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2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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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 immediately.

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

LBD03315-01-1