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

9456--A

I N A S S E M B L Y

April 30, 2014

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

AN ACT to amend the labor law, in relation to prohibiting flagpersons from using portable electronic devices

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

Section 1. The labor law is amended by adding a new section 207-b to read as follows:

S 207-B. PROHIBITION OF THE USE OF PORTABLE ELECTRONIC DEVICES BY A FLAGPERSON. 1. NO FLAGPERSON SHALL USE A PORTABLE ELECTRONIC DEVICE WHILE PERFORMING THE DUTIES OF A FLAGPERSON IN A WORK ZONE, PROVIDED, HOWEVER, THAT SUCH PROHIBITION SHALL NOT APPLY TO PORTABLE ELECTRONIC DEVICES WHICH ARE USED SPECIFICALLY FOR:

(A) FACILITATING VEHICLE AND PEDESTRIAN TRAFFIC THROUGH A TEMPORARY TRAFFIC CONTROL ZONE; OR

(B) INITIATING A RESPONSE TO A HAZARDOUS MATERIALS INCIDENT; OR

(C) INITIATING A RESPONSE TO A VEHICLE OR PEDESTRIAN ACCIDENT IN OR NEAR A WORK ZONE.

2. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) THE TERM "FLAGPERSON," SHALL MEAN AND INCLUDE:

(I) ANY PERSON EMPLOYED BY OR ON BEHALF OF THE STATE, A COUNTY, CITY, TOWN, VILLAGE OR SPECIAL DISTRICT, A PUBLIC AUTHORITY, A LOCAL AUTHORITY, OR A PUBLIC UTILITY COMPANY, OR THE AGENT OR CONTRACTOR OF ANY SUCH ENTITY, WHO HAS BEEN ASSIGNED TO CONTROL OR DIRECT TRAFFIC ON PUBLIC HIGHWAYS IN CONNECTION WITH ANY CONSTRUCTION, SURVEY, AND/OR MAINTENANCE WORK BEING PERFORMED.

(II) ANY PERSON EMPLOYED BY OR ON BEHALF OF A RAILROAD CORPORATION WHO HAS BEEN ASSIGNED TO CONTROL OR DIRECT TRAFFIC AT A RAILROAD GRADE CROSSING.

(III) ANY PERSON HOLDING A CERTIFICATE ISSUED BY THE COMMISSIONER, WHICH AUTHORIZES SUCH PERSON TO OPERATE AN ESCORT VEHICLE, AND WHO HAS

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

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BEEN ASSIGNED TO CONTROL, WARN, OR DIRECT TRAFFIC IN CONNECTION WITH THE MOVEMENT OF AN ESCORT VEHICLE ON A PUBLIC HIGHWAY.

(B) "PORTABLE ELECTRONIC DEVICE" SHALL MEAN ANY HAND-HELD MOBILE TELEPHONE, AS DEFINED BY SUBDIVISION ONE OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THE VEHICLE AND TRAFFIC LAW, PERSONAL DIGITAL ASSISTANT (PDA), HANDHELD DEVICE WITH MOBILE DATA ACCESS, LAPTOP COMPUTER, PAGER, BROADBAND PERSONAL COMMUNICATION DEVICE, TWO-WAY MESSAGING DEVICE, ELECTRONIC GAME, OR PORTABLE COMPUTING DEVICE, OR ANY OTHER ELECTRONIC DEVICE WHEN USED TO INPUT, WRITE, SEND, RECEIVE, OR READ TEXT FOR PRESENT OR FUTURE COMMUNICATION.

(C) "USE" SHALL MEAN HOLDING A PORTABLE ELECTRONIC DEVICE WHILE VIEWING, TAKING OR TRANSMITTING IMAGES, PLAYING GAMES, OR, FOR THE PURPOSE OF PRESENT OR FUTURE COMMUNICATION: PERFORMING A COMMAND OR REQUEST TO ACCESS A WORLD WIDE WEB PAGE, COMPOSING, SENDING, READING, VIEWING, ACCESSING, BROWSING, TRANSMITTING, SAVING OR RETRIEVING E-MAIL, TEXT MESSAGES, INSTANT MESSAGES, OR OTHER ELECTRONIC DATA.

S 2. This act shall take effect immediately.