

6074

2009-2010 Regular Sessions

I N A S S E M B L Y

February 24, 2009

Introduced by M. of A. JOHN, MILLMAN, GALEF, SCHROEDER -- 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 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:

20 (C-3) CELL PHONE SAFETY COMPONENT. THE COMMISSIONER SHALL PROVIDE IN  
21 THE PRE-LICENSING COURSE, SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION  
22 A MANDATORY COMPONENT IN THE "CELL PHONE SAFETY COMPONENT" AS A PREREQ-  
23 UISITE FOR OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE. THE PURPOSE  
24 OF THE COMPONENT IS TO EDUCATE PROSPECTIVE LICENSEES OF THE POTENTIAL

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

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

14 S 4. Paragraphs (a), (b) and (d) of subdivision 4 of section 502 of  
15 the vehicle and traffic law, as amended by chapter 585 of the laws of  
16 2002, are amended to read as follows:

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

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

50 (b) Upon successful completion of the requirements set forth in para-  
51 graph (a) of this subdivision which shall include an alcohol and drug  
52 education component as described in paragraph (c) of this subdivision, a  
53 "Road Rage" awareness component as described in paragraph (c-1) of this  
54 subdivision and a "Work Zone Safety" awareness component as described in  
55 paragraph (c-2) of this subdivision AND A "CELL PHONE SAFETY" COMPONENT  
56 AS DESCRIBED IN PARAGRAPH (C-3) OF THIS SUBDIVISION, the commissioner

1 shall cause the applicant to take a road test in a representative vehi-  
2 cle of a type prescribed by the commissioner which shall be appropriate  
3 to the type of license for which application is made, except that the  
4 commissioner may waive the road test requirements for certain classes of  
5 applicants. The commissioner shall have the power to establish a program  
6 to allow persons other than employees of the department to conduct road  
7 tests in representative vehicles when such tests are required for appli-  
8 cants to obtain a class A, B or C license. If she chooses to do so, she  
9 shall set forth her reasons in writing and conduct a public hearing on  
10 the matter. She shall only establish such a program after holding the  
11 public hearing.

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

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

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

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

47 (a) Any schedule of rates or rating plan for motor vehicle liability  
48 and collision insurance submitted to the superintendent shall provide  
49 for an appropriate reduction in premium charges for any insured for a  
50 three year period after successfully completing a motor vehicle accident  
51 prevention course, known as the national safety council's defensive  
52 driving course, or any driver improvement course approved by the depart-  
53 ment of motor vehicles as being equivalent to the national safety coun-  
54 cil's defensive driving course, provided that in either event there  
55 shall be no reduction in premiums for a self instruction defensive driv-  
56 ing course or a course which does not provide for actual classroom

1 instruction for a minimum number of hours as determined by the depart-  
2 ment of motor vehicles. Such reduction in premium charges shall be  
3 subsequently modified to the extent appropriate, based upon analysis of  
4 loss experience statistics and other relevant factors. All such accident  
5 prevention courses shall be monitored by the department of motor vehi-  
6 cles and shall include components of instruction in "Road Rage" aware-  
7 ness [and], in "Work Zone Safety" awareness AND CELL PHONE SAFETY as  
8 defined by the commissioner of motor vehicles. The provisions of this  
9 section shall not apply to attendance at a program pursuant to article  
10 twenty-one of the vehicle and traffic law as a result of any traffic  
11 infraction.

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