

SENATE No. 2103

Senate June 29, 2017, – Text of the Senate Bill to prevent driver distraction and motor vehicle fatalities (being the text of Senate document number 2092, printed as amended)

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. Chapter 6 of the General Laws is hereby amended by inserting after section
2 15BBBBBB, inserted by chapter 274 of the acts of 2016, the following 2 sections:-

3 Section 15 CCCCCC. The governor shall annually issue a proclamation setting apart the
4 second week of March as Massachusetts Sleep Awareness Week and the Sunday at the beginning
5 of daylight savings time as Massachusetts Sleep Awareness Day and recommending that the
6 week be properly observed as a period of special attention to the problems of sleep deprivation
7 and fatigue including, but not limited to: (i) impaired reaction time, judgment and vision; (ii)
8 problems with information processing and short-term memory; (iii) decreased performance,
9 vigilance and motivation; (iv) increased moodiness and aggressive behaviors; and (v) especially,
10 the dangers of driving under the influence of sleep deprivation or fatigue. To this end, the
11 agencies of the commonwealth and private organizations, especially those interested in
12 education, transportation, public health and public safety, shall adopt policies and programs
13 consistent with the goals of: (1) increasing public awareness about sleep, sleep disorders and

14 consequences of sleep deprivation; (2) promoting science-based public policies that improve the
15 sleep health of the nation; (3) advancing basic, clinical, applied and population-based research;
16 and (4) promoting recognition of and access to care for individuals with sleep disorders.

17 Section 15 DDDDDDD. The governor shall annually issue a proclamation setting apart the
18 second week of November as Massachusetts Drowsy Driving Prevention Week and
19 recommending that the week be properly observed as a period of special attention to the need for
20 public awareness and action relative to the problems of drowsy driving and driver fatigue. For
21 purposes of this section “drowsy driving” or “driver fatigue” shall mean driving while being
22 sleepy, tired, drowsy or exhausted.

23 SECTION 2. Section 1 of chapter 90 of the General Laws, as appearing in the 2016
24 Official Edition, is hereby amended by inserting after the definition of “Hands-free mobile
25 telephone” the following definition:-

26 “Hands-free mode”, operation of a mobile electronic device that has an internal feature or
27 function or that is equipped with an attachment or addition, whether or not permanently a part of
28 the mobile electronic device, by which a user engages in a voice communication or receives
29 audio without the use of either hand; provided, however, that a mobile electronic device may
30 require a single tap or swipe to activate, deactivate or initiate the hands-free mode feature if the
31 device can be used without diverting the operator’s attention from the roadway.

32 SECTION 3. Section 7B of said chapter 90, as so appearing, is hereby amended by
33 striking out, in line 172, the word “telephone” and inserting in place thereof the following
34 words:- electronic device.

35 SECTION 4. Said section 7B of said chapter 90, as so appearing, is hereby further
36 amended by striking out, in lines 177 and 178, the words "intervention is necessary for the
37 personal safety of a passenger or to otherwise ensure the safety of the passengers; and (d)" and
38 inserting in place thereof the following words:- or fire department intervention or some other
39 emergency service is necessary for the safety of the operator or to otherwise ensure the safety of
40 the passengers; (d) that police or fire department intervention or some other emergency service is
41 necessary for the safety of a pedestrian in or near the roadway; (e) that police department
42 intervention is necessary due to a motor vehicle being operated in a manner that poses a threat to
43 the safety of travelers on the roadway or to pedestrians; or (f).

44 SECTION 5. Section 8M of said chapter 90, as so appearing, is hereby amended by
45 inserting after the word "travel", in line 6, the following words:- by a motor vehicle or bicycle

46 SECTION 6. Said section 8M of said chapter 90, as so appearing, is hereby further
47 amended by striking out the second paragraph and inserting in place thereof the following
48 paragraph:-

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

56 SECTION 7. Said section 8M of said chapter 90, as so appearing, is hereby further
57 amended by inserting after the word “purposes”, in line 19, the following words:- and no other
58 person in the vehicle was capable of using a mobile telephone, hands free-mobile telephone or
59 mobile electronic device.

