



BARBARA J. FIALA
Commissioner

STATE OF NEW YORK DEPARTMENT OF MOTOR VEHICLES

6 EMPIRE STATE PLAZA, ALBANY, NY 12228

“P” 13 (2011)

“M” 11 (2011)

Albany, New York

July 12 , 2011

TO: All Enforcement Agencies and Magistrates

SUBJECT: Chapter 109 of the Laws of 2011 – Primary Enforcement of Ban on Use of
Portable Electronic Devices While Driving

Effective July 12, 2011, Chapter 109 of the Laws of 2011 amends section 1225-d of the Vehicle and Traffic Law to enable primary enforcement of the prohibition against the use of portable electronic devices while driving.

Until now, the prohibition against the use of portable electronic devices (often referred to as simply “texting”) could only be enforced by “secondary” enforcement—i.e., a summons could only be issued if there were reasonable cause to believe the operator had also committed some other violation of law. Now, a summons can be issued even if the operator hasn’t committed any other violation of law. Use of a portable device while driving is still a traffic infraction punishable by a fine of not more than \$150 plus a mandatory surcharge of \$80 (\$85 in town and village courts).

A “portable electronic device” is defined as a hand-held mobile telephone, 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.

A driver is in violation of this law if he or she is “holding a portable electronic device while viewing, taking, or transmitting images, playing games, or composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving email, text messages, or other electronic data”.

It is not a violation of the law if the portable electronic device is used for the sole purpose of communicating with an emergency response coordinator, a hospital, a physician’s office or

health clinic, an ambulance company, a fire department or a police department. Police and peace officers, members of a fire company or the operator of an authorized emergency vehicle are exempt from this law if they use the device in the performance of their official duties.

A copy of Chapter 109 is attached for your reference. Please share this information with appropriate staff, including all road patrol enforcement officers. Thank you.

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Attachment

STATE OF NEW YORK

Chapter 109 of the Laws of 2011 July 12, 2011

AN ACT to amend the vehicle and traffic law, in relation to the use of portable electronic devices while driving

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

- 1 Section 1. Subdivision 4 of section 1225-d of the vehicle and traffic
2 law, as added by chapter 403 of the laws of 2009, is amended to read as
3 follows:
4 4. A person who holds a portable electronic device in a conspicuous
5 manner while operating a motor vehicle is presumed to be using such
6 device. The presumption established by this subdivision is rebuttable by
7 evidence [~~showing~~] **tending to show** that the operator was not using the
8 device within the meaning of this section.
9 § 2. Subdivision 6 of section 1225-d of the vehicle and traffic law,
10 as added by chapter 403 of the laws of 2009, is amended to read as
11 follows:
12 6. A violation of this section shall be a traffic infraction and shall
13 be punishable by a fine of not more than one hundred fifty dollars.
14 [~~Provided, however, that a summons for operating a motor vehicle in~~
15 ~~violation of this section shall only be issued when there is reasonable~~
16 ~~cause to believe that the person operating such motor vehicle has~~
17 ~~committed a violation of the laws of this state other than a violation~~
18 ~~of this section.~~]
19 § 3. This act shall take effect immediately.

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