STATE OF NEW YORK

3072

2023-2024 Regular Sessions

IN SENATE

January 27, 2023

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to prohibiting manufacturers and distributors from providing certain portable electronic devices for sale in this state; and to amend the vehicle and traffic law, in relation to eliminating the exemption granted to certain persons relating to the use of portable devices

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

Section 1. The general business law is amended by adding a new section 390-e to read as follows:

§ 390-e. Distribution of portable electronic devices. 1. For the purposes of this section, "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, portable computing device, or any other electronic device which can be used to input, write, send, receive, or read text for present or future communication.

2. On and after January first, two thousand twenty-six, no manufacturer or distributor shall provide for sale in this state any portable electronic device, unless the ability of such device to input, write, send, receive and read text, digital information and images when the holder of such device is operating a motor vehicle traveling at ten or more miles an hour.

3. Any manufacturer or distributor which violates the provisions of subdivision two of this section, and any person who sells a portable electronic device provided in violation of such subdivision shall be subject to a civil penalty of five hundred dollars for each device.

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

LBD07513-01-3

§ 2. Subdivisions 1, 3 and 4 of section 1225-d of the vehicle and traffic law, subdivision 1 as amended by section 6 and subdivision 4 as amended by section 10 of part C of chapter 58 of the laws of 2013, and subdivision 3 as added by chapter 403 of the laws of 2009, are amended to read as follows:

1. Except as otherwise provided in this section, no person shall operate a motor vehicle while using any portable electronic device while such vehicle is in motion; provided, however, that no person shall operate a commercial motor vehicle while using any portable electronic device on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. [~~Provided further, however, that a person shall not be deemed to be operating a commercial motor vehicle while using a portable electronic device on a public highway 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.~~]

3. Subdivision one of this section shall not apply to [~~(a)~~] the use of a portable electronic device for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital; a physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department[~~, (b) any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district or company; or the operator of an authorized emergency vehicle as defined in section one hundred one of this chapter~~].

4. A person who holds 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 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.

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