

S T A T E O F N E W Y O R K

6174--A

2011-2012 Regular Sessions

I N A S S E M B L Y

March 8, 2011

Introduced by M. of A. WEISENBERG -- read once and referred to the
Committee on Transportation -- committee discharged, bill amended,
ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law and the insurance law, in
relation to the use of portable electronic devices while driving

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

1 Section 1. Subdivisions 1 and 2 of section 1225-c of the vehicle and
2 traffic law, as added by chapter 69 of the laws of 2001, are amended to
3 read as follows:
4 1. For purposes of this section, the following terms shall mean:
5 (a) "Mobile telephone" shall mean the device used by subscribers and
6 other users of wireless telephone service to access such service.
7 (b) "Wireless telephone service" shall mean two-way real time voice
8 telecommunications service that is interconnected to a public switched
9 telephone network and is provided by a commercial mobile radio service,
10 as such term is defined by 47 C.F.R. S 20.3.
11 (c) ["Using" shall mean holding a mobile telephone to, or in the imme-
12 diate proximity of, the user's ear.
13 (d)] "Hand-held mobile telephone" shall mean a mobile telephone with
14 which a user engages in a call using at least one hand.
15 [(e)] (D) "Hands-free mobile telephone" shall mean a mobile telephone
16 that has an internal feature or function, or that is equipped with an
17 attachment or addition, whether or not permanently part of such mobile
18 telephone, by which a user engages in a call without the use of either
19 hand[, whether or not the use of either hand is necessary to activate,
20 deactivate or initiate a function of such telephone.
21 (f) "Engage in a call" shall mean talking into or listening on a hand-
22 held mobile telephone, but shall not include holding a mobile telephone
23 to activate, deactivate or initiate a function of such telephone.

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

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1 (g) "Immediate proximity" shall mean that distance as permits the
2 operator of a mobile telephone to hear telecommunications transmitted
3 over such mobile telephone, but shall not require physical contact with
4 such operator's ear].

5 2. (a) Except as otherwise provided in this section, no person shall
6 operate a motor vehicle upon a public highway [while using a mobile
7 telephone to engage in a call] TALKING INTO, LISTENING TO, DIALING,
8 ACTIVATING, DEACTIVATING OR INITIATING ANY FUNCTION OF A HAND-HELD
9 MOBILE PHONE while such vehicle is in motion.

10 (b) [An operator of a motor vehicle who holds a mobile telephone to,
11 or in the immediate proximity of his or her ear while such vehicle is in
12 motion is presumed to be engaging in a call within the meaning of this
13 section. The presumption established by this subdivision is rebuttable
14 by evidence tending to show that the operator was not engaged in a call.

15 (c)] The provisions of this section shall not be construed as author-
16 izing the seizure or forfeiture of a mobile telephone, unless otherwise
17 provided by law.

18 S 2. Subdivision 6 of section 1225-d of the vehicle and traffic law,
19 as added by chapter 403 of the laws of 2009, is amended to read as
20 follows:

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

28 S 3. Subdivision 4 of section 502 of the vehicle and traffic law is
29 amended by adding a new paragraph (c-3) to read as follows:

30 (C-3) CELL PHONE SAFETY COMPONENT. THE COMMISSIONER SHALL PROVIDE IN
31 THE PRE-LICENSING COURSE, SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION
32 A MANDATORY COMPONENT IN "CELL PHONE SAFETY" AS A PREREQUISITE FOR
33 OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE. THE PURPOSE OF THE
34 COMPONENT IS TO EDUCATE PROSPECTIVE LICENSEES OF THE POTENTIAL DANGERS
35 OF DRIVING WHILE USING A CELL PHONE. FOR THE PURPOSES OF THIS PARAGRAPH,
36 "CELL PHONE" SHALL BE DEFINED AS A PORTABLE ELECTRONIC DEVICE AS DEFINED
37 IN PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION TWELVE HUNDRED
38 TWENTY-FIVE-D OF THIS CHAPTER. THE COMMISSIONER SHALL ESTABLISH A
39 CURRICULUM FOR SUCH "CELL PHONE SAFETY" COMPONENT WHICH SHALL INCLUDE,
40 BUT NOT BE LIMITED TO, INFORMATION ON THE LAWS RELATED TO DRIVING WHILE
41 USING A CELL PHONE AS DESCRIBED IN SECTIONS TWELVE HUNDRED TWENTY-FIVE-C
42 AND TWELVE HUNDRED TWENTY-FIVE-D OF THIS CHAPTER, THE PENALTIES FOR
43 USING A CELL PHONE WHILE DRIVING AND THE POTENTIAL DANGERS OF DISTRACTED
44 DRIVERS. IN DEVELOPING SUCH CURRICULUM, THE COMMISSIONER SHALL CONSULT
45 WITH LAW ENFORCEMENT PERSONNEL, HIGHWAY SAFETY OFFICIALS AND ANY OTHER
46 GROUP THE COMMISSIONER BELIEVES CAN CONTRIBUTE TO A COMPREHENSIVE STATE-
47 MENT OF THE ISSUE.

