

SENATE No. 2198

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

SENATE, April 11, 2019

The committee on Transportation, to whom was referred the petitions (accompanied by bill, Senate, No. 2057) of Cynthia Stone Creem, William N. Brownsberger, Jason M. Lewis, Cindy F. Friedman and other members of the General Court for legislation relative to hands free cell phone devices; and (accompanied by bill, Senate, No. 2120) of Mark C. Montigny, William N. Brownsberger, Christina A. Minicucci, Smitty Pignatelli and other members of the General Court for legislation to prevent driver distraction and motor vehicle fatalities,- reports the accompanying bill (Senate, No. 2198).

For the committee,
Joseph A. Boncore

SENATE No. 2198

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

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 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 mode 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.

SECTION 3. Section 13 of said chapter 90 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word “or”, in line 6, the following word:- hands-free.

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

Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device, unless the person is using the device in a hands-free mode, and shall not touch or hold the mobile electronic device while operating a motor vehicle except to activate, deactivate, or initiate a feature or function. 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 or to input information by hand into a global positioning system or navigation device while operating such vehicle. 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 such vehicle shall be presumed to be in violation of this section. For the purposes of this section, an operator shall not be considered to be operating a motor vehicle if the vehicle is stationary and not located in a part of the roadway intended for travel by a motor vehicle or bicycle.

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

(c) It shall be an affirmative defense for an operator to produce documentary or other evidence that the use of a mobile electronic device that is the basis of the alleged violation was made for emergency purposes. For the purpose of this section, “emergency purposes” shall mean that the operator used the mobile electronic device to communicate with another person to report:

34 (i) that the motor vehicle was disabled; (ii) that medical attention or assistance was required; (iii)
35 that police intervention, fire department or other emergency service was necessary for the
36 personal safety of the operator or a passenger; or (iv) that a disabled vehicle or an accident was
37 present in the roadway.

38 (d) A third or subsequent violation of this section or of said section 8M shall be a
39 surchargeable incident under section 113B of chapter 175 or under a motor vehicle liability
40 policy as defined by section 34A that is issued pursuant to said chapter 175.