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

67 SECTION 9. Said section 8M of said chapter 90, as so appearing, is hereby further
68 amended by striking out the fourth paragraph.

69 SECTION 10. Section 12A of said chapter 90, as so appearing, is hereby amended by
70 striking out, in lines 23 and 24, the words “not be a moving violation for purposes of the safe
71 driver insurance plan” and inserting in place thereof the following words:- be a surchargeable
72 incident for violations occurring on a way intended for motor vehicles.

73 SECTION 11. Said section 12A of said chapter 90, as so appearing, is hereby further
74 amended by inserting after the figure “175”, in line 25, the following words:- or under a motor
75 vehicle liability policy as defined in section 34A that is issued pursuant to said chapter 175.

76 SECTION 12. Said section 12A of said chapter 90, as so appearing, is hereby further
77 amended by striking out, in line 35, “or (4)” and inserting in place thereof the following words:-

78 (4) that police department intervention is necessary due to a motor vehicle being operated in a
79 manner that poses a threat to the safety of travelers on the roadway or to pedestrians; or (5).

80 SECTION 13. Section 13 of said chapter 90, as so appearing, is hereby amended by
81 striking out, in line 3, the word “may” and inserting in place thereof the following words:- is
82 likely to.

83 SECTION 14. Said section 13 of said chapter 90, as so appearing, is hereby further
84 amended by striking out, in line 4, the word “operator” and inserting in place thereof the
85 following word:- operated.

86 SECTION 15. Said section 13 of said chapter 90, as so appearing, is hereby further
87 amended by striking out, in line 6, the words “mobile telephone” and inserting in place thereof
88 the following words:- mobile electronic device in hands-free mode.

89 SECTION 16. Said chapter 90 is hereby further amended by striking out section 13B, as
90 so appearing, and inserting in place thereof the following section:-

91 Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device
92 while operating a vehicle unless the person is using the device in hands-free mode. No operator
93 of a motor vehicle shall touch or hold in either hand a mobile electronic device while operating a
94 motor vehicle except to perform a single tap or swipe to activate, deactivate or initiate hands-free
95 mode. No operator of a motor vehicle shall use a mobile electronic device or other device
96 capable of accessing the internet to: (i) compose, send or read an electronic message; (ii) access
97 social media; (iii) use camera functions, including video calls; (iv) watch videos not intended for
98 navigation purposes; (v) review or input information on a mobile electronic device; or (vi)
99 manually input information into a global positioning system or navigation device while operating

100 a vehicle. Nothing in this section shall prohibit the use of a display which enhances the
101 operator's view to maneuver the vehicle or to perform a single tap or swipe to activate,
102 deactivate or initiate a command to a global positioning system or navigation device or function..
103 An operator of a motor vehicle who holds a mobile electronic device to or in the immediate
104 proximity of the operator's head or in the operator's hand on the operator's lap while operating a
105 motor vehicle shall be presumed to be in violation of this section. For the purposes of this
106 section, an operator shall not be considered to be operating a motor vehicle if the vehicle is
107 stationary and not located in part of a roadway intended for travel by a motor vehicle or bicycle.

108 (b) Whoever violates this section or section 8M shall be punished by a fine of \$100 for a
109 first offense, by a fine of \$250 for a second offense and by a fine of \$500 for a third or
110 subsequent offense within 6 years. A third or subsequent violation of this section or of said
111 section 8M shall be a surchargeable incident under section 113B of chapter 175 or under a motor
112 vehicle liability policy as defined by section 34A that is issued pursuant to said chapter 175. In
113 addition to fines pursuant to this subsection, an operator who commits a second or third or
114 subsequent offense under this section shall be required to complete a program selected by the
115 registrar of motor vehicles that encourages a change in driver behavior and attitude about
116 distracted driving. This subsection shall not be construed as authorizing the seizure or forfeiture
117 of a hand-held mobile telephone or a mobile electronic device.

