

1877

2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sen. KLEIN -- 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, in relation to prohibiting the use of mobile telephones or wireless devices by certain persons while operating a vehicle

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

- 1 Section 1. Section 501-a of the vehicle and traffic law is amended by
2 adding six new subdivisions 9, 10, 11, 12, 13 and 14 to read as follows:
3 9. MOBILE TELEPHONE. A CELLULAR, ANALOG, WIRELESS, OR DIGITAL TELE-
4 PHONE CAPABLE OF SENDING OR RECEIVING VOICE AND/OR DATA COMMUNICATIONS
5 THROUGH A REGULAR TELEPHONE OR DATA NETWORK VIA RADIO SIGNAL INSTEAD OF
6 AN ACCESS LINE, AND ANY ACCESSORY OR ATTACHMENT THEREOF; BUT NOT AN
7 ELECTRONIC DEVICE INSTALLED IN A VEHICLE FOR THE SOLE PURPOSE OF NAVIGA-
8 TION OR ASSISTING THE OPERATOR IN AN EMERGENCY SITUATION.
9 10. WIRELESS DEVICE. A PORTABLE ELECTRONIC DEVICE, CAPABLE OF SENDING
10 OR RECEIVING DATA AND TEXT COMMUNICATIONS THROUGH A REGULAR TELEPHONE OR
11 DATA NETWORK VIA RADIO SIGNAL INSTEAD OF AN ACCESS LINE. SUCH TYPE OF
12 DEVICE SHALL INCLUDE, BUT NOT BE LIMITED TO, A BLACKBERRY, LAP TOP,
13 PAGER, PALM TOP, PERSONAL DIGITAL ASSISTANT, POCKET PC, OR ANY OTHER
14 DEVICE CAPABLE OF TEXT MESSAGING; BUT NOT AN ELECTRONIC DEVICE INSTALLED
15 IN A VEHICLE FOR THE SOLE PURPOSE OF NAVIGATION OR ASSISTING THE OPERA-
16 TOR IN AN EMERGENCY SITUATION.
17 11. TEXT MESSAGING. USING A MOBILE TELEPHONE OR WIRELESS DEVICE TO
18 TRANSMIT OR RECEIVE TEXT VIA SHORT MESSAGING SERVICE, ENHANCED MESSAGING
19 SERVICE, MULTIMEDIA MESSAGING SERVICE, OR ANY OTHER SIMILAR TECHNOLOGY.
20 12. DIGITAL IMAGING. USING A MOBILE TELEPHONE OR WIRELESS DEVICE TO
21 TAKE, STORE, RECEIVE, VIEW OR TRANSMIT STILL OR VIDEO DIGITAL IMAGES.
22 13. HAND-HELD. THE MANNER IN WHICH A MOBILE TELEPHONE OR WIRELESS
23 DEVICE IS OPERATED FOR THE PURPOSE OF VOICE COMMUNICATION, DATA COMMUNI-

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

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CATION, TEXT MESSAGING, DIGITAL IMAGING OR ENTERTAINMENT, BY USING AT LEAST ONE HAND.

14. HANDS-FREE. THE MANNER IN WHICH A MOBILE TELEPHONE OR WIRELESS DEVICE IS OPERATED FOR THE PURPOSE OF VOICE COMMUNICATION, DATA COMMUNICATION, TEXT MESSAGING, DIGITAL IMAGING OR ENTERTAINMENT, BY USING AN INTERNAL FEATURE OR FUNCTION, OR THROUGH AN ATTACHMENT OR ADDITION, INCLUDING BUT NOT LIMITED TO AN EAR PIECE, HEAD SET, REMOTE MICROPHONE OR SHORT-RANGE WIRELESS CONNECTION, THEREBY ALLOWING THE USER TO OPERATE SAID TELEPHONE OR DEVICE WITHOUT THE USE OF HANDS.

S 2. Subdivision 1 of section 501-b of the vehicle and traffic law, as added by chapter 644 of the laws of 2002, is amended to read as follows:

1. In addition to the restrictions contained in subdivision five of section five hundred one of this article, no holder of a class DJ or class MJ learner's permit shall:

(a) operate a motor vehicle with any front seat occupants other than the supervising driver;

(b) operate a motor vehicle unless every occupant of such vehicle is properly restrained by a safety belt or child safety seat in accordance with the provisions of subdivision three-a of section twelve hundred twenty-nine-c of this chapter;

(c) operate a motor vehicle with more than two passengers who are under the age of twenty-one and who are not members of such holder's immediate family, provided, however, that the provisions of this subparagraph shall not apply when such holder is accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor;

(d) be eligible for issuance of a class DJ or MJ license unless such permit and/or limited class DJ or MJ license issued pursuant to section five hundred three-a of this article, singly or in combination, have been valid for at least six months. Any time period in which such class DJ or MJ learner's permit or limited class DJ or MJ license has been suspended or revoked shall not be counted in determining the length of time that such learner's permit or limited license has been valid[.]; AND

(E) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, OPERATE A MOTOR VEHICLE WHILE USING A HAND-HELD OR HANDS-FREE MOBILE TELEPHONE OR WIRELESS DEVICE TO ENGAGE IN VOICE COMMUNICATION, TEXT MESSAGING, DIGITAL IMAGING OR ENTERTAINMENT; UNLESS FOR THE SOLE PURPOSE OF COMMUNICATING WITH ANY OF THE FOLLOWING REGARDING AN EMERGENCY SITUATION: AN EMERGENCY RESPONSE OPERATOR; A HOSPITAL, PHYSICIAN'S OFFICE OR HEALTH CLINIC; AN AMBULANCE COMPANY OR CORPS; A FIRE DEPARTMENT, DISTRICT OR COMPANY; OR A POLICE DEPARTMENT.

S 3. Subdivision 2 of section 501-b of the vehicle and traffic law, as added by chapter 644 of the laws of 2002, is amended to read as follows:

2. In addition to the restrictions contained in subdivision three of section five hundred one of this article, no holder of a class DJ or class MJ license shall operate a motor vehicle:

(a) unless every occupant of such vehicle is properly restrained by a safety belt or child safety seat in accordance with the provisions of subdivision three-a of section twelve hundred twenty-nine-c of this chapter; [and]

(b) with more than two passengers who are under the age of twenty-one and who are not members of such holder's immediate family, provided, however, that the provisions of this subparagraph shall not apply when such holder is accompanied by a duly licensed parent, guardian, person

1 in a position of loco parentis, driver education teacher or driving
2 school instructor[.]; AND
3 (C) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, WHILE USING
4 A HAND-HELD OR HANDS-FREE MOBILE TELEPHONE OR WIRELESS DEVICE TO ENGAGE
5 IN VOICE COMMUNICATION, TEXT MESSAGING, DIGITAL IMAGING OR ENTER-
6 TAINMENT; UNLESS FOR THE SOLE PURPOSE OF COMMUNICATING WITH ANY OF THE
7 FOLLOWING REGARDING AN EMERGENCY SITUATION: AN EMERGENCY RESPONSE OPERA-
8 TOR; A HOSPITAL, PHYSICIAN'S OFFICE OR HEALTH CLINIC; AN AMBULANCE
9 COMPANY OR CORPS; A FIRE DEPARTMENT, DISTRICT OR COMPANY; OR A POLICE
10 DEPARTMENT.
11 S 4. This act shall take effect on the sixtieth day after it shall
12 have become a law.