

HOUSE No. 4475

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to safe 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 inserting after the definition of “Department” the
3 following definition:-

4 “Electronic message”, a self-contained piece of digital communication that is designed or
5 intended to be transmitted between mobile electronic devices; provided, however, that the term
6 electronic message shall include, but not be limited to, electronic mail, a text message, an instant
7 message, a command or request to access an internet site or any message that includes a
8 keystroke entry sent between mobile electronic devices.

9 SECTION 2. Said section 1 of said chapter 90, as so appearing, is hereby further
10 amended by inserting after the definition of “Gross vehicle weight rating” the following
11 definition:-

12 “Hands-free mobile telephone”, a hand-held mobile telephone that has an internal feature
13 or function, or that is equipped with a hands-free accessory, whether or not permanently part of

14 such hand-held mobile telephone, by which a user engages in a call without the use of either
15 hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a
16 telephone call.

17 SECTION 3. Said section 1 of said chapter 90, as so appearing, is hereby further
18 amended by inserting after the definition of “Mobile construction crane” the following 2
19 definitions:-

20 “Mobile electronic device”, any hand-held or portable electronic equipment capable of
21 providing data communication between 2 or more persons including, without limitation, a mobile
22 telephone, a text messaging device, a paging device, a personal digital assistant, a laptop
23 computer, electronic equipment that is capable of playing a video game or digital video disk or
24 equipment on which digital photographs are taken or transmitted, or any combination thereof, or
25 equipment that is capable of visually receiving a television broadcast; provided, however, that
26 mobile electronic device shall not include any audio equipment or any equipment installed or
27 affixed, either temporarily or permanently, in a motor vehicle for the purpose of providing
28 navigation or emergency assistance to the operator of such motor vehicle or video entertainment
29 to the passengers in the rear seats of such motor vehicle.

30 “Mobile telephone”, a cellular, analog, wireless, satellite or digital telephone, including a
31 mobile telephone with two-way radio functionality, capable of sending or receiving telephone
32 communications and with which a user initiates, terminates or engages in a call using at least 1
33 hand.

34 SECTION 4. Section 8 of said chapter 90, as so appearing, is hereby amended by
35 inserting after the sixth paragraph the following 2 paragraphs:-

36 No person holding a junior operator's license shall use a mobile telephone, a hands-free
37 mobile telephone or a mobile electronic device while operating a motor vehicle. For the purposes
38 of this paragraph, a junior operator shall not be considered to be operating a motor vehicle if the
39 vehicle is stationary and not located in a part of the roadway intended for travel.

40 A junior operator who violates the preceding paragraph shall have his license or permit
41 suspended for 7 days for a first offense, for 30 days for a second offense, and for 90 days, for a
42 third or subsequent offense. The registrar shall impose a \$100 reinstatement fee for a first
43 offense, and \$500 for a second or subsequent offense upon a junior operator who seeks to have
44 his license reinstated following a suspension under this paragraph. A junior operator whose
45 license is suspended pursuant to this paragraph shall not be eligible for license reinstatement
46 until he also completes a program selected by the registrar that encourages attitudinal changes in
47 young drivers who have committed a violation of the motor vehicle laws and until he
48 successfully completes or enrolls in a program to complete a driving test as required by the
49 registrar. In addition to any reinstatement fee, there shall be a surcharge of \$50, assessed against
50 a person who seeks to have his license reinstated following a revocation or suspension under this
51 paragraph. The first \$25 of each surcharge shall be transferred by the registrar of motor vehicles
52 to the state treasurer for deposit into the Spinal Cord Injury Trust Fund. The remaining amount
53 shall be transferred by the registrar to the state treasurer for deposit in the General Fund. It shall
54 be an affirmative defense for a junior operator to produce documentary or other evidence that the
55 use of a mobile telephone, hands-free mobile telephone or mobile electronic device that is the
56 basis of the alleged violation was made for emergency purposes, including, but not limited to, an
57 emergency call to a law enforcement agency, health care provider, fire department or other
58 emergency services agency or entity or parent, or guardian.

59 SECTION 5. The fourteenth paragraph of said section 8 of said chapter 90, as so
60 appearing, is hereby amended by adding the following sentence:- An applicant for the renewal of
61 a license 75 years of age or older shall apply for a renewal in person at a registry branch office.

62 SECTION 6. Said section 8 of said chapter 90, as so appearing, is hereby further
63 amended by adding the following paragraph:-

64 An applicant for a license or renewal thereof appearing in person at a registry branch
65 shall take and pass a vision test administered by the registry; provided, however, that except as
66 required by the registrar in regulations, said applicant may provide a vision screening certificate,
67 signed by an optometrist or ophthalmologist to demonstrate compliance with the minimum visual
68 standards to obtain and hold a license.

69 SECTION 7. Said chapter 90 is hereby further amended by inserting after section 8C the
70 following section:-

71 Section 8C½. (a) For the purposes of this section the following word shall, unless the
72 context clearly requires otherwise, have the following meaning:-

73 “Health care provider”, a physician, psychologist, optometrist, ophthalmologist,
74 osteopath, chiropractor, podiatrist, registered nurse or physician assistant licensed in accordance
75 with chapter 112 or otherwise authorized or permitted by law to administer health care in the
76 commonwealth.

77 (b) A health care provider may report to the registrar every patient 16 years of age or
78 older who has a cognitive or functional impairment that the health care provider reasonably
79 believes will affect that person’s ability to safely operate a motor vehicle. Determinations

80 regarding a person's ability to safely operate a motor vehicle shall not be based solely on the
81 diagnosis of a medical condition or cognitive or functional impairment, but shall be based on the
82 actual effect of that condition or impairment on the person's ability to safely operate a motor
83 vehicle.

