

2661

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I N A S S E M B L Y

January 19, 2011

Introduced by M. of A. ORTIZ, SCHROEDER, GALEF, MILLMAN, MAISEL, SCHI-MEL, SPANO, BOYLAND, CLARK, BRENNAN, COLTON, BROOK-KRASNY, ZEBROWSKI, KAVANAGH, HOYT, MENG, DenDEKKER, GABRYSZAK, LATIMER, CASTRO, ROSEN-THAL, MARKEY, CAMARA, HOOPER, MAYERSOHN, JEFFRIES -- Multi-Sponsored by -- M. of A. ABBATE, BENEDETTO, CALHOUN, COOK, CUSICK, DINOWITZ, GLICK, GOTTFRIED, HEASTIE, LANCMAN, LUPARDO, MAGEE, PERRY, PHEFFER, REILLY, ROBINSON, SCARBOROUGH, TITONE, TOWNS, WEISENBERG -- 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 prohibiting the writing, sending or reading of text messages on a mobile telephone while driving

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

- 1 Section 1. Paragraph (d) of subdivision 1 of section 1225-c of the
2 vehicle and traffic law, as added by chapter 69 of the laws of 2001, is
3 amended and a new paragraph (h) is added to read as follows:
4 (d) "Hand-held mobile telephone" shall mean a mobile telephone OR
5 PORTABLE ELECTRONIC DEVICE with which a user engages in a call OR
6 WRITES, SENDS OR READS A TEXT MESSAGE using at least one hand, PROVIDED
7 THAT THE TERM "HAND-HELD MOBILE TELEPHONE" SHALL NOT INCLUDE
8 VEHICLE-INTEGRATED VOICE-ACTIVATED DEVICES.
9 (h) "WRITE, SEND OR READ A TEXT MESSAGE" SHALL MEAN THE MANUAL ENTRY
10 OR RETRIEVAL OF A TEXT-BASED MESSAGE COMMONLY REFERRED TO AS A TEXT
11 MESSAGE, INSTANT MESSAGE, ELECTRONIC MESSAGE OR EMAIL, TO COMMUNICATE
12 WITH ANY PERSON OR DEVICE.
13 S 2. Paragraph (a) of subdivision 2 and subdivision 3 of section
14 1225-c of the vehicle and traffic law, as added by chapter 69 of the
15 laws of 2001, are amended to read as follows:
16 (a) Except as otherwise provided in this section, no person shall
17 operate a motor vehicle upon a public highway while using a mobile tele-

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

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1 phone OR PORTABLE ELECTRONIC DEVICE to engage in a call OR WRITE, SEND
2 OR READ A TEXT MESSAGE while such vehicle is in motion.

3 3. Subdivision two of this section shall not apply to (a) the use of a
4 mobile telephone OR PORTABLE ELECTRONIC DEVICE for the sole purpose of
5 communicating with any of the following regarding an emergency situ-
6 ation: an emergency response operator; a hospital, physician's office or
7 health clinic; an ambulance company or corps; a fire department,
8 district or company; or a police department, (b) any of the following
9 persons while in the performance of their official duties: a police
10 officer or peace officer; a member of a fire department, district or
11 company; or the operator of an authorized emergency vehicle as defined
12 in section one hundred one of this chapter, or (c) the use of a hands-
13 free mobile telephone.

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

16 (C-3) "CELL PHONE SAFETY" COMPONENT. THE COMMISSIONER SHALL PROVIDE IN
17 THE PRE-LICENSING COURSE, SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION
18 A MANDATORY COMPONENT IN THE "CELL PHONE SAFETY" COMPONENT AS A PREREQ-
19 UISITE FOR OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE. THE PURPOSE
20 OF THE COMPONENT IS TO EDUCATE PROSPECTIVE LICENSEES OF THE POTENTIAL
21 DANGERS OF DRIVING WHILE USING A CELL PHONE. FOR THE PURPOSES OF THIS
22 PARAGRAPH, "CELL PHONE" SHALL BE DEFINED AS A HAND-HELD MOBILE TELEPHONE
23 WITH WHICH A USER ENGAGES A CALL OR WRITES, SENDS OR READS A TEXT-BASED
24 COMMUNICATION USING AT LEAST ONE HAND AS DEFINED IN PARAGRAPH (H) OF
25 SUBDIVISION ONE OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THIS CHAPTER.
26 THE COMMISSIONER SHALL ESTABLISH A CURRICULUM FOR SUCH "CELL PHONE SAFE-
27 TY" COMPONENT WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION ON
28 THE LAW RELATED TO DRIVING WHILE USING A CELL PHONE, THE PENALTIES FOR
29 USING A CELL PHONE WHILE DRIVING AND THE POTENTIAL DANGERS OF DISTRACTED
30 DRIVERS. IN DEVELOPING SUCH CURRICULUM, THE COMMISSIONER SHALL CONSULT
31 WITH LAW ENFORCEMENT PERSONNEL, HIGHWAY SAFETY OFFICIALS AND ANY OTHER
32 GROUP THE COMMISSIONER BELIEVES CAN CONTRIBUTE TO A COMPREHENSIVE STATE-
33 MENT OF THE ISSUE.

