

HOUSE No. 4460

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to distracted driving..

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 2008
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 mobile telephone”, a hand-held mobile telephone that has an internal feature
8 or function, or that is equipped with a hands-free accessory, whether or not permanently part of
9 such hand-held mobile telephone, by which a user engages in a call without the use of either
10 hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a
11 telephone call.

12 “Mobile electronic device”, any hand-held or other portable electronic equipment capable
13 of providing data communication between two or more persons, including a text messaging

14 device, a paging device, a personal digital assistant, a laptop computer, equipment that is capable
15 of playing a video game or digital video disk, or equipment on which digital photographs are
16 taken or transmitted, or any combination thereof, or equipment that is capable of visually
17 receiving a television broadcast, but shall not include any audio equipment or any equipment
18 installed in a motor vehicle for the purpose of providing navigation or emergency assistance to
19 the operator of such motor vehicle or video entertainment to the passengers in the rear seats of
20 such motor vehicle.

21 “Electronic message”, a self-contained piece of digital communication that is designed or
22 intended to be transmitted between mobile electronic devices. “Electronic message” includes, but
23 is not limited to electronic mail, a text message, an instant message, a command or request to
24 access an internet site, or any message that includes a keystroke entry sent between mobile
25 electronic devices.

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

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

32 A junior operator who violates the preceding paragraph shall be punished by a fine of
33 \$100 and shall have his license or permit suspended for 180 days for a first offense, by a fine of
34 \$250 and shall have his license or permit suspended for 1 year days for a second offense, and by
35 a fine of \$500 and shall have his license or permit suspended for 1 year for a third or subsequent

36 offense. It shall be an affirmative defense for a junior operator to produce documentary or other
37 evidence that the use of a mobile telephone that is the basis of the alleged violation was made for
38 emergency purposes, including, but not limited to, an emergency call to a law enforcement
39 agency, health care provider, fire department or other emergency services agency or entity.

40 SECTION 3. Section 13 of said chapter 90, as appearing in the 2008 Official Edition, is
41 hereby amended by striking out, in line 6, the words “or mobile telephone”.

42 SECTION 4 Chapter 90 of the General Laws is hereby amended by inserting after section
43 12 the following section:-Section 12A. a) No operator of a vehicle or vessel used in public
44 transportation, including a train, passenger bus, school bus or other vehicle used to transport
45 pupils, taxi, passenger ferry boat, water shuttle or other equipment used in public transportation
46 owned by, or operated under the authority of the Massachusetts Bay Transportation Authority,
47 the Woods Hole, Martha's Vineyard & Nantucket Steamship Authority, Massachusetts Port
48 Authority, or state transportation department, shall use a mobile telephone, hands-free mobile
49 telephone or other mobile electronic device while operating such vehicle or vessel. Whoever
50 violates this section shall be punished by a fine of \$500. A violation of the preceding sentence
51 shall be a moving violation for purposes of the safe driver insurance plan under section 113B of
52 chapter 175.

53 b) This section shall not apply to the following persons operating motor vehicles in the
54 execution of their duties: (1) the driver of a fire-fighting vehicle; (2) the driver
55 of a rescue vehicle or an ambulance; or (3) a state, county, or local public safety
56 official, if operating the vehicle with due regard to the safety of others.c) It shall be an
57 affirmative defense for an operator under this section to produce documentary or other evidence

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

61 SECTION 5. Chapter 90 of the General Laws is hereby amended by inserting after
62 section 13A the following section:-Section 13B. a) No operator of a motor vehicle shall use a
63 mobile telephone, mobile electronic device, or other device capable of accessing the internet to
64 compose, send, or read an electronic message while operating such vehicle. For the purposes of
65 this section, an operator shall not be considered to be operating a motor vehicle if the vehicle is
66 stationary and not located in a part of the roadway intended for travel.

67 b) A violation of this section shall be punishable by a fine of \$100 for a first offense, by
68 a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense. It
69 shall be an affirmative defense for an operator to produce documentary or other evidence that the
70 use of a mobile telephone or other mobile electronic device that is the basis of the alleged
71 violation was made for emergency purposes, including, but not limited to, an emergency call to a
72 law enforcement agency, health care provider, fire department or other emergency services
73 agency or entity.

74 c) A violation of this section shall be considered a moving violation for purposes of the
75 safe driver insurance plan under section 113B of chapter 175.

76 d) In addition to any other provision or penalty of law, whoever violates this section or
77 section 12a and is found to be in an at-fault accident as a proximate result of using a mobile
78 telephone or mobile electronic device for electronic messaging while operating a moving motor
79 vehicle shall be considered to have operated the motor vehicle in a reckless manner and shall be

80 subject to the provisions and penalties in subsections (2a) of section 24 of chapter 90 of the
81 General Laws.

82 SECTION 6. The registrar of motor vehicles, in cooperation with the governor's highway
83 safety bureau, shall develop and implement a public awareness campaign for both junior and
84 adult drivers which shall include, but not be limited to, the dangers and consequences of
85 distracted driving, information on the restrictions of mobile telephone and mobile electronic
86 device use while operating a motor vehicle under section 8 and section 13B of chapter 90 of the
87 General Laws, and information on the fines and punishments which may be imposed for
88 violations of said chapter 90. Said campaign shall commence no later than July 1, 2010.