AN ACT to amend the vehicle and traffic law, in relation to restrictions on the operation of a motor vehicle while using a mobile telephone and to prohibit local governments from regulating the use of mobile telephones in motor vehicles and providing for the repeal of certain provisions upon expiration thereof

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

1. Section 1. The vehicle and traffic law is amended by adding a new section 1225-c to read as follows:

S 1225-C. USE OF MOBILE TELEPHONES. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL MEAN:

(A) "MOBILE TELEPHONE" SHALL MEAN THE DEVICE USED BY SUBSCRIBERS AND OTHER USERS OF WIRELESS TELEPHONE SERVICE TO ACCESS SUCH SERVICE.

(B) "WIRELESS TELEPHONE SERVICE" SHALL MEAN TWO-WAY REAL TIME VOICE TELECOMMUNICATIONS SERVICE THAT IS INTERCONNECTED TO A PUBLIC SWITCHED TELEPHONE NETWORK AND IS PROVIDED BY A COMMERCIAL MOBILE RADIO SERVICE, AS SUCH TERM IS DEFINED BY 47 C.F.R. § 20.3.

(C) "USING" SHALL MEAN HOLDING A MOBILE TELEPHONE TO, OR IN THE IMMEDIATE PROXIMITY OF, THE USER’S EAR.

(D) "HAND-HELD MOBILE TELEPHONE" SHALL MEAN A MOBILE TELEPHONE WITH WHICH A USER ENGAGES IN A CALL USING AT LEAST ONE HAND.

(E) "HANDS-FREE MOBILE TELEPHONE" SHALL MEAN A MOBILE TELEPHONE THAT HAS AN INTERNAL FEATURE OR FUNCTION, OR THAT IS EQUIPPED WITH AN ATTACH-
MENT OR ADDITION, WHETHER OR NOT PERMANENTLY PART OF SUCH MOBILE TELE-

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

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PHONE, BY WHICH A USER ENGAGES IN A CALL WITHOUT THE USE OF EITHER HAND,
WHETHER OR NOT THE USE OF EITHER HAND IS NECESSARY TO ACTIVATE, DEACTI-
VATE OR INITIATE A FUNCTION OF SUCH TELEPHONE.

(F) "ENGAGE IN A CALL" SHALL MEAN TALKING INTO OR LISTENING ON A
HAND-HELD MOBILE TELEPHONE, BUT SHALL NOT INCLUDE HOLDING A MOBILE TELE-
PHONE TO ACTIVATE, DEACTIVATE OR INITIATE A FUNCTION OF SUCH TELEPHONE.

(G) "IMMEDIATE PROXIMITY" SHALL MEAN THAT DISTANCE AS PERMITS THE
OPERATOR OF A MOBILE TELEPHONE TO HEAR TELECOMMUNICATIONS TRANSMITTED
OVER SUCH MOBILE TELEPHONE, BUT SHALL NOT REQUIRE PHYSICAL CONTACT WITH
SUCH OPERATOR’S EAR.

2. (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, NO PERSON SHALL
OPERATE A MOTOR VEHICLE UPON A PUBLIC HIGHWAY WHILE USING A MOBILE TELE-
PHONE TO ENGAGE IN A CALL WHILE SUCH VEHICLE IS IN MOTION.

(B) AN OPERATOR OF A MOTOR VEHICLE WHO HOLDS A MOBILE TELEPHONE TO, OR
IN THE IMMEDIATE PROXIMITY OF HIS OR HER EAR WHILE SUCH VEHICLE IS IN
MOTION IS PRESUMED TO BE ENGAGING IN A CALL WITHIN THE MEANING OF THIS
SECTION. THE PRESUMPTION ESTABLISHED BY THIS SUBDIVISION IS REBUTTABLE
BY EVIDENCE TENDING TO SHOW THAT THE OPERATOR WAS NOT ENGAGED IN A CALL.

(C) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED AS AUTHORIZ-
ING THE SEIZURE OR FORFEITURE OF A MOBILE TELEPHONE, UNLESS OTHERWISE
PROVIDED BY LAW.

