STATE OF NEW YORK

1777

2017-2018 Regular Sessions

IN SENATE

January 10, 2017

Introduced by Sen. AVELLA -- 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 restricting the use of an electronic device while crossing the crosswalk

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The vehicle and traffic law is amended by adding a new section 1158 to read as follows:

§ 1158. Use of electronic devices in crosswalks prohibited. (a) For the purposes of this section:

(1) The term "electronic device" shall mean any type of instrument, device or equipment which is designed to transmit and/or receive telephonic, electric digital signals and access service as well as any type of instrument designed to have sound and/or image recording or capturing capabilities including, but not limited to, mobile telephones, portable media players and wireless handheld devices provided that the term shall exempt the use of hands free headsets or calling devices.

(2) The term "engaging in the use" shall mean holding an electronic device to, or in the immediate proximity of, the person's ear, talking or listening with such electronic device or texting and/or receiving a message with such electronic device.

(3) The term "immediate proximity" shall mean that distance as permits the user of an electronic device to hear or use any transmission over such electronic device but shall not require physical contact with such person's ear.

(4) The term "crosswalk" shall mean that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway between the curbs or, in the absence of curbs, between the edges of the traversable roadway or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

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

LBD01204-01-7

(b) No person shall enter and cross a crosswalk while engaging in the use of an electronic device.

(c) A person with an electronic device who holds such device to, or in the immediate proximity of his or her ear or who types into the device, is presumed to be engaging in the use of such device within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the user was not engaged in such use.

(d) The provisions of this section shall not be construed as authorizing the seizure or forfeiture of an electronic device, unless otherwise provided by law.

(e) A person who violates subdivision (b) of this section shall be issued a summons for a violation of this section and shall pay a civil fine of twenty-five dollars.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.