

**SENATE . . . . . No. 1732**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Cynthia S. Creem*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to hands free cell phone devices.

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PETITION OF:

NAME:

*Cynthia S. Creem*

DISTRICT/ADDRESS:

**SENATE . . . . . No. 1732**

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 1732) of Cynthia S. Creem for legislation relative to hands free cell phone devices. Transportation.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1906 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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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 13B of Chapter 90 of the General Laws, as appearing in  
2 the 2008 Official Edition, is hereby amended by adding at the end, the following new section:-

3                   Section 13C:- (a) No individual shall operate a motor vehicle on a public way  
4 while using a mobile telephone unless the telephone is affixed to the vehicle, part of a fixture in  
5 the vehicle, operated as headgear, or a hands free device.

6                   This section shall not apply to the driver of a fire-fighting vehicle, a rescue  
7 vehicle, an ambulance; or a state, county, or local public safety official operating a motor vehicle  
8 in the course of her duties.

9 (b) A violation of this section shall be punishable by a fine of \$50. A second  
10 offense shall be punishable by a fine of \$100. Each subsequent offense shall be punishable by a  
11 fine of not more than \$250.

12 (c) It shall be an affirmative defense for an operator under this section to  
13 produce evidence that the use of a mobile telephone that is the basis of the alleged violation was  
14 in the case of an emergency. For the purpose of this paragraph, an emergency shall mean that the  
15 operator needed to communicate with another to report any of the following: (1) that the vehicle  
16 or vessel was disabled; (2) that medical attention or assistance was required on the vehicle or  
17 vessel; (3) that police intervention, fire department or other emergency services was necessary  
18 for the personal safety of a passenger or to otherwise ensure the safety of the passengers; or (4)  
19 that a disabled vehicle or an accident was present on a roadway.

20 (d) A penalty under this section shall not be a surchargeable offense under  
21 section 113B of chapter 175