

# STATE OF NEW YORK

3534

2021-2022 Regular Sessions

## IN SENATE

January 30, 2021

Introduced by Sens. KENNEDY, 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 penal law, in  
relation to enacting the "vehicular violence accountability act"

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "vehicular violence accountability act".

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

7 (i) Upon submission of an application for a driver's license, the  
8 applicant shall be required to take and pass a test, or submit evidence  
9 of passage of a test, with respect to the laws relating to traffic, the  
10 laws relating to driving while ability is impaired and while intoxicat-  
11 ed, under the overpowering influence of "Road Rage", "Work Zone Safety"  
12 awareness and "Motorcycle Safety" awareness as defined by the commis-  
13 sioner, "School Bus Safety" awareness, the laws relating to vehicular  
14 violence, the law relating to exercising due care to avoid colliding  
15 with a parked, stopped or standing authorized emergency vehicle or  
16 hazard vehicle pursuant to section eleven hundred forty-four-a of this  
17 chapter, the ability to read and comprehend traffic signs and symbols  
18 and such other matters as the commissioner may prescribe, and to satis-  
19 factorily complete a course prescribed by the commissioner of not less  
20 than four hours and not more than five hours, consisting of classroom  
21 driver training and highway safety instruction or the equivalent there-  
22 of. Such test shall include at least seven written questions concerning  
23 the effects of consumption of alcohol or drugs on the ability of a  
24 person to operate a motor vehicle and the legal and financial conse-  
25 quences resulting from violations of section eleven hundred ninety-two

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

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1 of this chapter, prohibiting the operation of a motor vehicle while  
2 under the influence of alcohol or drugs. Such test shall include one or  
3 more written questions concerning the devastating effects of "Road Rage"  
4 on the ability of a person to operate a motor vehicle and the legal and  
5 financial consequences resulting from assaulting, threatening or inter-  
6 fering with the lawful conduct of another person legally using the road-  
7 way. Such test shall include one or more questions concerning the poten-  
8 tial dangers to persons and equipment resulting from the unsafe  
9 operation of a motor vehicle in a work zone. Such test may include one  
10 or more questions concerning motorcycle safety. Such test may include  
11 one or more questions concerning the law for exercising due care to  
12 avoid colliding with a parked, stopped or standing vehicle pursuant to  
13 section eleven hundred forty-four-a of this chapter. Such test may  
14 include one or more questions concerning school bus safety. Such test  
15 may include one or more questions concerning vehicular violence. Such  
16 test shall be administered by the commissioner. The commissioner shall  
17 cause the applicant to take a vision test and a test for color blind-  
18 ness. Upon passage of the vision test, the application may be accepted  
19 and the application fee shall be payable.

20 (b) Upon successful completion of the requirements set forth in para-  
21 graph (a) of this subdivision which shall include an alcohol and drug  
22 education component as described in paragraph (c) of this subdivision, a  
23 "Road Rage" awareness component as described in paragraph (c-1) of this  
24 subdivision and a "Work Zone Safety" awareness component as described in  
25 paragraph (c-2) of this subdivision, a "Motorcycle Safety" awareness  
26 component as described in paragraph (c-3) of this subdivision, ~~and~~ a  
27 "School Bus Safety" awareness component as described in paragraph (c-4)  
28 of this subdivision, and a vehicular violence awareness component as  
29 described in paragraph (c-5) of this subdivision the commissioner shall  
30 cause the applicant to take a road test in a representative vehicle of a  
31 type prescribed by the commissioner which shall be appropriate to the  
32 type of license for which application is made, except that the commis-  
33 sioner may waive the road test requirements for certain classes of  
34 applicants. The commissioner shall have the power to establish a program  
35 to allow persons other than employees of the department to conduct road  
36 tests in representative vehicles when such tests are required for appli-  
37 cants to obtain a class A, B or C license. If she chooses to do so, she  
38 shall set forth her reasons in writing and conduct a public hearing on  
39 the matter. She shall only establish such a program after holding the  
40 public hearing.

