

**SENATE . . . . . No. 1962**

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The Commonwealth of Massachusetts

PRESENTED BY:

***Mark C. Montigny***

*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 to prevent driver distraction and motor vehicle fatalities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>James R. Miceli</i>	<i>19th Middlesex</i>	<i>1/29/2017</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>1/31/2017</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>3/13/2017</i>

**SENATE . . . . . No. 1962**

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By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1962) of Mark C. Montigny, James R. Miceli and Steven S. Howitt for legislation to prevent driver distraction and motor vehicle fatalities. Transportation.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2110 OF 2015-2016.]

The Commonwealth of Massachusetts

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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An Act to prevent driver distraction and motor vehicle fatalities.

*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 2014  
2 Official Edition, is hereby amended by inserting after the definition of “Hands-free mobile  
3 telephone” the following definition:-

4           “Hands-free mode”, operation of a mobile electronic device that has an internal feature or  
5 function or that is equipped with an attachment or addition, whether or not permanently a part of  
6 the mobile electronic device, by which a user engages in a voice communication without the use  
7 of either hand; provided, however, that it may be necessary to perform a single tap or swipe to  
8 activate, deactivate or initiate the hands-free feature.

9 SECTION 2. Section 7B of said chapter 90, as so appearing, is hereby amended by  
10 striking out, in line 172, the word “telephone” and inserting in place thereof the following  
11 words:- electronic device.

12 SECTION 3. Said chapter 90 is hereby amended by striking out section 13B and inserting  
13 in place thereof the following section:-

14 Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device,  
15 unless the person is using the device in a hands-free mode, and shall not touch or hold in either  
16 hand the mobile electronic device while operating a motor vehicle except if it is necessary to  
17 perform a single tap or swipe to activate, deactivate or initiate a voice communication. No  
18 operator of a motor vehicle shall use a mobile electronic device or other device capable of  
19 accessing the internet to compose, send or read an electronic message, to access social media, to  
20 use any camera functions including video calls, to review or input any information on a mobile  
21 electronic device or to manually input information into a global positioning system or navigation  
22 device while operating a vehicle, except if it is necessary to perform a single tap or swipe to  
23 activate, deactivate or initiate a voice command to the global positioning system or navigation  
24 device. An operator of a motor vehicle who holds a mobile electronic device to or in the  
25 immediate proximity of the operator’s head while operating a motor vehicle shall be presumed to  
26 be in violation of this section. For the purposes of this section, an operator shall not be  
27 considered to be operating a motor vehicle if the vehicle is stationary and not located in any part  
28 of a roadway intended for travel by a motor vehicle or bicycle.

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

31 third or subsequent violation of this section shall be considered a moving violation for purposes  
32 of the safe driver insurance plan under section 113B of chapter 175

33 (c) It shall be an affirmative defense for an operator to produce documentary or other  
34 evidence that the use of a mobile electronic device that is the basis of the alleged violation was  
35 made for emergency purposes and no other person in the vehicle was capable of using a mobile  
36 electronic device. For the purpose of this section, “emergency purposes” shall mean that the  
37 operator used the mobile electronic device for voice communication with another person to  
38 report: (i) that the motor vehicle was disabled; (ii) that medical attention or assistance was  
39 required; (iii) that police intervention, fire department or other emergency service was necessary  
40 for the personal safety of the operator or a passenger; (iv) that a disabled vehicle or an accident  
41 was present in the roadway; (v) that police intervention, fire department or other emergency  
42 service was necessary for the personal safety of a pedestrian in or near the roadway; or (vi) that  
43 police intervention was necessary due to a motor vehicle being operated erratically so as to pose  
44 a threat to the safety of travelers on the roadway or to pedestrians.