

# STATE OF NEW YORK

829

2025-2026 Regular Sessions

## IN SENATE

(Prefiled)

January 8, 2025

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

AN ACT to amend the penal law and the vehicle and traffic law, in relation to safety in active work zones

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

1 Section 1. The penal law is amended by adding four new sections  
2 120.65, 120.66, 125.28 and 125.29 to read as follows:

3 § 120.65 Vehicular assault in an active work zone in the second degree.

4 1. A person is guilty of vehicular assault in an active work zone in  
5 the second degree when, with criminal negligence, such person:

6 a. enters or intrudes into an active work zone while operating a motor  
7 vehicle; and

8 b. such entry or intrusion causes serious physical injury to another  
9 person.

10 2. For purposes of this section the term "active work zone" shall mean  
11 the physical area on a public highway, street or private road where  
12 construction, maintenance or utility work is being conducted, which area  
13 is properly designated to be an active work zone by signs, cones and/or  
14 other traffic control devices and where workers are physically present.

15 Vehicular assault in an active work zone in the second degree is a  
16 class E felony.

17 § 120.66 Vehicular assault in an active work zone in the first degree.

18 1. A person is guilty of vehicular assault in an active work zone in  
19 the first degree when such person recklessly:

20 a. enters or intrudes into an active work zone while operating a motor  
21 vehicle; and

22 b. such entry or intrusion causes serious physical injury to another  
23 person.

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

LBD02839-01-5

1 2. For purposes of this section the term "active work zone" shall mean  
2 the physical area on a public highway, street or private road where  
3 construction, maintenance or utility work is being conducted, which area  
4 is properly designated to be an active work zone by signs, cones and/or  
5 other traffic control devices and where workers are physically present.

6 Vehicular assault in an active work zone in the first degree is a  
7 class D felony.

8 § 125.28 Vehicular manslaughter in an active work zone in the second  
9 degree.

10 1. A person is guilty of vehicular manslaughter in an active work zone  
11 in the second degree when, with criminal negligence, such person:

12 (a) enters or intrudes into an active work zone while operating a  
13 motor vehicle; and

14 (b) such entry or intrusion causes the death of another person.

15 2. For purposes of this section the term "active work zone" shall mean  
16 the physical area on a public highway, street or private road where  
17 construction, maintenance or utility work is being conducted, which area  
18 is properly designated to be an active work zone by signs, cones and/or  
19 other traffic control devices and where workers are physically present.

20 Vehicular manslaughter in an active work zone in the second degree is  
21 a class C felony.

22 § 125.29 Vehicular manslaughter in an active work zone in the first  
23 degree.

24 1. A person is guilty of vehicular manslaughter in an active work zone  
25 in the first degree when such person recklessly:

26 (a) enters or intrudes into an active work zone while operating a  
27 motor vehicle; and

28 (b) such entry or intrusion causes the death of another person.

29 2. For purposes of this section the term "active work zone" shall mean  
30 the physical area on a public highway, street or private road where  
31 construction, maintenance or utility work is being conducted, which area  
32 is properly designated to be an active work zone by signs, cones and/or  
33 other traffic control devices and where workers are physically present.

34 Vehicular manslaughter in an active work zone in the first degree is a  
35 class B felony.

36 § 2. The vehicle and traffic law is amended by adding a new section  
37 1221-a to read as follows:

38 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-  
39 cle, operator of a bicycle or pedestrian shall enter or intrude into an  
40 active work zone, except upon direction from a flag person, police offi-  
41 cer or other designated person in charge of traffic control or direction  
42 from a traffic control device regulating entry therein. For purposes of  
43 this section, the term "active work zone" shall mean the physical area  
44 on a public highway, street or private road where construction, mainte-  
45 nance or utility work is being conducted, which area is properly desig-  
46 nated to be an active work zone by signs, cones and/or other traffic  
47 control devices and where workers are physically present.

48 2. A violation of subdivision one of this section shall constitute a  
49 class B misdemeanor punishable by a fine of not less than two hundred  
50 fifty dollars nor more than five hundred dollars, or by a period of  
51 imprisonment not to exceed three months, or by both such fine and impri-  
52 sonment.

53 § 3. This act shall take effect on the first of November next succeed-  
54 ing the date on which it shall have become a law.