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

6435

I N S E N A T E

January 23, 2014

Introduced by Sen. MARCELLINO -- 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 prohibiting the use of head-mounted portable electronic devices while driving

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

Section 1. Paragraphs (a) and (b) of subdivision 2 and subdivision 4 of section 1225-d of the vehicle and traffic law, paragraphs (a) and (b) of subdivision 2 as amended by section 8 of part C of chapter 58 of the laws of 2013 and subdivision 4 as amended by section 10 of part C of chapter 58 of the laws of 2013, are amended to read as follows:

(a) "Portable electronic device" shall mean any hand-held OR HEAD-MOUNTED mobile telephone, as defined by subdivision one of section twelve hundred twenty-five-c of this article, 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.

(b) "Using" shall mean holding OR WEARING 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.

4. A person who holds OR WEARS a portable electronic device in a conspicuous manner while operating a motor vehicle or while operating a commercial motor vehicle on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays but not including when such commercial motor vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer is presumed to be using such device, except that a person operating a

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

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commercial motor vehicle while using a portable electronic device when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer shall not be presumed to be using such device. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not using the device within the meaning of this section.

S 2. Subdivision 2 of section 1225-d of the vehicle and traffic law is amended by adding a new paragraph (e) to read as follows:

(E) "HEAD-MOUNTED" SHALL MEAN WEARING A PORTABLE ELECTRONIC DEVICE ON THE HEAD, EARS AND NOSE AS EYEGLASSES OR EYEWEAR. COMMON HEAD-MOUNTED PORTABLE ELECTRONIC DEVICES SHALL INCLUDE, BUT NOT BE LIMITED TO, GOOGLE GLASS AND GOOGLE GLASSES, AND OTHER SIMILAR TECHNOLOGIES OR DEVICES.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.