

9802

I N A S S E M B L Y

January 28, 2010

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

AN ACT to amend the vehicle and traffic law and the insurance law, in relation to making use of a portable electronic device while driving a primary offense and creating a cell phone safety component to the pre-licensing course

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

1 Section 1. Subdivision 6 of section 1225-d of the vehicle and traffic
2 law, as added by chapter 403 of the laws of 2009, is amended to read as
3 follows:

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

11 S 2. Subdivision 4 of section 502 of the vehicle and traffic law is
12 amended by adding a new paragraph (c-3) to read as follows:

13 (C-3) "CELL PHONE SAFETY" COMPONENT. THE COMMISSIONER SHALL PROVIDE IN
14 THE PRE-LICENSING COURSE, SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION
15 A MANDATORY COMPONENT IN THE "CELL PHONE SAFETY" COMPONENT AS A PREREQ-
16 UISITE FOR OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE. THE PURPOSE
17 OF THE COMPONENT IS TO EDUCATE PROSPECTIVE LICENSEES OF THE POTENTIAL
18 DANGERS OF DRIVING WHILE USING A CELL PHONE. FOR THE PURPOSES OF THIS
19 PARAGRAPH, "CELL PHONE" SHALL BE DEFINED AS A HAND-HELD MOBILE TELEPHONE
20 WITH WHICH A USER ENGAGES A CALL OR WRITES, SENDS OR READS A TEXT-BASED
21 COMMUNICATION USING AT LEAST ONE HAND AS DEFINED IN PARAGRAPH (B) OF
22 SUBDIVISION TWO OF SECTION TWELVE HUNDRED TWENTY-FIVE-D OF THIS CHAPTER.
23 THE COMMISSIONER SHALL ESTABLISH A CURRICULUM FOR SUCH "CELL PHONE SAFE-
24 TY" COMPONENT WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION ON
25 THE LAW RELATED TO DRIVING WHILE USING A CELL PHONE, THE PENALTIES FOR
26 USING A CELL PHONE WHILE DRIVING AND THE POTENTIAL DANGERS OF DISTRACTED

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

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1 DRIVERS. IN DEVELOPING SUCH CURRICULUM, THE COMMISSIONER SHALL CONSULT
2 WITH LAW ENFORCEMENT PERSONNEL, HIGHWAY SAFETY OFFICIALS AND ANY OTHER
3 GROUP THE COMMISSIONER BELIEVES CAN CONTRIBUTE TO A COMPREHENSIVE STATE-
4 MENT OF THE ISSUE.

5 S 3. Paragraphs (a), (b) and (d) of subdivision 4 of section 502 of
6 the vehicle and traffic law, as amended by chapter 585 of the laws of
7 2002, are amended to read as follows:

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

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

41 (b) Upon successful completion of the requirements set forth in para-
42 graph (a) of this subdivision which shall include an alcohol and drug
43 education component as described in paragraph (c) of this subdivision, a
44 "Road Rage" awareness component as described in paragraph (c-1) of this
45 subdivision and a "Work Zone Safety" awareness component as described in
46 paragraph (c-2) of this subdivision AND A "CELL PHONE SAFETY" COMPONENT
47 AS DESCRIBED IN PARAGRAPH (C-3) OF THIS SUBDIVISION, the commissioner
48 shall cause the applicant to take a road test in a representative vehi-
49 cle of a type prescribed by the commissioner which shall be appropriate
50 to the type of license for which application is made, except that the
51 commissioner may waive the road test requirements for certain classes of
52 applicants. The commissioner shall have the power to establish a program
53 to allow persons other than employees of the department to conduct road
54 tests in representative vehicles when such tests are required for appli-
55 cants to obtain a class A, B or C license. If she chooses to do so, she
56 shall set forth her reasons in writing and conduct a public hearing on

1 the matter. She shall only establish such a program after holding the
2 public hearing.

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

13 S 4. Subsection (a) of section 2336 of the insurance law, as amended
14 by chapter 751 of the laws of 2005, is amended to read as follows:

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

36 S 5. Subsection (a) of section 2336 of the insurance law, as amended
37 by chapter 585 of the laws of 2002, is amended to read as follows:

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

1 twenty-one of the vehicle and traffic law as a result of any traffic
2 infraction.

3 S 6. This act shall take effect immediately; provided, however, that
4 section one of this act shall take effect on the same date and in the
5 same manner as section 4 of chapter 403 of the laws of 2009, takes
6 effect; and provided that the amendments to subsection (a) of section
7 2336 of the insurance law made by section four of this act shall be
8 subject to the expiration and reversion of such subsection as provided
9 in section 5 of chapter 751 of the laws of 2005, as amended, when upon
10 such date section five of this act shall take effect.