

STATE OF NEW YORK

1934

2019-2020 Regular Sessions

IN ASSEMBLY

January 18, 2019

Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to enacting the non-motion under the influence of electronics act

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "non-motion under the influence of electronics act".

3 § 2. Paragraph (b) of subdivision 2, and subdivisions 3, 4, and 6 of
4 section 1225-d of the vehicle and traffic law, paragraph (b) of subdivi-
5 sion 2 as amended by section 8 and subdivision 4 as amended by section
6 10 of part C of chapter 58 of the laws of 2013, subdivision 3 as added
7 by chapter 403 of the laws of 2009, and subdivision 6 as amended by
8 section 7 of part B of chapter 55 of the laws of 2014, are amended to
9 read as follows:

10 (b) "Using" shall mean holding a portable electronic device while
11 viewing, taking or transmitting images or videos, playing games, input-
12 ting information into a music app or GPS-based navigation app or, for
13 the purpose of present or future communication: performing a command or
14 request to access a world wide web page, composing, sending, reading,
15 viewing, accessing, browsing, transmitting, saving or retrieving e-mail,
16 text messages, instant messages, or other electronic data. "Using"
17 shall not mean operating a portable electronic device by a voice command
18 system which requires no physical touching of such device.

19 3. Subdivision one of this section shall not apply to (a) the use of a
20 portable electronic device for the sole purpose of communicating with
21 any of the following regarding an emergency situation: an emergency
22 response operator; a hospital; a physician's office or health clinic; an
23 ambulance company or corps; a fire department, district or company; or a
24 police department, (b) any of the following persons while in the
25 performance of their official duties: a police officer or peace officer;

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

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1 a member of a fire department, district or company; or the operator of
2 an authorized emergency vehicle as defined in section one hundred one of
3 this chapter, (c) the operator of a vehicle that is legally parked.

4 4. A person who holds a portable electronic device in a conspicuous
5 manner while operating a motor vehicle or while operating a commercial
6 motor vehicle on a public highway including while temporarily stationary
7 because of traffic, [a] stopped at a traffic light, stop sign, railroad
8 crossing or any other traffic control device, or other momentary delays
9 but not including when such commercial motor vehicle is stopped at the
10 side of, or off, a public highway in a location where such vehicle is
11 not otherwise prohibited from stopping by law, rule, regulation or any
12 lawful order or direction of a police officer is presumed to be using
13 such device, except that a person operating a commercial motor vehicle
14 while using a portable electronic device when such vehicle is stopped at
15 the side of, or off, a public highway in a location where such vehicle
16 is not otherwise prohibited from stopping by law, rule, regulation or
17 any lawful order or direction of a police officer shall not be presumed
18 to be using such device. The presumption established by this subdivision
19 is rebuttable by evidence tending to show that the operator was not
20 using the device within the meaning of this section.

21 6. (a) A violation of this section shall be a traffic infraction and
22 shall be punishable by a fine of not less than fifty dollars nor more
23 than two hundred dollars upon conviction of a first violation; upon
24 conviction of a second violation, both of which were committed within a
25 period of eighteen months, such violation shall be punished by a fine of
26 not less than fifty dollars nor more than two hundred fifty dollars;
27 upon conviction of a third or subsequent violation, all of which were
28 committed within a period of eighteen months, such violation shall be
29 punished by a fine of not less than fifty dollars nor more than four
30 hundred fifty dollars.

31 (b) Notwithstanding any other provision of this section, a violation
32 of this section that occurs when the operator is temporarily stationary
33 because of traffic, stopped at a traffic light, stop sign, railroad
34 crossing or another traffic control device shall be a traffic infraction
35 and shall be punishable by a fine of fifty dollars and one point against
36 such person's drivers license upon conviction of a first violation; upon
37 conviction of a second violation, both of which were committed within a
38 period of eighteen months, such violation shall be punished by a fine of
39 one hundred dollars and two points against such person's license; upon
40 conviction of a third or subsequent violation, all of which were commit-
41 ted within a period of eighteen months, such violation shall be punished
42 by a fine of one hundred fifty dollars and three points against such
43 person's drivers license.

44 § 3. This act shall take effect immediately.