

# STATE OF NEW YORK

9494

## IN SENATE

May 16, 2024

Introduced by Sens. COONEY, GOUNARDES, HOYLMAN-SIGAL, MYRIE, RIVERA, SEPULVEDA, STAVISKY -- 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  
23 not, and New Yorkers are paying the price with lives lost and bodies and  
24 families shattered. Moreover, the New York city Department of Transpor-  
25 tation estimated in 2010 that the annual cost of all traffic crashes

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

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1 just in New York city to be \$4.29 billion annually, about 1% of the  
2 Gross City Product.

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

28 § 2. Section 1212 of the vehicle and traffic law, as added by chapter  
29 47 of the laws of 1988, is amended to read as follows:

30 § 1212. Reckless driving. (a) Reckless driving shall mean [~~driving~~  
31 operating or using any motor vehicle, motorcycle or any other vehicle  
32 propelled by any power other than muscular power or any appliance or  
33 accessory thereof in a manner which unreasonably interferes with the  
34 free and [~~proper~~] safe use of the public highway, or unreasonably endan-  
35 gers users of the public highway. Reckless driving is prohibited. Every  
36 person violating this provision shall be guilty of a misdemeanor.  
37 Notwithstanding any other provision of this chapter or the penal law,  
38 there shall be a rebuttable presumption that every person violating this  
39 section and who causes physical injury, serious physical injury or death  
40 to another person shall be found to have acted with criminal negligence  
41 under section 15.05 of the penal law, and every person violating this  
42 section while acting with criminal negligence shall be guilty of a class  
43 A misdemeanor. A violation of this section does not require a finding of  
44 a minimum number of violations of law or a finding that a person was  
45 aware of, had perceived, or had created the risk of harm to another  
46 person.

47 (b) Provided further, if the operator of a motor vehicle, motorcycle  
48 or any other vehicle propelled by any power other than muscular power or  
49 any appliance or accessory thereof operates in a manner that causes  
50 physical injury, serious physical injury or death to another person  
51 while violating one or more sections of this chapter or of a law, ordi-  
52 nance, order, rule or regulation relating to traffic, except parking,  
53 standing, or stopping offenses, then there shall be a rebuttable  
54 presumption such driver was operating in violation of subdivision (a) of  
55 this section. Nothing contained in this section shall be deemed to  
56 supersede the provisions of any other applicable section of law.

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

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

7 § 1146. Drivers to exercise due care. [~~(a)~~] Notwithstanding the  
8 provisions of any other law to the contrary, every driver of a vehicle  
9 shall exercise due care to avoid colliding with any bicyclist, pedestri-  
10 an, or domestic animal upon any roadway and shall give warning by sound-  
11 ing the horn when necessary. For the purposes of this section, the term  
12 "domestic animal" shall mean domesticated sheep, cattle, and goats which  
13 are under the supervision and control of a pedestrian.

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

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

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

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

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

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

49 § 4. Subparagraph (i) of paragraph (a) and paragraphs (b) and (d) of  
50 subdivision 4 of section 502 of the vehicle and traffic law, as amended  
51 by chapter 379 of the laws of 2022, are amended and a new paragraph  
52 (c-6) is added to read as follows:

53 (i) Upon submission of an application for a driver's license, the  
54 applicant shall be required to take and pass a test, or submit evidence  
55 of passage of a test, with respect to the laws relating to traffic, the  
56 laws relating to driving while ability is impaired and while intoxicat-