41 (c-5) Vehicular violence awareness component. (i) The commissioner  
42 shall provide in the pre-licensing course, set forth in paragraph (b) of  
43 this subdivision, a mandatory component in vehicular violence awareness  
44 education as a prerequisite for obtaining a license to operate a motor  
45 vehicle. The purpose of the component is to educate prospective licen-  
46 sees on the dangers of committing a vehicular crime that causes injury  
47 or death to another individual.

48 (ii) The commissioner shall establish a curriculum for the vehicular  
49 violence awareness component which shall include, but shall not be  
50 limited to, an overview of laws governing conduct committed while oper-  
51 ating a motorized vehicle that causes injury or death to another person,  
52 including but not limited to an explanation of the laws contained in  
53 article one hundred twenty-six of the penal law.

54 (iii) In developing such curriculum, the commissioner shall consult  
55 with the commissioner of transportation.

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

§ 3. The penal law is amended by adding a new article 126 to read as follows:

#### ARTICLE 126

##### VEHICULAR VIOLENCE

##### Section 126.00 Vehicular violence defined.

###### 126.05 Serious physical injury by vehicle.

###### 126.10 Aggravated serious physical injury by vehicle.

###### 126.15 Death by vehicle.

###### 126.20 Aggravated death by vehicle.

##### § 126.00 Vehicular violence defined.

The following definitions are applicable to this article:

1. "Vehicular violence" means conduct committed while operating a motorized vehicle, other than driving under the influence of alcohol or drugs, that negligently causes injury or death to another individual.

2. "Failure to exercise due care" means ordinary or civil negligence.

3. "A specified traffic infraction" means any moving violation reasonably related to the safety of pedestrians and bicyclists as well as any of the following traffic rules or regulations as defined in section eleven hundred ten (obedience to and required traffic-control devices); section eleven hundred eleven (traffic-control signal indications); section eleven hundred thirteen (flashing signal indications); section eleven hundred twenty (drive on right side of roadway; exceptions); section eleven hundred forty-two (vehicle entering stop or yield intersection); section eleven hundred forty-five (vehicle approaching rotary traffic circle or island); section eleven hundred forty-six (drivers to exercise due care) section eleven hundred fifty-one-a (pedestrians' right of way on sidewalks); section eleven hundred sixty (required position and method of turning at intersections); section eleven hundred sixty-one (U turns in certain areas prohibited); section eleven hundred sixty-three (turning movements and required signal); section eleven hundred seventy (obedience to signal indicating approach of train); section eleven hundred seventy-one (certain vehicles must stop at all railroad grade crossings); section eleven hundred seventy-two (stop signs and yield signs); section eleven hundred seventy-three (emerging from alley, driveway, private road or building); section eleven hundred seventy-four (overtaking and passing school bus); section eleven hundred eighty (basic rule and maximum limits); section eleven hundred eighty-two (speed contests and races); section twelve hundred twelve (reckless driving); section twelve hundred twenty-five (avoiding intersections or traffic-control device); section twelve hundred twenty-five-a (driving on sidewalks); section twelve hundred twenty-five-c (use of mobile telephones); section twelve hundred twenty-five-d (use of portable electronic devices) of the vehicle and traffic law; or any state or local statute reasonably related to the safe operation of a motor vehicle.

1 4. "Motorized vehicle" means any motor vehicle defined in the vehicle  
2 and traffic law; or any motorcycle, ATV, or motor driven cycle or  
3 wheeled device, other than an electrically driven mobility assistance  
4 device.

5 5. "Commissioner" means the commissioner of motor vehicles of this  
6 state.

7 § 126.05 Serious physical injury by vehicle.

8 A person is guilty of serious physical injury by vehicle when such  
9 person fails to exercise due care while operating a motorized vehicle  
10 and commits a specified traffic infraction, as defined in subdivision  
11 three of section 126.00 of this article, and the commission of the spec-  
12 ified traffic infraction is the proximate cause of serious physical  
13 injury to another person.

14 Serious physical injury by vehicle is a class B misdemeanor.

15 § 126.10 Aggravated serious physical injury by vehicle.

