

5434

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 18, 2011

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Introduced by M. of A. DenDEKKER -- read once and referred to the  
Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to restricting  
the use of an electronic device while crossing the crosswalk

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

1     Section 1. The vehicle and traffic law is amended by adding a new  
2     section 1158 to read as follows:  
3     S 1158. USE OF ELECTRONIC DEVICES IN CROSSWALKS PROHIBITED. (A) FOR  
4     THE PURPOSES OF THIS SECTION:  
5        (1) THE TERM "ELECTRONIC DEVICE" SHALL MEAN ANY TYPE OF INSTRUMENT,  
6     DEVICE OR EQUIPMENT WHICH IS DESIGNED TO TRANSMIT AND/OR RECEIVE TELE-  
7     PHONIC, ELECTRIC DIGITAL SIGNALS AND ACCESS SERVICE AS WELL AS ANY TYPE  
8     OF INSTRUMENT DESIGNED TO HAVE SOUND AND/OR IMAGE RECORDING OR CAPTURING  
9     CAPABILITIES INCLUDING, BUT NOT LIMITED TO, MOBILE TELEPHONES, PORTABLE  
10    MEDIA PLAYERS AND WIRELESS HANDHELD DEVICES PROVIDED THAT THE TERM SHALL  
11    EXEMPT THE USE OF HANDS FREE HEADSETS OR CALLING DEVICES.  
12        (2) THE TERM "ENGAGING IN THE USE" SHALL MEAN HOLDING AN ELECTRONIC  
13    DEVICE TO, OR IN THE IMMEDIATE PROXIMITY OF, THE PERSON'S EAR, TALKING  
14    OR LISTENING WITH SUCH ELECTRONIC DEVICE OR TEXTING AND/OR RECEIVING A  
15    MESSAGE WITH SUCH ELECTRONIC DEVICE.  
16        (3) THE TERM "IMMEDIATE PROXIMITY" SHALL MEAN THAT DISTANCE AS PERMITS  
17    THE USER OF AN ELECTRONIC DEVICE TO HEAR OR USE ANY TRANSMISSION OVER  
18    SUCH ELECTRONIC DEVICE BUT SHALL NOT REQUIRE PHYSICAL CONTACT WITH SUCH  
19    PERSON'S EAR.  
20        (4) THE TERM "CROSSWALK" SHALL MEAN THAT PART OF A ROADWAY AT AN  
21    INTERSECTION INCLUDED WITHIN THE CONNECTIONS OF THE LATERAL LINES OF THE  
22    SIDEWALKS ON OPPOSITE SIDES OF THE HIGHWAY BETWEEN THE CURBS OR, IN THE  
23    ABSENCE OF CURBS, BETWEEN THE EDGES OF THE TRAVERSABLE ROADWAY OR ANY  
24    PORTION OF A ROADWAY AT AN INTERSECTION OR ELSEWHERE DISTINCTLY INDI-  
25    CATED FOR PEDESTRIAN CROSSING BY LINES OR OTHER MARKINGS ON THE SURFACE.

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

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1 (B) NO PERSON SHALL ENTER AND CROSS A CROSSWALK WHILE ENGAGING IN THE  
2 USE OF AN ELECTRONIC DEVICE.

3 (C) A PERSON WITH AN ELECTRONIC DEVICE WHO HOLDS SUCH DEVICE TO, OR IN  
4 THE IMMEDIATE PROXIMITY OF HIS OR HER EAR OR WHO TYPES INTO THE DEVICE,  
5 IS PRESUMED TO BE ENGAGING IN THE USE OF SUCH DEVICE WITHIN THE MEANING  
6 OF THIS SECTION. THE PRESUMPTION ESTABLISHED BY THIS SUBDIVISION IS  
7 REBUTTABLE BY EVIDENCE TENDING TO SHOW THAT THE USER WAS NOT ENGAGED IN  
8 SUCH USE.

9 (D) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED AS AUTHORIZ-  
10 ING THE SEIZURE OR FORFEITURE OF AN ELECTRONIC DEVICE, UNLESS OTHERWISE  
11 PROVIDED BY LAW.

12 (E) A PERSON WHO VIOLATES SUBDIVISION (B) OF THIS SECTION SHALL BE  
13 ISSUED A SUMMONS FOR A VIOLATION OF THIS SECTION AND SHALL PAY A CIVIL  
14 FINE OF TWENTY-FIVE DOLLARS.

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