

# SENATE . . . . . No. 2092

---

## The Commonwealth of Massachusetts

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

SENATE, June 22, 2017

The committee on Rules to whom was referred the Senate Bill to prevent driver distraction and motor vehicle fatalities (Senate, No. 2058),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title,- reports the accompanying bill (Senate, No. 2092).

For the committee,  
Mark C. Montigny

# SENATE . . . . . No. 2092

---

## The Commonwealth of Massachusetts

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

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 2016  
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 or receives  
7   audio without the use of either hand; provided, however, that a mobile electronic device may  
8   require a single tap or swipe to 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 section 7B of said chapter 90, as so appearing, is hereby further  
13   amended by striking out, in lines 177 and 178, the words "intervention is necessary for the

personal safety of a passenger or to otherwise ensure the safety of the passengers; and (d)" and inserting in place thereof the following words:- or fire department intervention or some other emergency service is necessary for the safety of the operator or to otherwise ensure the safety of the passengers; (d) that police or fire department intervention or some other emergency service is necessary for the safety of a pedestrian in or near the roadway; (e) that police department intervention is necessary due to a motor vehicle being operated in a manner that poses a threat to the safety of travelers on the roadway or to pedestrians; or (f).

SECTION 4. Section 8M of said chapter 90, as so appearing, is hereby amended by inserting after the word "travel", in line 6, the following words:- by a motor vehicle or bicycle

SECTION 5. Said section 8M of said chapter 90, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

A junior operator who violates the preceding paragraph shall be subject to the penalties provided in section 13B of chapter 90. In addition, for a first offense, the junior operator's license or permit shall be suspended for 60 days and shall not be eligible for license or permit reinstatement until the junior operator completes a program selected by the registrar that encourages attitudinal changes in young drivers, for a second offense, the junior operator's license or permit shall be suspended for 180 days and for a third or subsequent offense the junior operator's license or permit shall be suspended for 1 year.

SECTION 6. Said section 8M of said chapter 90, as so appearing, is hereby further amended by inserting after the word "purposes", in line 19, the following words:- and no other

35 person in the vehicle was capable of using a mobile telephone, hands free-mobile telephone or  
36 mobile electronic device.

37 SECTION 7. Said section 8M of said chapter 90, as so appearing, is hereby further  
38 amended by striking out, in lines 26 and 27, “or (iv) ” and inserting in place thereof the following  
39 words:- (iv) that a disabled vehicle or an accident was present in the public way; (v) that police  
40 or fire department intervention or some other emergency service was necessary for the safety of  
41 a pedestrian in or near the roadway; or (vi) that police department intervention was necessary  
42 due to a motor vehicle being operated in a manner that posed a threat to the safety of travelers on  
43 the roadway or to pedestrians.

44 SECTION 8. Said section 8M of said chapter 90, as so appearing, is hereby further  
45 amended by striking out the fourth paragraph.

46 SECTION 9. Section 12A of said chapter 90, as so appearing, is hereby amended by  
47 striking out, in lines 23 and 24, the words “not be a moving violation for purposes of the safe  
48 driver insurance plan” and inserting in place thereof the following words:- be a surchargeable  
49 incident.

50 SECTION 10. Said section 12A of said chapter 90, as so appearing, is hereby further  
51 amended by inserting after the figure “175”, in line 25, the following words:- or under a motor  
52 vehicle liability policy as defined in section 34A that is issued pursuant to said chapter 175.

53 SECTION 11. Said section 12A of said chapter 90, as so appearing, is hereby further  
54 amended by striking out, in line 35, “or (4)” and inserting in place thereof the following words:-  
55 (4) that police department intervention is necessary due to a motor vehicle being operated in a  
56 manner that poses a threat to the safety of travelers on the roadway or to pedestrians; or (5).

SECTION 12. Section 13 of said chapter 90, as so appearing, is hereby amended by striking out, in line 6, the words “mobile telephone” and inserting in place thereof the following words:- mobile electronic device in hands-free mode.

SECTION 13. Said section 13 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 7, the words “as long as” and inserting in place thereof the following words:- if the operator can do so without diverting attention from the roadway and.

SECTION 14. Said chapter 90 is hereby further amended by striking out section 13B, as so appearing, and inserting in place thereof the following section:-

Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device while operating a vehicle unless the person is using the device in hands-free mode. No operator of a motor vehicle shall touch or hold in either hand a mobile electronic device while operating a motor vehicle except to perform a single tap or swipe to activate, deactivate or initiate hands-free mode. No operator of a motor vehicle shall use a mobile electronic device or other device capable of accessing the internet to compose, send or read an electronic message; to access social media; to use camera functions, including video calls; to review or input information on a mobile electronic device; or to manually input information into a global positioning system or navigation device while operating a vehicle. Nothing in this section shall prohibit the use of a display which enhances the operator’s view to maneuver the vehicle or to perform a single tap or swipe to activate, deactivate or initiate a voice command to a global positioning system or navigation device. An operator of a motor vehicle who holds a mobile electronic device to or in the immediate proximity of the operator’s head while operating a motor vehicle shall be presumed to be in violation of this section. For the purposes of this section, an operator shall not

79 be considered to be operating a motor vehicle if the vehicle is stationary and not located in part  
80 of a roadway intended for travel by a motor vehicle or bicycle.

81 (b) Whoever violates this section or section 8M shall be punished by a fine of \$100 for a  
82 first offense, by a fine of \$250 for a second offense and by a fine of \$500 for a third or  
83 subsequent offense. A third or subsequent violation of this section or of said section 8M shall be  
84 a surchargeable incident under section 113B of chapter 175 or under a motor vehicle liability  
85 policy as defined by section 34A that is issued pursuant to said chapter 175.

86 (c) Documentary or other evidence that the use of a mobile electronic device was for  
87 emergency purposes and that no other person in the vehicle was capable of using a mobile  
88 electronic device shall be an affirmative defense to an alleged violation of this section. For the  
89 purposes of this section, “emergency purposes” shall mean that the operator used the mobile  
90 electronic device for voice communication with another person to report: (i) that the motor  
91 vehicle was disabled; (ii) that medical attention or assistance was required; (iii) that police or fire  
92 department intervention or some other emergency service was necessary for the safety of the  
93 operator or to otherwise ensure the safety of the passengers; (iv) that a disabled vehicle or an  
94 accident was present in the roadway; (v) that police or fire department intervention or some other  
95 emergency service was necessary for the safety of a pedestrian in or near the roadway; or (vi)  
96 that police intervention was necessary due to a motor vehicle being operated in a manner that  
97 poses a threat to the safety of travelers on the roadway or to pedestrians.

98 SECTION 15. The registry of motor vehicles may promulgate regulations to implement  
99 section 13B of chapter 90 of the General Laws and to further define “mobile electronic device”  
100 under section 1 of said chapter 90.