S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. BENJAMIN, WALKER -- Multi-Sponsored by -- M. of A. HOOPER, MILLER -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to applying cosmetics while driving

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

Section 1. The vehicle and traffic law is amended by adding a new section 1225-d to read as follows:

S 1225-D. APPLYING COSMETICS WHILE DRIVING. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL MEAN:

(A) "COSMETICS" SHALL MEAN THE SAME AS SUCH TERM IS DEFINED IN SECTION SIXTY-EIGHT HUNDRED TWO OF THE EDUCATION LAW.

(B) "APPLYING" SHALL MEAN HOLDING A COSMETIC APPLICATOR TO, OR IN THE IMMEDIATE PROXIMITY OF, THE USER'S FACE.

(C) "IMMEDIATE PROXIMITY" SHALL MEAN THE DISTANCE THAT PERMITS A PERSON TO BE IN THE ACT OF APPLYING COSMETICS, BUT SHALL NOT REQUIRE PHYSICAL CONTACT WITH SUCH PERSON'S FACE.

2. (A) NO PERSON SHALL OPERATE A MOTOR VEHICLE UPON A PUBLIC HIGHWAY WHILE APPLYING COSMETICS WHILE SUCH VEHICLE IS IN MOTION.

(B) AN OPERATOR OF A MOTOR VEHICLE WHO APPLIES COSMETICS TO, OR IN THE IMMEDIATE PROXIMITY OF HIS OR HER FACE WHILE SUCH VEHICLE IS IN MOTION IS PRESUMED TO BE APPLYING COSMETICS WITHIN THE MEANING OF THIS SECTION. THE PRESUMPTION ESTABLISHED BY THIS SUBDIVISION IS REBUTTABLE BY EVIDENCE TENDING TO SHOW THAT THE OPERATOR WAS NOT APPLYING COSMETICS.

(C) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED AS AUTHORIZING THE SEIZURE OR FORFEITURE OF SUCH COSMETICS, UNLESS OTHERWISE PROVIDED BY LAW.

3. A VIOLATION OF SUBDIVISION TWO OF THIS SECTION SHALL BE A TRAFFIC INFRACTION AND SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.

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

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