

**SENATE . . . . . No. 1906**

---

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the Year Two Thousand Nine**  
\_\_\_\_\_

An Act relative to hands free cell phone devices..

*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 8 of Chapter 90 of the General Laws, as appearing in the 2004  
2 Official Edition, is hereby amended by adding at the end, the following:-

3 No person shall operate a motor vehicle on a public way:

4 (1) while holding a mobile telephone in one or both hands or with any part of the body;

5 or

6 (2) while using or operating a mobile telephone, unless the telephone is

7 a. affixed to the vehicle or part of a fixture in the vehicle and remains so affixed while  
8 being operated

9 b. operated as headgear, in accordance with the recommended use of the product by  
10 the manufacturer; or

11 c. a hands free, so called, device

12 This section shall not apply to the driver of:

- 13           (1) a fire-fighting vehicle
- 14           (2) a rescue vehicle
- 15           (3) an ambulance; or
- 16           (4) a state, county, or local public safety official operating a motor vehicle in the course
- 17 of her duties

18           A violation of this section shall be punishable by a fine of \$50. A second offense shall be

19 punishable by a fine of \$100. Each subsequent offense shall be punishable by a fine of not more

20 than \$250.

21           It shall be an affirmative defense to a violation of this section, to produce documentary or

22 other evidence that the telephone call that is the bases of the alleged violation was made for the

23 sole purpose of seeking emergency assistance.

24           A violation of this paragraph shall not be considered as a conviction of a moving

25 violation of motor vehicle laws for the purpose of determining surcharges on motor vehicle

26 premiums pursuant to section 113B of Chapter 175.

27           No insurance company doing business in the commonwealth shall deny an individual the

28 right to purchase a motor vehicle liability policy based on a violation of this section.