

536--A

2009-2010 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2009

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Introduced by Sens. ALESI, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

19 S 4. Paragraphs (a), (b) and (d) of subdivision 4 of section 502 of  
20 the vehicle and traffic law, as amended by chapter 585 of the laws of  
21 2002, are amended to read as follows:

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

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

55 (b) Upon successful completion of the requirements set forth in para-  
56 graph (a) of this subdivision which shall include an alcohol and drug

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

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

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

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

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

52 (a) Any schedule of rates or rating plan for motor vehicle liability  
53 and collision insurance submitted to the superintendent shall provide  
54 for an appropriate reduction in premium charges for any insured for a  
55 three year period after successfully completing a motor vehicle accident  
56 prevention course, known as the national safety council's defensive

1 driving course, or any driver improvement course approved by the depart-  
2 ment of motor vehicles as being equivalent to the national safety coun-  
3 cil's defensive driving course, provided that in either event there  
4 shall be no reduction in premiums for a self instruction defensive driv-  
5 ing course or a course which does not provide for actual classroom  
6 instruction for a minimum number of hours as determined by the depart-  
7 ment of motor vehicles. Such reduction in premium charges shall be  
8 subsequently modified to the extent appropriate, based upon analysis of  
9 loss experience statistics and other relevant factors. All such accident  
10 prevention courses shall be monitored by the department of motor vehi-  
11 cles and shall include components of instruction in "Road Rage" aware-  
12 ness [and], in "Work Zone Safety" awareness AND CELL PHONE SAFETY as  
13 defined by the commissioner of motor vehicles. The provisions of this  
14 section shall not apply to attendance at a program pursuant to article  
15 twenty-one of the vehicle and traffic law as a result of any traffic  
16 infraction.

17 S 7. Subdivision 6 of section 1225-d of the vehicle and traffic law,  
18 as added by chapter 403 of the laws of 2009, is amended to read as  
19 follows:

20 6. A violation of this section shall be a traffic infraction and shall  
21 be punishable by a fine of not more than one hundred fifty dollars.  
22 [Provided, however, that a summons for operating a motor vehicle in  
23 violation of this section shall only be issued when there is reasonable  
24 cause to believe that the person operating such motor vehicle has  
25 committed a violation of the laws of this state other than a violation  
26 of this section.]

27 S 8. This act shall take effect on the one hundred eightieth day after  
28 it shall have become a law, provided that the amendments to subsection  
29 (a) of section 2336 of the insurance law made by section five of this  
30 act shall be subject to the expiration and reversion of such subsection  
31 as provided in section 5 of chapter 751 of the laws of 2005, as amended,  
32 when upon such date section six of this act shall take effect.