STATE OF NEW YORK

3938--B

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

Introduced by M. of A. SMULLEN, BEEPHAN, MIKULIN, PALMESANO, DeSTEFANO, BLUMENCRANZ, TAGUE, DURSO, BLANKENBUSH, SEMPOLINSKI, HAWLEY, BRABENEC, MORINELLO, McDONALD, MANKTELOW, JENSEN, DiPIETRO, WALSH, E. BROWN, ANGELINO, GRAY, NOVAKHOV, MOLITOR, BUTTENSCHON, BARCLAY, BOLOGNA, SLATER, WILLIAMS, CRUZ, BAILEY, CHLUDZINSKI, K. BROWN, ZACCARO, GRIFFIN, SIMPSON, WOERNER, RAMOS, McDONOUGH, CUNNINGHAM, SEAWRIGHT, KASSAY, DAVILA, JONES, SMITH -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the transportation law, in relation to enacting the "Alexander John Smullen Traffic Safety Memorial Law"

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

Section 1. Short title. This act shall be known and may be cited as the "Alexander John Smullen Traffic Safety Memorial Law".

§ 2. Section 14 of the transportation law is amended by adding a new subdivision 29-a to read as follows:

29-a. (a) To establish and implement a state memorial sign program to memorialize persons who died due to injuries sustained in a fatal motor vehicle crash on state highways, including controlled access state highways, maintained by the state which is reportable to the federal fatality analysis reporting system (FARS). Such program shall provide for the provision and installation of signs on such state highways maintained by the state in memory of such persons, upon application within five years of such fatal crash by an immediate family member of such person and payment of a fee, established by the commissioner, for the costs of design, production, placement, and maintenance of such signs. Such program also shall provide that:

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

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(i) in the event any member of such person's immediate family submits an objection to the placement of such memorial sign to the commissioner, the sign shall not be placed, and shall be removed if the objection was received after such sign was placed;

(ii) no memorial sign shall be approved for a person who died while operating a motor vehicle in violation of section eleven hundred ninety-two of the vehicle and traffic law and as a result of such intoxication or impairment, such person operated the motor vehicle in a manner that caused the serious physical injury or death of another person;

(iii) no more than one memorial sign may be placed at the same location, provided that in the event of multiple applications for a single location, the commissioner may provide for a sign type capable of accommodating multiple applications, provided that such sign otherwise meets the requirements of this subdivision;

(iv) such memorial signs shall be of a design which differs from signs erected to dedicate or memorialize a highway or bridge pursuant to article twelve of the highway law;

(v) the placement of memorial signs on such state highways maintained by the state shall be at locations determined by the commissioner, taking into consideration the crash location, roadway geometry, existing signage and traffic control devices, available right of way, safety concerns, and any other factor the commissioner deems it necessary to consider. Such placement shall also be in accordance with this subdivision, with rules, regulations, and guidelines promulgated by the commissioner, and with the requirements of the Manual on Uniform Traffic Control Devices (MUTCD) and any other applicable state or federal law, rule, or regulation relating to highway signage. Provided, however, that no such sign shall be placed in front of a residence or business;

(vi) memorial signs placed pursuant to this section shall be removed two years from the date of their initial placement. The commissioner may remove damaged signs, which shall be replaced for the remainder of the two-year period upon application by an immediate family member and payment of a replacement fee as determined by the commissioner. Provided, however, the department shall replace, for the remainder of the two-year period, any such sign damaged due to negligence of the department and no application or replacement fee shall be required for such replacement;

(vii) for the safety of the public, on-site dedication or ceremonies and the placement of decorations or other items at the site of a memorial sign shall be prohibited; and

(viii) information on the state memorial sign program established pursuant to this subdivision shall be posted on the department's public-facing website, together with highway and traffic safety information to further inform and educate the public on methods, practices, and actions to improve the safety of motor vehicle occupants, motorcyclists, bicyclists, pedestrians, and all roadway users.

(b) For the purposes of this subdivision, the following terms shall have the following meanings:

(i) "controlled-access state highway" shall mean every highway, street, or roadway under the jurisdiction of the state in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the state;

(ii) "fatality analysis reporting system" or "FARS" shall mean the nationwide database established by the national highway traffic safety administration of the United States department of transportation, as

authorized pursuant to part 30182 of title 49 of the United States code and part 403 of title 23 of the United States code, which collects data on fatal motor vehicle traffic crashes;

(iii) "highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(iv) "immediate family" shall mean the decedent's spouse or domestic partner, birth parents, adoptive parents, stepparents, birth children, adoptive children, stepchildren, siblings, and stepsiblings;

(v) "manual on uniform traffic control devices" or "MUTCD" shall mean the manual and specifications for a uniform system of traffic control devices maintained by the commissioner of transportation pursuant to section sixteen hundred eighty of the vehicle and traffic law; and

(vi) "reportable to the federal fatality analysis reporting system" shall mean a crash involving a motor vehicle traveling on a trafficway customarily open to the public resulting in the death of a vehicle occupant or a nonoccupant within thirty days of the crash.

(c) The commissioner shall promulgate rules and regulations necessary to implement and carry out the provisions of this subdivision.

§ 3. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.