84 (c) The commissioner of public health shall, in consultation with the registrar and with
85 experts on cognitive or functional impairments, with medical experts and with the medical
86 advisory board established pursuant to section 8C, promulgate regulations designating the
87 cognitive or functional impairments that are likely to affect a person's ability to safely operate a
88 motor vehicle.

89 (d) A report made by a health care provider pursuant to subsection (b) shall be upon a
90 form prescribed or provided by the registrar. Each report shall include the person's name,
91 address, date of birth, sex and a description of how the person's current medical status affects the
92 person's ability to safely operate a motor vehicle. The registrar shall consider this information in
93 determining whether to issue or suspend a license to operate a motor vehicle.

94 (e) If a health care provider makes a report pursuant to this section to the registrar in good
95 faith, that person shall be immune from civil liability that might otherwise result from making
96 the report. If a health care provider does not make a report, that person shall be immune from
97 civil liability that might otherwise result from not making the report.

98 (f) Reports filed under this section shall be confidential and shall be used by the registrar
99 only to determine the qualifications of a person to operate a motor vehicle; provided, however,
100 that a person who is the subject of a report filed under this section shall have access to that report
101 upon written request.

102 SECTION 8. Said chapter 90 is hereby further amended by inserting after section 12 the
103 following section:-

104 Section 12A. (a) No operator of a vehicle or vessel used while transporting passengers
105 for a fee or for hire, including a train, passenger bus, passenger van, car, taxi, or paratransit
106 vehicle, passenger ferry boat, water shuttle or other equipment owned by, or operated under the
107 authority of the Massachusetts Bay Transportation Authority, a regional transit authority
108 established in chapter 161B, the Woods Hole, Martha's Vineyard & Nantucket steamship
109 authority, Massachusetts Port Authority, the Massachusetts Department of Transportation or by a
110 privately-owned transportation company, nor an operator of a school bus or other vehicle used to
111 transport pupils shall use a mobile telephone, hands-free mobile telephone or other mobile
112 electronic device while operating such vehicle or vessel; provided, however, that this section
113 shall not apply to the operator of a public safety vehicle utilizing a mobile telephone, hands-free
114 mobile telephone or other mobile electronic device in the performance of his official duties.

115 (b) Whoever violates this section shall be punished by a fine of \$500. A violation of this
116 section shall be a moving violation for purposes of the safe driver insurance plan under section
117 113B of chapter 175.

118 (d) It shall be an affirmative defense for an operator under this section to produce
119 documentary or other evidence that the use of a mobile telephone, hands-free mobile telephone
120 or other mobile electronic device that is the basis of the alleged violation was made for
121 emergency purposes, including, but not limited to, an emergency call to a law enforcement
122 agency, health care provider, fire department or other emergency services agency or entity.

123 SECTION 9. Section 13 of said chapter 90, as appearing in the 2008 Official Edition, is
124 hereby amended by striking out, in line 6, the first time it appears, the word “as” and inserting in
125 place thereof the following words:- , except as provided for in sections 8, 12A and 13B, as.

126 SECTION 10. Said chapter 90 is hereby further amended by inserting after section 13A
127 the following section:-

128 Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device or a
129 mobile telephone, unless said telephone is a hands-free mobile telephone. No operator of a
130 motor vehicle shall use a mobile telephone, mobile electronic device or other device capable of
131 accessing the internet to compose, send or read an electronic message while operating such
132 vehicle; provided, however, that this section shall not apply to the operator of a public safety
133 vehicle utilizing a mobile telephone, hands-free mobile telephone or other mobile electronic
134 device in the performance of his official duties. For the purposes of this section, an operator shall
135 not be considered to be operating a motor vehicle if the vehicle is stationary and not located in a
136 part of the roadway intended for travel.

137 (b) Whoever violates this section shall be punished by a fine of \$100 for a first offense,
138 by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense. A
139 violation of this section may be considered a moving violation for purposes of the safe driver
140 insurance plan under section 113B of chapter 175.

141 (d) It shall be an affirmative defense for an operator to produce documentary or other
142 evidence that the use of a mobile telephone or other mobile electronic device that is the basis of
143 the alleged violation was made for emergency purposes including, but not limited to, an

144 emergency call to a law enforcement agency, health care provider, fire department or other
145 emergency services agency or entity.

146 SECTION 11. Section 24 of chapter 90, as so appearing, is hereby amended by inserting
147 after the words “motor vehicle”, in line 730, the following words:- or whoever while operating a
148 motor vehicle in violation of section 12A or section 13B, such violation proved beyond a
149 reasonable doubt, is the proximate cause of injury to any other person, vehicle or property by
150 operating said motor vehicle negligently so that the lives or safety of the public might be
151 endangered.

152 SECTION 12. The registrar of motor vehicles, in cooperation with the highway safety
153 division, shall develop and implement a public awareness campaign for both junior and adult
154 drivers which shall include, but not be limited to, the dangers and consequences of distracted
155 driving, information on the restrictions of mobile telephone and mobile electronic device use
156 while operating a motor vehicle pursuant to sections 8, 12A and 13B and information on the
157 fines and punishments which may be imposed for violations of said sections 8, 12A and 13B.
158 The campaign shall commence no later than July 1, 2010.

159 SECTION 13. The second sentence of subsection (b) of section 12A of chapter 90 of the
160 General Laws, inserted by section 8, and the second sentence of subsection (b) of section 13B of
161 said chapter 90, inserted by section 10, shall take effect on September 1, 2010.