved by the department of motor vehicles as being equivalent to the

1 national safety council's defensive driving course, provided that,
2 except as provided in article twelve-C of the vehicle and traffic law,
3 there shall be no reduction in premiums for a self-instruction defensive
4 driving course or a course that does not provide for actual classroom
5 instruction for a minimum number of hours as determined by the depart-
6 ment of motor vehicles. Such reduction in premium charges shall be
7 subsequently modified to the extent appropriate, based upon analysis of
8 loss experience statistics and other relevant factors. All such accident
9 prevention courses shall be monitored by the department of motor vehi-
10 cles and shall include components of instruction in "Road Rage" aware-
11 ness ~~and~~, in "Work Zone Safety" awareness and in "Reckless Driving and
12 Vehicular Violence" awareness as defined by the commissioner of motor
13 vehicles. The provisions of this section shall not apply to attendance
14 at a program pursuant to article twenty-one of the vehicle and traffic
15 law as a result of any traffic infraction.

16 § 6. Paragraph 1 of subsection (a) of section 2336 of the insurance
17 law, as amended by section 4 of chapter 4 of the laws of 2021, is
18 amended to read as follows:

19 (1) Any schedule of rates or rating plan for motor vehicle liability
20 and collision insurance submitted to the superintendent shall provide
21 for an actuarially appropriate reduction in premium charges for any
22 insured for a three year period after successfully completing a motor
23 vehicle accident prevention course, known as the national safety coun-
24 cil's defensive driving course, or any driver improvement course
25 approved by the department of motor vehicles as being equivalent to the
26 national safety council's defensive driving course, provided that in
27 either event there shall be no reduction in premiums for a self-instruc-
28 tion defensive driving course or a course that does not provide for
29 actual classroom instruction for a minimum number of hours as determined
30 by the department of motor vehicles. Such reduction in premium charges
31 shall be subsequently modified to the extent appropriate, based upon
32 analysis of loss experience statistics and other relevant factors. All
33 such accident prevention courses shall be monitored by the department of
34 motor vehicles and shall include components of instruction in "Road
35 Rage" awareness ~~and~~, in "Work Zone Safety" awareness and in "Reckless
36 Driving and Vehicular Violence" awareness as defined by the commissioner
37 of motor vehicles. The provisions of this section shall not apply to
38 attendance at a program pursuant to article twenty-one of the vehicle
39 and traffic law as a result of any traffic infraction.

40 § 7. This act shall take effect on the one hundred eightieth day after
41 it shall have become a law provided, however, that the amendments to
42 subsection (a) of section 2336 of the insurance law made by section five
43 of this act shall be subject to the expiration and reversion of such
44 subsection pursuant to section 5 of chapter 751 of the laws of 2005, as
45 amended, when upon such date the provisions of section six of this act
46 shall take effect.