1 ed, under the overpowering influence of "Road Rage", "Work Zone Safety"  
2 awareness, "Motorcycle Safety" awareness and "Pedestrian and Bicyclist  
3 Safety" awareness as defined by the commissioner, "School Bus Safety"  
4 awareness, the laws relating to "Reckless Driving and Vehicular  
5 Violence" awareness, the law relating to exercising due care to avoid  
6 colliding with a parked, stopped or standing authorized emergency vehi-  
7 cle or hazard vehicle pursuant to section eleven hundred forty-four-a of  
8 this chapter, the ability to read and comprehend traffic signs and  
9 symbols and such other matters as the commissioner may prescribe, and to  
10 satisfactorily complete a course prescribed by the commissioner of not  
11 less than four hours and not more than five hours, consisting of class-  
12 room driver training and highway safety instruction or the equivalent  
13 thereof. Such test shall include at least seven written questions  
14 concerning the effects of consumption of alcohol or drugs on the ability  
15 of a person to operate a motor vehicle and the legal and financial  
16 consequences resulting from violations of section eleven hundred nine-  
17 ty-two of this chapter, prohibiting the operation of a motor vehicle  
18 while under the influence of alcohol or drugs. Such test shall include  
19 one or more written questions concerning the devastating effects of  
20 "Road Rage" on the ability of a person to operate a motor vehicle and  
21 the legal and financial consequences resulting from assaulting, threat-  
22 ening or interfering with the lawful conduct of another person legally  
23 using the roadway. Such test shall include one or more questions  
24 concerning the potential dangers to persons and equipment resulting from  
25 the unsafe operation of a motor vehicle in a work zone. Such test shall  
26 include one or more questions concerning reckless driving and exercising  
27 due care to avoid colliding with bicyclists and pedestrians. Such test  
28 may include one or more questions concerning motorcycle safety. Such  
29 test may include one or more questions concerning the law for exercising  
30 due care to avoid colliding with a parked, stopped or standing vehicle  
31 pursuant to section eleven hundred forty-four-a of this chapter. Such  
32 test may include one or more questions concerning school bus safety.  
33 Such test may include one or more questions concerning pedestrian and  
34 bicyclist safety. Such test shall be administered by the commissioner.  
35 The commissioner shall cause the applicant to take a vision test and a  
36 test for color blindness. Upon passage of the vision test, the applica-  
37 tion may be accepted and the application fee shall be payable.

38 (b) Upon successful completion of the requirements set forth in para-  
39 graph (a) of this subdivision which shall include an alcohol and drug  
40 education component as described in paragraph (c) of this subdivision, a  
41 "Road Rage" awareness component as described in paragraph (c-1) of this  
42 subdivision, a "Work Zone Safety" awareness component as described in  
43 paragraph (c-2) of this subdivision, a "Motorcycle Safety" awareness  
44 component as described in paragraph (c-3) of this subdivision, a "School  
45 Bus Safety" awareness component as described in paragraph (c-4) of this  
46 subdivision, ~~and~~ a "Pedestrian and Bicyclist Safety" awareness compo-  
47 nent as described in paragraph (c-5) of this subdivision, and a "Reck-  
48 less Driving and Vehicular Violence" awareness component as described in  
49 paragraph (c-6) of this subdivision, the commissioner shall cause the  
50 applicant to take a road test in a representative vehicle of a type  
51 prescribed by the commissioner which shall be appropriate to the type of  
52 license for which application is made, except that the commissioner may  
53 waive the road test requirements for certain classes of applicants.  
54 Provided, however, that the term "representative vehicle" shall not  
55 include a three-wheeled motor vehicle that has two wheels situated in  
56 the front and one wheel in the rear, has a steering mechanism and seat-

1 ing which does not require the operator to straddle or sit astride, is  
2 equipped with safety belts for all occupants and is manufactured to  
3 comply with federal motor vehicle safety standards for motorcycles  
4 including, but not limited to, 49 C.F.R. part 571. The commissioner  
5 shall have the power to establish a program to allow persons other than  
6 employees of the department to conduct road tests in representative  
7 vehicles when such tests are required for applicants to obtain a class  
8 A, B or C license. If she or he chooses to do so, she or he shall set  
9 forth her or his reasons in writing and conduct a public hearing on the  
10 matter. She or he shall only establish such a program after holding the  
11 public hearing.

12 (c-6) "Reckless Driving and Vehicular Violence" awareness component.

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

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

36 (iii) In developing such curriculum, the commissioner shall consult  
37 with the commissioner of transportation, the superintendent of state  
38 police, the commissioners of transportation and police of the city of  
39 New York, medical professionals and bicycle and pedestrian safety advo-  
40 cates.

41 (d) The commissioner shall make available for distribution upon regis-  
42 tration at each location where the pre-licensing course will be given,  
43 instructional handbooks outlining the content of the entire curriculum  
44 of the pre-licensing course including the information required to be  
45 included in the course pursuant to paragraphs (c), (c-1), (c-2), (c-3),  
46 (c-4) [~~and~~], (c-5) and (c-6) of this subdivision. The commissioner shall  
47 also provide for the additional training of the instructors necessary  
48 for the competent instruction of the alcohol and drug education, "Road  
49 Rage" awareness, "Work Zone Safety" awareness, "Motorcycle Safety"  
50 awareness, "School Bus Safety" awareness and "Pedestrian and Bicyclist  
51 Safety" awareness subject matters of the pre-licensing course.

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

55 (1) Any schedule of rates or rating plan for motor vehicle liability  
56 and collision insurance submitted to the superintendent shall provide

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

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

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

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