

2009-2010 Regular Sessions

I N S E N A T E

January 9, 2009

Introduced by Sen. MARCELLINO -- 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 ASSEM-
BLY, 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 OR
5 PORTABLE ELECTRONIC DEVICE with which a user engages in a call OR
6 WRITES, SENDS OR READS A TEXT MESSAGE using at least one hand, PROVIDED
7 THAT THE TERM "HAND-HELD MOBILE TELEPHONE" SHALL NOT INCLUDE
8 VEHICLE-INTEGRATED VOICE-ACTIVATED DEVICES.
9 (h) "WRITE, SEND OR READ A TEXT MESSAGE" SHALL MEAN THE MANUAL ENTRY
10 OR RETRIEVAL OF A TEXT-BASED MESSAGE COMMONLY REFERRED TO AS A TEXT
11 MESSAGE, INSTANT MESSAGE, ELECTRONIC MESSAGE OR EMAIL, TO COMMUNICATE
12 WITH ANY PERSON OR DEVICE.
13 S 2. Paragraph (a) of subdivision 2 and subdivision 3 of section
14 1225-c of the vehicle and traffic law, as added by chapter 69 of the
15 laws of 2001, are amended to read as follows:
16 (a) Except as otherwise provided in this section, no person shall
17 operate a motor vehicle upon a public highway while using a mobile tele-
18 phone OR PORTABLE ELECTRONIC DEVICE to engage in a call OR WRITE, SEND
19 OR READ A TEXT MESSAGE while such vehicle is in motion.
20 3. Subdivision two of this section shall not apply to (a) the use of a
21 mobile telephone OR PORTABLE ELECTRONIC DEVICE for the sole purpose of
22 communicating with any of the following regarding an emergency situ-
23 ation: an emergency response operator; a hospital, physician's office or
24 health clinic; an ambulance company or corps; a fire department,

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

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1 district or company; or a police department, (b) any of the following
2 persons while in the performance of their official duties: a police
3 officer or peace officer; a member of a fire department, district or
4 company; or the operator of an authorized emergency vehicle as defined
5 in section one hundred one of this chapter, or (c) the use of a hands-
6 free mobile telephone.

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

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

27 S 4. Paragraphs (a), (b) and (d) of subdivision 4 of section 502 of
28 the vehicle and traffic law, as amended by chapter 585 of the laws of
29 2002, are amended to read as follows:

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

1 applicant to take a vision test and a test for color blindness. Upon
2 passage of the vision test, the application may be accepted and the
3 application fee shall be payable.

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

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

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

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

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

1 apply to attendance at a program pursuant to article twenty-one of the
2 vehicle and traffic law as a result of any traffic infraction.

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

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

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