

**SENATE . . . . . No. 1984**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act prohibiting 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 8 of chapter 90 of the General Laws, as appearing in the 2000  
2 Official Edition, is hereby amended by inserting after the third paragraph the following  
3 paragraph:— A person holding a junior operator’s license shall not use a mobile telephone while  
4 driving. For the purposes of this section, a “mobile telephone” shall include, but not be limited  
5 to, a mobile telephone utilizing cellular, analog, satellite, wireless or digital telephone  
6 technology, and capable of sending or receiving telephone communications. A violation of this  
7 section shall be punishable by a suspension of a junior operator’s license for not more than 1  
8 year and fine of not more than \$100. It shall be an affirmative defense for a junior operator to  
9 produce documentary or other evidence that the telephone call that is the basis of the alleged  
10 violation was made for the sole purpose of seeking emergency assistance. A violation of this  
11 paragraph shall not be considered as a conviction of a moving violation of the motor vehicle laws  
12 for the purpose of determining surcharges on motor vehicle premiums pursuant to section 113 of  
13 chapter 175. An insurance company doing business in the commonwealth shall not deny an

14 individual the right to purchase a motor vehicle liability policy based on a violation of this  
15 paragraph.

16 SECTION 2. Said chapter 90 is hereby amended by inserting after section 24P, as so  
17 appearing, the following section:— Section 24Q. (a) For the purposes of this section, a “mobile  
18 tele- phone” shall include, but not be limited to, a mobile telephone utilizing cellular, analog,  
19 satellite, wireless or digital telephone technology, and capable of sending or receiving telephone  
20 communications.(b) A person shall not operate a motor vehicle on a public way:(1) while  
21 holding a mobile telephone in one or both hands or with any other part of the body; or(2) while  
22 using or operating a mobile telephone, unless the a mobile telephone is affixed to the vehicle or  
23 is part of a fixture in the vehicle and remains so affixed while being used or operated, or is  
24 specially adapted or designed to be affixed to the driver as headgear and is so used, to enable the  
25 driver to use or operate the mobile telephone without holding it in the manner contemplated in  
26 clause (1), and remains so affixed while being used or operated.(c) This section shall not apply to  
27 the following persons operating motor vehicles in the execution of their duties:(1) the driver of a  
28 fire-fighting vehicle;(2) the driver of a rescue vehicle or an ambulance; or(3) a state, county, or  
29 local public safety official, if operating the vehicle with due regard to the safety of others.(d) A  
30 violation of this section shall be punishable by a fine of not more than \$250. A second and  
31 subsequent violation shall be punished by a fine of not more than \$500.(e) It shall be an  
32 affirmative defense for an operator to produce documentary or other evidence that the phone call  
33 that represents the alleged violation was made or received for the sole purpose of seeking  
34 emergency assistance.(f) A violation of this section shall not be considered as a conviction of a  
35 moving violation of the motor vehicle laws for the purpose of determining surcharges on motor  
36 vehicle premiums pursuant to section 113 of chapter 175. An insurance company doing business

37 in the commonwealth shall not deny an individual the right to purchase a motor vehicle liability  
38 policy based on a violation of this section.

39 SECTION 3. Chapter 166 of the General Laws is hereby amended by adding the  
40 following section:- Section 45. As a condition of being licensed as a wireless carrier in the  
41 commonwealth, a wireless carrier shall agree to provide to the Executive Office of Public Safety  
42 information relative to any new wireless technology which may be available to consumers in the  
43 commonwealth on a yearly basis.

44 SECTION 4. The executive office of public safety shall initiate a public service  
45 announcement and public awareness campaign on the proper use of a mobile telephone while  
46 operating a motor vehicle. The campaign may be financed, in part, by wireless carriers operating  
47 in the commonwealth.