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2009-2010 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2009

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Introduced by Sen. ALESÌ -- 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 prohibiting the writing, sending or reading of text messages on a mobile telephone while driving

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (d) of subdivision 1 of section 1225-c of the  
2     vehicle and traffic law, as added by chapter 69 of the laws of 2001, is  
3     amended and a new paragraph (h) is added to read as follows:  
4     (d) "Hand-held mobile telephone" shall mean a mobile telephone with  
5     which a user engages in a call OR WRITES, SENDS OR READS A TEXT-BASED  
6     COMMUNICATION using at least one hand.  
7     (H) "WRITE, SEND OR READ A TEXT-BASED COMMUNICATION" SHALL MEAN USING  
8     A HAND-HELD MOBILE TELEPHONE TO COMMUNICATE WITH ANY PERSON OR DEVICE BY  
9     USING A TEXT-BASED COMMUNICATION COMMONLY REFERRED TO AS A TEXT MESSAGE,  
10    INSTANT MESSAGE, ELECTRONIC MAIL OR EMAIL.  
11    S 2. Paragraph (a) of subdivision 2 of section 1225-c of the vehicle  
12    and traffic law, as added by chapter 69 of the laws of 2001, is amended  
13    to read as follows:  
14    (a) Except as otherwise provided in this section, no person shall  
15    operate a motor vehicle upon a public highway while using a mobile tele-  
16    phone to engage in a call OR WRITE, SEND OR READ A TEXT-BASED COMMUNI-  
17    CATION while such vehicle is in motion.  
18    S 3. Subdivision 4 of section 502 of the vehicle and traffic law is  
19    amended by adding a new paragraph (c-3) to read as follows:  
20    (C-3) CELL PHONE SAFETY COMPONENT. THE COMMISSIONER SHALL PROVIDE IN  
21    THE PRE-LICENSING COURSE, SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION  
22    A MANDATORY COMPONENT IN THE "CELL PHONE SAFETY COMPONENT" AS A PREREQ-  
23    UISITE FOR OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE. THE PURPOSE

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

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1 OF THE COMPONENT IS TO EDUCATE PROSPECTIVE LICENSEES OF THE POTENTIAL  
2 DANGERS OF DRIVING WHILE USING A CELL PHONE. FOR THE PURPOSES OF THIS  
3 PARAGRAPH, "CELL PHONE" SHALL BE DEFINED AS A HAND-HELD MOBILE TELEPHONE  
4 WITH WHICH A USER ENGAGES A CALL OR WRITES, SENDS OR READS A TEXT-BASED  
5 COMMUNICATION USING AT LEAST ONE HAND AS DEFINED IN PARAGRAPH (H) OF  
6 SUBDIVISION ONE OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THIS CHAPTER.  
7 THE COMMISSIONER SHALL ESTABLISH A CURRICULUM FOR SUCH "CELL PHONE SAFE-  
8 TY" COMPONENT WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION ON  
9 THE LAW RELATED TO DRIVING WHILE USING A CELL PHONE, THE PENALTIES FOR  
10 USING A CELL PHONE WHILE DRIVING AND THE POTENTIAL DANGERS OF DISTRACTED  
11 DRIVERS. IN DEVELOPING SUCH CURRICULUM, THE COMMISSIONER SHALL CONSULT  
12 WITH LAW ENFORCEMENT PERSONNEL, HIGHWAY SAFETY OFFICIALS AND ANY OTHER  
13 GROUP THE COMMISSIONER BELIEVES CAN CONTRIBUTE TO A COMPREHENSIVE STATE-  
14 MENT OF THE ISSUE.

15 S 4. Paragraphs (a), (b) and (d) of subdivision 4 of section 502 of  
16 the vehicle and traffic law, as amended by chapter 585 of the laws of  
17 2002, are amended to read as follows:

18 (a) (i) Upon submission of an application for a driver's license, the  
19 applicant shall be required to take and pass a test, or submit evidence  
20 of passage of a test, with respect to the laws relating to traffic, the  
21 laws relating to driving while ability is impaired and while intoxicat-  
22 ed, under the overpowering influence of "Road Rage", [or] "Work Zone  
23 Safety" awareness as defined by the commissioner OR CELL PHONE SAFETY AS  
24 DEFINED BY THE COMMISSIONER, the ability to read and comprehend traffic  
25 signs and symbols and such other matters as the commissioner may  
26 prescribe, and to satisfactorily complete a course prescribed by the  
27 commissioner of not less than four hours and not more than five hours,  
28 consisting of classroom driver training and highway safety instruction  
29 or the equivalent thereof. Such test shall include at least seven writ-  
30 ten questions concerning the effects of consumption of alcohol or drugs  
31 on the ability of a person to operate a motor vehicle and the legal and  
32 financial consequences resulting from violations of section eleven  
33 hundred ninety-two of this chapter, prohibiting the operation of a motor  
34 vehicle while under the influence of alcohol or drugs. Such test shall  
35 include one or more written questions concerning the devastating effects  
36 of "Road Rage" on the ability of a person to operate a motor vehicle and  
37 the legal and financial consequences resulting from assaulting, threat-  
38 ening or interfering with the lawful conduct of another person legally  
39 using the roadway. Such test shall include one or more questions  
40 concerning the potential dangers to persons and equipment resulting from  
41 the unsafe operation of a motor vehicle in a work zone. SUCH TEST SHALL  
42 INCLUDE ONE OR MORE WRITTEN QUESTIONS RELATING TO THE HAZARDS AND LEGAL  
43 CONSEQUENCES OF DRIVING WHILE USING A CELL PHONE. Such test shall be  
44 administered by the commissioner. The commissioner shall cause the  
45 applicant to take a vision test and a test for color blindness. Upon  
46 passage of the vision test, the application may be accepted and the  
47 application fee shall be payable.

