

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.