34 S 4. Paragraphs (a), (b) and (d) of subdivision 4 of section 502 of
35 the vehicle and traffic law, as amended by chapter 585 of the laws of
36 2002, subparagraph (i) of paragraph (a) as amended by chapter 387 of the
37 laws of 2010, are amended to read as follows:

38 (a) (i) Upon submission of an application for a driver's license, the
39 applicant shall be required to take and pass a test, or submit evidence
40 of passage of a test, with respect to the laws relating to traffic, the
41 laws relating to driving while ability is impaired and while intoxicat-
42 ed, under the overpowering influence of "Road Rage", [or] "Work Zone
43 Safety" awareness as defined by the commissioner OR "CELL PHONE SAFETY"
44 AS DEFINED BY THE COMMISSIONER, the law relating to exercising due care
45 to avoid colliding with a parked, stopped or standing authorized emer-
46 gency vehicle pursuant to section eleven hundred forty-four-a of this
47 chapter, the ability to read and comprehend traffic signs and symbols
48 and such other matters as the commissioner may prescribe, and to satis-
49 factorily complete a course prescribed by the commissioner of not less
50 than four hours and not more than five hours, consisting of classroom
51 driver training and highway safety instruction or the equivalent there-
52 of. Such test shall include at least seven written questions concerning
53 the effects of consumption of alcohol or drugs on the ability of a
54 person to operate a motor vehicle and the legal and financial conse-
55 quences resulting from violations of section eleven hundred ninety-two
56 of this chapter, prohibiting the operation of a motor vehicle while

1 under the influence of alcohol or drugs. Such test shall include one or
2 more written questions concerning the devastating effects of "Road Rage"
3 on the ability of a person to operate a motor vehicle and the legal and
4 financial consequences resulting from assaulting, threatening or inter-
5 fering with the lawful conduct of another person legally using the road-
6 way. Such test shall include one or more questions concerning the poten-
7 tial dangers to persons and equipment resulting from the unsafe
8 operation of a motor vehicle in a work zone. SUCH TEST SHALL INCLUDE ONE
9 OR MORE WRITTEN QUESTIONS RELATING TO THE HAZARDS AND LEGAL CONSEQUENCES
10 OF DRIVING WHILE USING A CELL PHONE. Such test may include one or more
11 questions concerning the law for exercising due care to avoid colliding
12 with a parked, stopped or standing authorized emergency vehicle pursuant
13 to section eleven hundred forty-four-a of this chapter. Such test shall
14 be administered by the commissioner. The commissioner shall cause the
15 applicant to take a vision test and a test for color blindness. Upon
16 passage of the vision test, the application may be accepted and the
17 application fee shall be payable.

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

21 (b) Upon successful completion of the requirements set forth in para-
22 graph (a) of this subdivision which shall include an alcohol and drug
23 education component as described in paragraph (c) of this subdivision, a
24 "Road Rage" awareness component as described in paragraph (c-1) of this
25 subdivision and a "Work Zone Safety" awareness component as described in
26 paragraph (c-2) of this subdivision AND A "CELL PHONE SAFETY" COMPONENT
27 AS DESCRIBED IN PARAGRAPH (C-3) OF THIS SUBDIVISION, the commissioner
28 shall cause the applicant to take a road test in a representative vehi-
29 cle of a type prescribed by the commissioner which shall be appropriate
30 to the type of license for which application is made, except that the
31 commissioner may waive the road test requirements for certain classes of
32 applicants. The commissioner shall have the power to establish a program
33 to allow persons other than employees of the department to conduct road
34 tests in representative vehicles when such tests are required for appli-
35 cants to obtain a class A, B or C license. If she chooses to do so, she
36 shall set forth her reasons in writing and conduct a public hearing on
37 the matter. She shall only establish such a program after holding the
38 public hearing.

39 (d) The commissioner shall make available for distribution upon regis-
40 tration at each location where the pre-licensing course will be given,
41 instructional handbooks outlining the content of the entire curriculum
42 of the pre-licensing course including the information required to be
43 included in the course pursuant to paragraphs (c), (c-1) [and], (c-2)
44 AND (C-3) of this subdivision. The commissioner shall also provide for
45 the additional training of the instructors necessary for the competent
46 instruction of the alcohol and drug education and "Road Rage" awareness
47 [and], "Work Zone Safety" awareness, AND "CELL PHONE SAFETY" subject
48 matters of the pre-licensing course.

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

51 (a) Any schedule of rates or rating plan for motor vehicle liability
52 and collision insurance submitted to the superintendent shall provide
53 for an appropriate reduction in premium charges for any insured for a
54 three year period after successfully completing a motor vehicle accident
55 prevention course, known as the national safety council's defensive
56 driving course, or any driver improvement course approved by the depart-

1 ment of motor vehicles as being equivalent to the national safety coun-
2 cil's defensive driving course, provided that, except as provided in
3 article twelve-C of the vehicle and traffic law, there shall be no
4 reduction in premiums for a self instruction defensive driving course or
5 a course which does not provide for actual classroom instruction for a
6 minimum number of hours as determined by the department of motor vehi-
7 cles. Such reduction in premium charges shall be subsequently modified
8 to the extent appropriate, based upon analysis of loss experience
9 statistics and other relevant factors. All such accident prevention
10 courses shall be monitored by the department of motor vehicles and shall
11 include components of instruction in "Road Rage" awareness [and], in
12 "Work Zone Safety" awareness AND "CELL PHONE SAFETY" as defined by the
13 commissioner of motor vehicles. The provisions of this section shall not
14 apply to attendance at a program pursuant to article twenty-one of the
15 vehicle and traffic law as a result of any traffic infraction.

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

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

39 S 7. This act shall take effect on the one hundred eightieth day after
40 it shall have become a law, provided that the amendments to subsection
41 (a) of section 2336 of the insurance law made by section five of this
42 act shall be subject to the expiration and reversion of such subsection
43 as provided in section 5 of chapter 751 of the laws of 2005, as amended,
44 when upon such date section six of this act shall take effect.