48 (ii) The commissioner shall promulgate rules and regulations estab-  
49 lishing eligibility standards for the taking and passing of knowledge  
50 tests in other than written form.

51 (b) Upon successful completion of the requirements set forth in para-  
52 graph (a) of this subdivision which shall include an alcohol and drug  
53 education component as described in paragraph (c) of this subdivision, a  
54 "Road Rage" awareness component as described in paragraph (c-1) of this  
55 subdivision and a "Work Zone Safety" awareness component as described in  
56 paragraph (c-2) of this subdivision AND A "CELL PHONE SAFETY" COMPONENT

1 AS DESCRIBED IN PARAGRAPH (C-3) OF THIS SUBDIVISION, the commissioner  
2 shall cause the applicant to take a road test in a representative vehi-  
3 cle of a type prescribed by the commissioner which shall be appropriate  
4 to the type of license for which application is made, except that the  
5 commissioner may waive the road test requirements for certain classes of  
6 applicants. The commissioner shall have the power to establish a program  
7 to allow persons other than employees of the department to conduct road  
8 tests in representative vehicles when such tests are required for appli-  
9 cants to obtain a class A, B or C license. If she chooses to do so, she  
10 shall set forth her reasons in writing and conduct a public hearing on  
11 the matter. She shall only establish such a program after holding the  
12 public hearing.

13 (d) The commissioner shall make available for distribution upon regis-  
14 tration at each location where the pre-licensing course will be given,  
15 instructional handbooks outlining the content of the entire curriculum  
16 of the pre-licensing course including the information required to be  
17 included in the course pursuant to paragraphs (c), (c-1) [and], (c-2)  
18 AND (C-3) of this subdivision. The commissioner shall also provide for  
19 the additional training of the instructors necessary for the competent  
20 instruction of the alcohol and drug education and "Road Rage" awareness  
21 [and], "Work Zone Safety" awareness, AND CELL PHONE SAFETY subject  
22 matters of the pre-licensing course.

23 S 5. Subsection (a) of section 2336 of the insurance law, as amended  
24 by chapter 751 of the laws of 2005, is amended to read as follows:

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

46 S 6. Subsection (a) of section 2336 of the insurance law, as amended  
47 by chapter 585 of the laws of 2002, is amended to read as follows:

48 (a) Any schedule of rates or rating plan for motor vehicle liability  
49 and collision insurance submitted to the superintendent shall provide  
50 for an appropriate reduction in premium charges for any insured for a  
51 three year period after successfully completing a motor vehicle accident  
52 prevention course, known as the national safety council's defensive  
53 driving course, or any driver improvement course approved by the depart-  
54 ment of motor vehicles as being equivalent to the national safety coun-  
55 cil's defensive driving course, provided that in either event there  
56 shall be no reduction in premiums for a self instruction defensive driv-

1 ing course or a course which does not provide for actual classroom  
2 instruction for a minimum number of hours as determined by the depart-  
3 ment of motor vehicles. Such reduction in premium charges shall be  
4 subsequently modified to the extent appropriate, based upon analysis of  
5 loss experience statistics and other relevant factors. All such accident  
6 prevention courses shall be monitored by the department of motor vehi-  
7 cles and shall include components of instruction in "Road Rage" aware-  
8 ness [and], in "Work Zone Safety" awareness AND CELL PHONE SAFETY as  
9 defined by the commissioner of motor vehicles. The provisions of this  
10 section shall not apply to attendance at a program pursuant to article  
11 twenty-one of the vehicle and traffic law as a result of any traffic  
12 infraction.

13 S 7. This act shall take effect on the one hundred eightieth day after  
14 it shall have become a law, provided that the amendments to subsection  
15 (a) of section 2336 of the insurance law made by section five of this  
16 act shall be subject to the expiration and reversion of such subsection  
17 as provided in section 5 of chapter 751 of the laws of 2005, as amended,  
18 when upon such date section six of this act shall take effect.