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I N S E N A T E

February 9, 2010

Introduced by Sen. DIAZ -- 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 the use of portable electronic devices while driving

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

1 Section 1. Paragraph (b) of subdivision 2 of section 1225-d of the
2 vehicle and traffic law, as added by chapter 403 of the laws of 2009, is
3 amended to read as follows:

4 (b) "Using" shall mean holding a portable electronic device while (I)
5 viewing, taking or transmitting images, (II) playing games, or (III)
6 composing, sending, reading, viewing, accessing, browsing, transmitting,
7 saving or retrieving e-mail, text messages, or other electronic data.

8 S 2. Subdivision 4 of section 1225-d of the vehicle and traffic law,
9 as added by chapter 403 of the laws of 2009, is amended to read as
10 follows:

11 4. A person who holds a portable electronic device in a conspicuous
12 manner while operating a motor vehicle is presumed to be using such
13 device. The presumption established by this subdivision is rebuttable by
14 evidence [showing] TENDING TO SHOW that the operator was not using the
15 device within the meaning of this section.

16 S 3. Subdivision 6 of section 1225-d of the vehicle and traffic law,
17 as added by chapter 403 of the laws of 2009, is amended to read as
18 follows:

19 6. A violation of this section shall be a traffic infraction and shall
20 be punishable by a fine of not more than one hundred fifty dollars.
21 [Provided, however, that a summons for operating a motor vehicle in
22 violation of this section shall only be issued when there is reasonable
23 cause to believe that the person operating such motor vehicle has
24 committed a violation of the laws of this state other than a violation
25 of this section.]

26 S 4. This act shall take effect on the same date and in the same
27 manner as chapter 403 of the laws of 2009, takes effect and shall apply
28 to violations occurring on and after such date.

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

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