

S. 741

A. 2031

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

January 15, 2009

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IN SENATE -- Introduced by Sens. LAVALLE, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the use of mobile telephones to text message while driving

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

1     Section 1. Subdivision 1 of section 1225-c of the vehicle and traffic  
2     law, as added by chapter 69 of the laws of 2001, is amended to read as  
3     follows:  
4     1. For purposes of this section, the following terms shall mean:  
5     (a) "Mobile telephone" shall mean the device used by subscribers and  
6     other users of wireless telephone service to access such service.  
7     (b) "Wireless telephone service" shall mean two-way real time voice  
8     telecommunications service that is interconnected to a public switched  
9     telephone network and is provided by a commercial mobile radio service,  
10    as such term is defined by 47 C.F.R. S 20.3.  
11    (c) "TEXT MESSAGE" ALSO REFERRED TO AS SHORT MESSAGING SERVICE (SMS),  
12    SHALL MEAN THE PROCESS BY WHICH USERS SEND OR RECEIVE MESSAGES ON WIRE-  
13    LESS HANDSETS. FOR PURPOSES OF THIS SECTION, AN E-MAIL SHALL BE CONSID-  
14    ERED A "TEXT MESSAGE".  
15    (D) "Using" shall mean holding a mobile telephone to, or in the imme-  
16    diate proximity of, the user's ear OR COMPOSING OR SENDING TEXT MESSAGES  
17    WHILE OPERATING A MOTOR VEHICLE ON ANY PUBLIC STREET OR PUBLIC HIGHWAY  
18    WITHIN THIS STATE.  
19    [(d)] (E) "Hand-held mobile telephone" shall mean a mobile telephone  
20    with which a user engages in a call using at least one hand.

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

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1 [(e)] (F) "Hands-free mobile telephone" shall mean a mobile telephone  
2 that has an internal feature or function, or that is equipped with an  
3 attachment or addition, whether or not permanently part of such mobile  
4 telephone, by which a user engages in a call without the use of either  
5 hand, whether or not the use of either hand is necessary to activate,  
6 deactivate or initiate a function of such telephone.

7 (G) "WIRELESS HANDSET" SHALL MEAN A PORTABLE COMPUTING DEVICE, INCLUD-  
8 ING CELLULAR TELEPHONES AND PERSONAL DIGITAL ASSISTANTS (PDAS) CAPABLE  
9 OF TRANSMITTING DATA IN THE FORM OF AN E-MAIL OR TEXT MESSAGE.

10 [(f)] (H) "Engage in a call" shall mean talking into or listening on a  
11 hand-held mobile telephone, but shall not include holding a mobile tele-  
12 phone to activate, deactivate or initiate a function of such telephone.

13 [(g)] (I) "Immediate proximity" shall mean that distance as permits  
14 the operator of a mobile telephone to hear telecommunications transmit-  
15 ted over such mobile telephone, but shall not require physical contact  
16 with such operator's ear.

17 S 2. Subdivisions 3 and 4 of section 1225-c of the vehicle and traffic  
18 law are renumbered subdivisions 4 and 5 and a new subdivision 3 is added  
19 to read as follows:

20 3. NO PERSON SHALL USE A WIRELESS HANDSET TO COMPOSE OR SEND TEXT  
21 MESSAGES WHILE DRIVING A MOTOR VEHICLE ON ANY PUBLIC STREET OR PUBLIC  
22 HIGHWAY WITHIN THE STATE WHILE THE MOTOR VEHICLE IS IN MOTION. ANY  
23 PERSON SEEN DIALING A CELLULAR TELEPHONE WHILE A MOTOR VEHICLE IS IN  
24 MOTION ON A PUBLIC STREET OR PUBLIC HIGHWAY WITHIN THE STATE IS PRESUMED  
25 TO BE COMPOSING OR SENDING A TEXT MESSAGE WITHIN THE MEANING OF THIS  
26 SECTION. THE PRESUMPTION ESTABLISHED BY THIS SUBDIVISION IS REBUTTABLE  
27 BY EVIDENCE TENDING TO SHOW THAT THE OPERATOR WAS NOT SENDING OR COMPOS-  
28 ING A TEXT MESSAGE.

29 S 3. This act shall take effect on the first of November next succeed-  
30 ing the date on which it shall have become a law.