

**SENATE . . . . . No. 1908**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Cynthia Stone Creem***

*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.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>John C. Velis</i>	<i>4th Hampden</i>	<i>1/18/2017</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/30/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/3/2017</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>4/14/2017</i>

**SENATE . . . . . No. 1908**

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 1908) of Cynthia S. Creem, John C. Velis, Jonathan Hecht and Joan B. Lovely for legislation relative to hands free cell phone devices. Transportation.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1815 OF 2015-2016.]

**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
\_\_\_\_\_

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 13 of said chapter 90 of the General Laws, as appearing in the 2014  
2 Official Edition, is hereby amended by inserting after the word “or”, in line 6, the following  
3 word:- hands-free.

4           SECTION 2. Said chapter 90 is hereby amended by striking out section 13B and inserting  
5 in place thereof the following section:-

6           Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device,  
7 unless the person is using the device in a hands-free mode, and shall not touch or hold the mobile  
8 electronic device while operating a motor vehicle except to activate, deactivate, or initiate a  
9 feature or function. No operator of a motor vehicle shall use a mobile electronic device or other

10 device capable of accessing the internet to compose, send or read an electronic message or to  
11 input information by hand into a global positioning system or navigation device while operating  
12 such vehicle. An operator of a motor vehicle who holds a mobile electronic device to, or in the  
13 immediate proximity of the operator's head while operating such vehicle shall be presumed to be  
14 in violation of this section. For the purposes of this section, an operator shall not be considered to  
15 be operating a motor vehicle if the vehicle is stationary and not located in a part of the roadway  
16 intended for travel.

17 (b) Whoever violates this section shall be punished by a fine of \$100 for a first offense,  
18 by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense.

19 (c) It shall be an affirmative defense for an operator to produce documentary or other  
20 evidence that the use of a mobile electronic device that is the basis of the alleged violation was  
21 made for emergency purposes. For the purpose of this section, "emergency purposes" shall mean  
22 that the operator used the mobile electronic device to communicate with another person to report:  
23 (i) that the motor vehicle was disabled; (ii) that medical attention or assistance was required; (iii)  
24 that police intervention, fire department or other emergency service was necessary for the  
25 personal safety of the operator or a passenger; or (iv) that a disabled vehicle or an accident was  
26 present in the roadway.

27 (d) A penalty under this section shall not be a surchargeable offense under section 113B  
28 of chapter 175.