48 S 4. Paragraphs (a), (b) and (d) of subdivision 4 of section 502 of
49 the vehicle and traffic law, as amended by chapter 585 of the laws of
50 2002, subparagraph (i) of paragraph (a) as amended by chapter 387 of the
51 laws of 2010, are amended to read as follows:

52 (a) (i) Upon submission of an application for a driver's license, the
53 applicant shall be required to take and pass a test, or submit evidence
54 of passage of a test, with respect to the laws relating to traffic, the
55 laws relating to driving while ability is impaired and while intoxicat-
56 ed, under the overpowering influence of "Road Rage", [or] "Work Zone

1 Safety" awareness as defined by the commissioner OR CELL PHONE SAFETY AS
2 DEFINED BY THE COMMISSIONER, the law relating to exercising due care to
3 avoid colliding with a parked, stopped or standing authorized emergency
4 vehicle pursuant to section eleven hundred forty-four-a of this chapter,
5 the ability to read and comprehend traffic signs and symbols and such
6 other matters as the commissioner may prescribe, and to satisfactorily
7 complete a course prescribed by the commissioner of not less than four
8 hours and not more than five hours, consisting of classroom driver
9 training and highway safety instruction or the equivalent thereof. Such
10 test shall include at least seven written questions concerning the
11 effects of consumption of alcohol or drugs on the ability of a person to
12 operate a motor vehicle and the legal and financial consequences result-
13 ing from violations of section eleven hundred ninety-two of this chap-
14 ter, prohibiting the operation of a motor vehicle while under the influ-
15 ence of alcohol or drugs. Such test shall include one or more written
16 questions concerning the devastating effects of "Road Rage" on the abil-
17 ity of a person to operate a motor vehicle and the legal and financial
18 consequences resulting from assaulting, threatening or interfering with
19 the lawful conduct of another person legally using the roadway. Such
20 test shall include one or more questions concerning the potential
21 dangers to persons and equipment resulting from the unsafe operation of
22 a motor vehicle in a work zone. SUCH TEST SHALL INCLUDE ONE OR MORE
23 WRITTEN QUESTIONS RELATING TO THE HAZARDS AND LEGAL CONSEQUENCES OF
24 DRIVING WHILE USING A PORTABLE ELECTRONIC DEVICE AS DEFINED IN PARAGRAPH
25 (A) OF SUBDIVISION TWO OF SECTION TWELVE HUNDRED TWENTY-FIVE-D OF THIS
26 CHAPTER. Such test may include one or more questions concerning the law
27 for exercising due care to avoid colliding with a parked, stopped or
28 standing authorized emergency vehicle pursuant to section eleven hundred
29 forty-four-a of this chapter. Such test shall be administered by the
30 commissioner. The commissioner shall cause the applicant to take a
31 vision test and a test for color blindness. Upon passage of the vision
32 test, the application may be accepted and the application fee shall be
33 payable.

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

37 (b) Upon successful completion of the requirements set forth in para-
38 graph (a) of this subdivision which shall include an alcohol and drug
39 education component as described in paragraph (c) of this subdivision, a
40 "Road Rage" awareness component as described in paragraph (c-1) of this
41 subdivision and a "Work Zone Safety" awareness component as described in
42 paragraph (c-2) of this subdivision AND A "CELL PHONE SAFETY" COMPONENT
43 AS DESCRIBED IN PARAGRAPH (C-3) OF THIS SUBDIVISION, the commissioner
44 shall cause the applicant to take a road test in a representative vehi-
45 cle of a type prescribed by the commissioner which shall be appropriate
46 to the type of license for which application is made, except that the
47 commissioner may waive the road test requirements for certain classes of
48 applicants. The commissioner shall have the power to establish a program
49 to allow persons other than employees of the department to conduct road
50 tests in representative vehicles when such tests are required for appli-
51 cants to obtain a class A, B or C license. If she chooses to do so, she
52 shall set forth her reasons in writing and conduct a public hearing on
53 the matter. She shall only establish such a program after holding the
54 public hearing.

55 (d) The commissioner shall make available for distribution upon regis-
56 tration at each location where the pre-licensing course will be given,

1 instructional handbooks outlining the content of the entire curriculum
2 of the pre-licensing course including the information required to be
3 included in the course pursuant to paragraphs (c), (c-1) [and], (c-2)
4 AND (C-3) of this subdivision. The commissioner shall also provide for
5 the additional training of the instructors necessary for the competent
6 instruction of the alcohol and drug education and "Road Rage" awareness
7 [and], "Work Zone Safety" awareness, AND CELL PHONE SAFETY subject
8 matters of the pre-licensing course.

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

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

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

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

55 S 7. This act shall take effect immediately; provided that the amend-
56 ments to subsection (a) of section 2336 of the insurance law made by

1 section five of this act shall be subject to the expiration and rever-
2 sion of such subsection as provided in section 5 of chapter 751 of the
3 laws of 2005, as amended, when upon such date section six of this act
4 shall take effect.