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SENATE . . . . . No. 2245

Senate, June 7, 2019 – Text of the Senate Bill preventing distracted driving (being the text of Senate document number 2216, printed as amended)

The Commonwealth of Massachusetts

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

An Act preventing distracted driving.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

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

"Hands-free mode", operation of a mobile electronic device by which a user engages in a voice communication or receives audio without the use of the user's hand; provided, however, that a mobile electronic device may require a single tap or swipe to activate, deactivate or initiate the hands-free mode feature.

SECTION 2. Said section 1 of said chapter 90 is hereby further amended by inserting after the word "vehicle", in line 239, as so appearing, the following words:- ; provided further, that the registry of motor vehicles may promulgate regulations to further define "mobile electronic device".

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

SECTION 4. Said section 7B of said chapter 90, as so appearing, is hereby further 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, a passenger or a pedestrian in or near the roadway; (d) that police 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 (e).

SECTION 5. 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 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 that no other person in the vehicle was capable of using a mobile telephone, hands free-mobile telephone or mobile electronic device.

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

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

A third or subsequent offense under this section shall be a surchargeable incident under section 113B of chapter 175 or under a motor vehicle liability policy as defined in section 34A that is issued pursuant to said chapter 175.

SECTION 9. Section 12A of said chapter 90, as so appearing, is hereby amended by striking out, in lines 23 to 25 inclusive, the words “not be a moving violation for purposes of the safe driver insurance plan under section 113B of chapter 175” and inserting in place thereof the following words:- be a surchargeable incident for a violation occurring on a way intended for motor vehicles under section 113B of chapter 175 or under a motor vehicle liability policy as defined in section 34A that is issued pursuant to said chapter 175.

SECTION 10. Said section 12A of said chapter 90, as so appearing, is hereby further amended by striking out, in line 35, the words “or (4)” and inserting in place thereof the following words:- (4) 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 (5).

SECTION 11. Section 13 of said chapter 90 is hereby amended by striking out, in line 3, as so appearing, the word “may” and inserting in place thereof the following words:- is likely to.

SECTION 12. Said section 13 of said chapter 90 is hereby further amended by striking out, in line 4, as so appearing, the word “operator” and inserting in place thereof the following word:- operated.

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

SECTION 14. Said section 13 of said chapter 90 is hereby further amended by striking out, in line 7, as so appearing, 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 15. Said section 13 of said chapter 90 is hereby further amended by inserting after the word “vehicle”, in line 31, the following sentence:- , nor shall a person view video content on a mobile electronic device while operating a motor vehicle.

SECTION 16. 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) For the purposes of this section, “emergency purposes” shall mean that the operator used the mobile electronic device for voice communication with another person to report, with a reasonable belief, that: (i) the motor vehicle was disabled; (ii) medical attention or assistance was required; (iii) police or fire department intervention or some other emergency service was necessary for the safety of the operator, a passenger or a pedestrian in or near the roadway; (iv) a disabled vehicle or an accident was present in the roadway; or (v) police intervention was 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.

(b) An operator of a motor vehicle shall not touch or hold in the operator’s hand a mobile electronic device or use a mobile electronic device to compose, send or read an electronic

message while operating a vehicle except to perform a single tap or swipe to activate, deactivate or initiate hands-free mode or a command to a global positioning system or navigation device.

Nothing in this section shall prohibit the use of an installed system embedded in the vehicle that enhances the operator's view to maneuver the vehicle. 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 part of a roadway intended for travel by a motor vehicle or bicycle.

(c) A violation of this section shall be punishable by a fine of $100 for a first offense, a fine of $250 for a second offense and a fine of $500 for a subsequent offense. A third or subsequent violation of this section or of section 8M shall be a surchargeable incident under section 113B of chapter 175 or under a motor vehicle liability policy as defined by section 34A issued pursuant to said chapter 175. In addition to any fines pursuant to this subsection, an operator who commits a second or subsequent offense under this section shall be required to complete a program selected by the registrar of motor vehicles that encourages a change in driver behavior and attitude about distracted driving. Nothing in this subsection shall authorize the seizure or forfeiture of a hands-free mobile telephone or a mobile electronic device.

(d) Documentary or other evidence that the use of a mobile electronic device was for emergency purposes and that no other person in the vehicle was capable of using a mobile electronic device shall be an affirmative defense to an alleged violation of this section.

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

(f) The registry of motor vehicles may promulgate regulations to implement this section.

SECTION 17. Said chapter 90 is hereby further amended by adding the following section:-

Section 63. Every law enforcement agency shall, for each stop made by a law enforcement officer of the agency pursuant to this chapter, collect and submit to the executive office of public safety and security: (i) the reason for the stop; (ii) the date, time and street address or approximate location of the stop; (iii) the perceived race and ethnicity of the driver subject to the stop; (iv) the gender and age of the driver subject to the stop; (v) whether a search was initiated, including a search of a vehicle or the vehicle operator or passengers and, if a search was initiated, whether the search was conducted with the consent of the operator or passengers; (vi) the results of any search; (vii) whether the stop or subsequent search resulted in a warning, citation, arrest or other action; and (viii) the badge number of the officer initiating the stop.

The secretary of public safety and security shall ensure a standardized process to facilitate data collection for law enforcement agencies and procedures for law enforcement officials to collect such data under this section. The failure of a law enforcement officer to collect such data shall not affect the validity of the underlying stop.

Annually, not later than March 1, the secretary shall collect, analyze and submit a report of the statewide data collected pursuant to this section, excluding officer badge numbers, to the joint committee on the judiciary, the joint committee on public safety and homeland security and the senate and house committees on ways and means. The secretary shall make the data collected under the first paragraph available to the public online in machine-readable format, excluding any personally identifiable information.

The secretary of public safety and security shall promulgate regulations to implement this section.

SECTION 18. Chapter 155 of the acts of 2010 is hereby amended by striking out section 14 and inserting in place thereof the following section:-

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

SECTION 19. Notwithstanding any general or special law to the contrary, the division of insurance shall conduct a study on the impact of reducing the amount of time unsafe driver points remain on a driver’s record. The report and any recommendations shall be submitted to the clerks of the senate and house of representatives, the joint committee on transportation and the senate and house committees on ways and means not later than December 31, 2019.