118 (c) Documentary or other evidence that the use of a mobile electronic device was for
119 emergency purposes and that no other person in the vehicle was capable of using a mobile
120 electronic device shall be an affirmative defense to an alleged violation of this section. For the
121 purposes of this section, "emergency purposes" shall mean that the operator used the mobile
122 electronic device for voice communication with another person to report: (i) that the motor

123 vehicle was disabled; (ii) that medical attention or assistance was required; (iii) that police or fire
124 department intervention or some other emergency service was necessary for the safety of the
125 operator or to otherwise ensure the safety of the passengers; (iv) that a disabled vehicle or an
126 accident was present in the roadway; (v) that police or fire department intervention or some other
127 emergency service was necessary for the safety of a pedestrian in or near the roadway; or (vi)
128 that police intervention was necessary due to a motor vehicle being operated in a manner that
129 poses a threat to the safety of travelers on the roadway or to pedestrians.

130 (d) This section shall not apply to public safety personnel or emergency first responders
131 using a mobile electronic device while operating an emergency services vehicle and engaged in
132 the performance of their duties as emergency services personnel.

133 SECTION 17. Chapter 155 of the acts of 2010, is hereby amended by striking out section
134 14 and inserting in place thereof the following section:-

135 Section 14. The registrar of motor vehicles, in cooperation with the highway safety
136 division, the department of elementary and secondary education, the department of higher
137 education and municipal law enforcement shall develop and implement an annual public
138 awareness campaign for junior and adult operators which shall include, but not be limited to, the
139 dangers and consequences of distracted driving, information on the restrictions of mobile
140 telephone and mobile electronic device use while operating a motor vehicle under sections 8M,
141 12A, 13 and 13B of chapter 90 of the General Laws, information on the fines and punishments
142 which may be imposed for violations of said chapter 90 and bicycle safety. The registrar of
143 motor vehicles shall include information on the hazards of distracted driving in each revised
144 publication of the driver's manual.

145 SECTION 18. Notwithstanding any general or special law to the contrary, the division of
146 insurance shall conduct a study on the feasibility of reducing the amount of time unsafe driver
147 points remain on a driver's record. The report and any recommendations shall be submitted to
148 the clerks of the senate and the house of representatives, the joint committee on transportation
149 and the senate and house committees on ways and means by not later than December 31, 2017.

150 SECTION 19. The registry of motor vehicles may promulgate regulations to implement
151 section 13B of chapter 90 of the General Laws and to further define "mobile electronic device"
152 under section 1 of said chapter 90.

153 SECTION 20. Each entity authorized to enforce the laws of the commonwealth shall
154 collect and submit to the executive office of public safety and security the following statistical
155 data for each stop made and citation issued under chapter 90 of the General Laws: (i) reason for
156 the stop; (ii) date, time, duration and street address or approximate location of the stop; (iii) race,
157 ethnicity, gender, approximate age of the driver and whether the driver has limited English
158 proficiency based on the officer's observation and perception; (iv) whether investigatory action
159 was initiated, including a search of a vehicle or the vehicle operator or passengers, and if the
160 search was conducted with the consent of the operator or passengers; (v) the results of any
161 investigatory action; (vi) whether the stop or subsequent search resulted in a warning, citation,
162 arrest or other subsequent action; and (vii) the badge number of the officer initiating the stop.

163 The executive office of public safety and security shall: (1) develop and distribute a form for law
164 enforcement agencies to facilitate data collection under this section; (2) submit annual reports,
165 excluding the officer badge number, of the statewide data to the joint committee on the judiciary,
166 the joint committee on public safety and homeland security and the senate and house committees
167 on ways and means; and (3) make such data available to the public online, in machine-readable

168 format. Not less than annually, a police department shall review each officer's stop and search
169 data, review the entire department's stop and search data, examine and analyze racial or other
170 disparities and formulate and implement an appropriate response. Future electronic systems
171 developed for data collection by law enforcement shall be designed to collect the data described
172 in this section and automatically transmit that data to the executive office of public safety and
173 security. The failure of an officer to collect such data shall not affect the validity of the
174 underlying stop.