16 A person is guilty of aggravated serious physical injury by vehicle  
17 when such person commits the crime of serious physical injury by vehicle  
18 as defined in section 126.05 of this article, and:

19 1. Knows or has reason to know that such person's license or privilege  
20 of operating a motor vehicle in this state, or privilege of obtaining a  
21 license to operate a motor vehicle issued by the commissioner is  
22 suspended, revoked or otherwise withdrawn by the commissioner if: (a)  
23 the suspension, revocation, or withdrawal was based upon a conviction of  
24 a violation of any provision of section eleven hundred ninety-two of the  
25 vehicle and traffic law; or (b) the suspension, revocation, or with-  
26 drawal was based upon a refusal to submit to a chemical test pursuant to  
27 section eleven hundred ninety-four of the vehicle and traffic law; or  
28 (c) the suspension was a mandatory suspension pending prosecution of a  
29 charge of a violation of section eleven hundred ninety-two of the vehi-  
30 cle and traffic law ordered pursuant to paragraph (e) of subdivision two  
31 of section eleven hundred ninety-three of the vehicle and traffic law or  
32 other similar statute;

33 2. Has previously been convicted of violating any provision of section  
34 eleven hundred ninety-two of the vehicle and traffic law within the  
35 preceding ten years. For purposes of this subdivision, a conviction in  
36 any other state or jurisdiction of an offense which, if committed in  
37 this state, would constitute a violation of section eleven hundred nine-  
38 ty-two of the vehicle and traffic law, shall be treated as a violation  
39 of such law;

40 3. Was driving twenty or more miles per hour above the legal speed  
41 limit;

42 4. Was committing more than one specified traffic infraction as  
43 defined in subdivision three of section 126.00 of this article; or

44 5. Thereby caused serious physical injury to more than one person.

45 Aggravated serious physical injury by vehicle is a class A misdemea-  
46 nor.

47 § 126.15 Death by vehicle.

48 A person is guilty of death by vehicle when such person fails to exer-  
49 cise due care while operating a motorized vehicle and commits a speci-  
50 fied traffic infraction as defined in subdivision three of section  
51 126.00 of this article, and the commission of the specified traffic  
52 infraction is the proximate cause of the death of another person.

53 Death by vehicle is a class A misdemeanor.

54 § 126.20 Aggravated death by vehicle.

1 A person is guilty of aggravated death by vehicle when such person  
2 commits the crime of death by vehicle as defined in section 126.15 of  
3 this article, and:

4 1. Knows or has reason to know that such person's license or privilege  
5 of operating a motor vehicle in this state, or privilege of obtaining a  
6 license to operate a motor vehicle issued by the commissioner is  
7 suspended, revoked or otherwise withdrawn by the commissioner if: (a)  
8 the suspension, revocation, or withdrawal was based upon a conviction of  
9 any provision of section eleven hundred ninety-two of the vehicle and  
10 traffic law; or (b) the suspension, revocation, or withdrawal was based  
11 upon a refusal to submit to a chemical test, pursuant to section eleven  
12 hundred ninety-four of the vehicle and traffic law; or (c) the suspen-  
13 sion was a mandatory suspension pending prosecution of a charge of a  
14 violation of section eleven hundred ninety-two of the vehicle and traf-  
15 fic law ordered pursuant to paragraph (e) of subdivision two of section  
16 eleven hundred ninety-three of the vehicle and traffic law or other  
17 similar statute;

18 2. Has previously been convicted of violating any provision of section  
19 eleven hundred ninety-two of the vehicle and traffic law within the  
20 preceding ten years. For purposes of this subdivision, a conviction in  
21 any other state or jurisdiction of an offense which, if committed in  
22 this state, would constitute a violation of section eleven hundred nine-  
23 ty-two of the vehicle and traffic law, shall be treated as a violation  
24 of such law;

25 3. Was driving twenty or more miles per hour above the legal speed  
26 limit;

27 4. Was committing more than one specified traffic infraction as  
28 defined in subdivision three of section 126.00 of this article;

29 5. Thereby caused the death of more than one person; or

30 6. Thereby caused the death of one person and the serious physical  
31 injury of at least one other person.

32 Aggravated death by vehicle is a class E felony.

33 § 4. This act shall take effect on the first of November next succeed-  
34 ing the date on which it shall have become a law.