

HOUSE No. 3354

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act further regulating 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 SECTION 1. Section 1 of chapter 90 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by adding the following definitions:-

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

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

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

13 hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a
14 telephone call.

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

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

26 No person under 18 years of age shall use a mobile telephone, a hands-free mobile
27 telephone or a mobile electronic device while operating a motor vehicle on any public way. For
28 the purposes of this paragraph, a junior operator shall not be considered to be operating a motor
29 vehicle if the vehicle is stationary and not located in a part of the roadway intended for travel.

30 A junior operator who violates the preceding paragraph shall be punished by a fine of
31 \$100 and shall have his license or permit suspended for 60 days for a first offense, by a fine of
32 \$250 and shall have his license or permit suspended for 180 days for a second offense, and by a
33 fine of \$500 and shall have his license or permit suspended for 1 year for a third or subsequent
34 offense. It shall be an affirmative defense for a junior operator to produce documentary or other

35 evidence that the use of a mobile telephone that is the basis of the alleged violation was made for
36 emergency purposes, including, but not limited to, an emergency call to a law enforcement
37 agency, health care provider, fire department or other emergency services agency or entity.

38 SECTION 3. Section 13 of said chapter 90, as so appearing, is hereby amended by
39 striking out, in line 6, the words “or mobile telephone” and inserting in place thereof the
40 following words:-- or amateur radio.

41 SECTION 4. Said section 13 of said chapter 90, as so appearing, is hereby further
42 amended by striking out the fifth sentence, in lines 25 to 29 inclusive.

43 SECTION 5. Said chapter 90, as so appearing, is hereby amended by inserting after
44 section 24X the following section:-

45 Section 24Y. No person shall operate a motor vehicle on a public way while using a
46 mobile electronic device or a mobile telephone, unless said telephone is a hands-free mobile
47 telephone. For the purposes of this section, an operator shall not be considered to be operating a
48 motor vehicle if the vehicle is stationary and not located in a part of the roadway intended for
49 travel.

50 A violation of this section shall be punishable by a fine of \$100 for a first offense, by a
51 fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense. It shall
52 be an affirmative defense for an operator to produce documentary or other evidence that the use
53 of a mobile telephone that is the basis of the alleged violation was made for emergency purposes,
54 including, but not limited to, an emergency call to a law enforcement agency, health care
55 provider, fire department or other emergency services agency or entity.

56 This section shall not apply to the following persons operating motor vehicles in the
57 execution of their duties: (1) the driver of a fire-fighting vehicle; (2) the driver
58 of a rescue vehicle or an ambulance; or (3) a state, county, or local public safety
59 official, if operating the vehicle with due regard to the safety of others.

60 A violation of the seventh paragraph of section 8 and this section shall not be considered
61 a surchargeable motor vehicle offense pursuant to section 113B of chapter 175.

62 SECTION 6. The last paragraph of section 24Y of chapter 90 of the General Laws shall
63 become inoperative on July 1, 2010.

64 SECTION 7. The registrar of motor vehicles, in cooperation with the governor's highway
65 safety bureau, shall develop and implement a public awareness campaign for both junior and
66 adult drivers which shall include, but not be limited to, information on the restrictions of mobile
67 telephone and mobile electronic device use while operating a motor vehicle under section 8 and
68 section 24Y of chapter 90 of the General Laws, information on the fines and punishments which
69 may be imposed for violations of said chapter 90, and for adult drivers, information on the types
70 of hands-free accessories or hands-free mobile telephones permitted for use while operating a
71 motor vehicle. Said campaign shall commence no later than September 1, 2009.