

**HOUSE . . . . . No. 3237**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act further regulating junior operators and the use of certain communication devices while operating a motor vehicle..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Be it enacted by the Senate and House of Representatives in General Court assembled,  
2 and by the authority of the same, as follows:

3 SECTION 1. Section 1 of chapter 90 of the General Laws, as appearing in the 2008  
4 Official Edition, is hereby amended by adding the following definitions:-

5 “Mobile telephone”, a cellular, analog, wireless, satellite or digital telephone,  
6 including a telephone with two-way radio functionality, capable of sending or receiving  
7 telephone communications and with which a user initiates, terminates or engages in a call using  
8 at least one hand.

9 “Hands-free accessory”, an attachment, add-on, built-in feature or addition to a mobile  
10 telephone, whether or not permanently installed in a motor vehicle, that, when used, allows the  
11 operator of a motor vehicle to maintain both hands on the steering wheel at all times.

12           “Hands-free mobile telephone”, a hand-held mobile telephone that has an internal  
13 feature or function, or that is equipped with a hands-free accessory, whether or not permanently  
14 part of such hand-held mobile telephone, by which a user initiates, terminates and engages in a  
15 call without the use of either hand.

16           “Mobile electronic device”, any hand-held or other portable electronic equipment  
17 capable of providing data communication between two or more persons, including a text  
18 messaging device, a paging device, a personal digital assistant, a laptop computer, equipment  
19 that is capable of playing a video game or digital video disk, or equipment on which digital  
20 photographs are taken or transmitted, or any combination thereof, or equipment that is capable of  
21 visually receiving a television broadcast, but shall not include any audio equipment or any  
22 equipment installed in a motor vehicle for the purpose of providing navigation or emergency  
23 assistance to the operator of such motor vehicle or video entertainment to the passengers in the  
24 rear seats of such motor vehicle.

25           SECTION 2. Section 8 of said chapter 90, as so appearing, is hereby amended by  
26 inserting after the sixth paragraph the following two paragraphs:-

27           No person under 18 years of age shall use a mobile telephone, a hands-free mobile  
28 telephone or a mobile electronic device while operating a motor vehicle on any public way. A  
29 junior operator who holds a mobile telephone, a hands-free mobile telephone or a mobile  
30 electronic device while operating a vehicle shall be presumed to be using said telephone or  
31 device under this section. This presumption may be rebuttable by evidence tending to show that  
32 the junior operator was not using said telephone or device. For the purposes of this paragraph, a

33 junior operator shall not be considered to be operating a motor vehicle if the vehicle is stationary  
34 and not located in a part of the roadway intended for travel.

35           A junior operator who violates the preceding paragraph shall be punished by a fine of  
36 \$100 and shall have his license or permit suspended for 60 days for a first offense, by a fine of  
37 \$250 and shall have his license or permit suspended for 180 days for a second offense, and by a  
38 fine of \$500 and shall have his license or permit suspended for 1 year for a third or subsequent  
39 offense. It shall be an affirmative defense for a junior operator to produce documentary or other  
40 evidence that the use of a mobile telephone that is the basis of the alleged violation was made for  
41 emergency purposes, including, but not limited to, an emergency call to a law enforcement  
42 agency, health care provider, fire department or other emergency services agency or entity.