3. SUBDIVISION TWO OF THIS SECTION SHALL NOT APPLY TO (A) THE USE OF A
MOBILE TELEPHONE FOR THE SOLE PURPOSE OF COMMUNICATING WITH ANY OF THE
FOLLOWING REGARDING AN EMERGENCY SITUATION: AN EMERGENCY RESPONSE OPER-
ATOR; A HOSPITAL, 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,
OR (C) THE USE OF A HANDS-FREE MOBILE TELEPHONE.

4. A VIOLATION OF SUBDIVISION TWO OF THIS SECTION SHALL BE A TRAFFIC
INFRACTION AND SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN ONE
HUNDRED DOLLARS.

S 2. Except as otherwise provided in section three of this act, no
municipal corporation, as defined in section 2 of the general municipal
law, shall, after May 8, 2001, enact any local law, ordinance or code
relating to the operation of a motor vehicle while using a mobile tele-
phone unless the terms of such law, ordinance or code are identical to
section 1225-c of the vehicle and traffic law, as added by section one
of this act. The provisions of this act shall invalidate and preempt any
such local law, ordinance or code, enacted after May 8, 2001 unless the
terms of such law, ordinance or code are identical to section 1225-c of
the vehicle and traffic law, as added by section one of this act.

S 3. The provisions of this act shall preempt any local law, ordi-
nance, code, rule or regulation relating to the operation of a motor
vehicle while using a mobile telephone, except that nothing in this act
shall preclude any state or local agency, which, by permit, license or
registration regulates the business or professional activities of indi-
viduals from imposing more stringent restrictions than provided in this
act for the use of mobile telephones upon such individuals during the
course of engaging in the business or professional activity that is the subject of such agency's permit, license or registration.

S 4. For the purpose of informing and educating persons who operate motor vehicles in this state, any law enforcement official authorized to issue appearance tickets pursuant to the vehicle and traffic law may, during the period commencing November 1, 2001 and ending November 30, 2001, stop motor vehicles and issue verbal warnings to persons who would be in violation of the provisions of section 1225-c of the vehicle and traffic law, as added by section one of this act, were the provisions thereof effective on the day such warning is issued.

S 5. The court shall waive any fine for which a person who violates the provisions of section 1225-c of the vehicle and traffic law, as added by section one of this act, would be liable if such person supplies the court with proof that, between the date on which he or she is charged with having violated such section and the appearance date for such violation, he or she possesses a hands-free mobile telephone as defined in paragraph (e) of subdivision 1 of section 1225-c of the vehicle and traffic law, as added by section 1 of this act; provided, however, that such waiver of fine shall not apply to a second or subsequent violation under such section.

S 6. The commissioner of motor vehicles, in consultation with the superintendent of the state police, shall study the effects of the use of mobile telephones and similar equipment in conjunction with the operation of a motor vehicle, and the effects of other forms of driver inattention and distraction, on highway and traffic safety, and shall submit a report of his or her findings to the governor, the majority leader of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly, and the chairs of the transportation committees of the senate and the assembly, not later than 4 years from the effective date of this act. Such report shall include, but not be limited to:

1. an examination of motor vehicle accident, fatality and injury statistics relating to the use of mobile telephones or similar equipment while operating a motor vehicle;
2. an examination of motor vehicle accident, fatality and injury statistics relating to other forms of driver inattention and distraction;
3. a review and analysis of studies examining the effects of the use of mobile telephones or similar equipment on highway and traffic safety;
4. a review and analysis of studies and statistics relating to other types of driver inattention and distraction which affect highway and traffic safety; and
5. recommendations for improving highway and traffic safety and reducing motor vehicle accidents, if any, related to driver inattention and distraction.

S 7. The commissioner of motor vehicles shall include in the department of motor vehicles' annual summary of motor vehicle accident statistics information relative to the types of driver inattention by the operator of a motor vehicle which contributed to, or were a factor in, such accidents.

S 8. This act shall take effect immediately, except that sections one, three and five of this act shall take effect December 1, 2001; section two shall expire and be deemed repealed December 1, 2001; section four of this act shall take effect November 1, 2001 and shall expire and be deemed repealed December 1, 2001; section five of this act shall expire and be deemed repealed March 1, 2002; and section seven shall take
effect December 31, 2003, provided, however, that effective immediately the commissioner of motor vehicles is hereby authorized and directed to promulgate rules and regulations necessary for the implementation of the provisions of section seven of this act.

Contact Webmaster

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