

SENATE No. 7

The Commonwealth of Massachusetts



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January 22, 2019

To the Honorable Senate and House of Representatives,

Because road safety is a serious problem that affects everyone in the Commonwealth and while current laws have done much to make our roads safer, we can—and must—do more. For this reason, I am filing for your consideration the enclosed bill, “An Act Relative to Improving Safety on the Roads of the Commonwealth.”

This bill adopts a number of recommendations included in the recently-completed Strategic Highway Safety Plan, as well as other changes addressing new mobility options never contemplated in our existing statutes.

This bill recognizes that even after the enactment of anti-texting legislation, distracted driving remains a major contributor to highway deaths. To address this, this bill would have Massachusetts join 16 other states—including all of our neighboring New England states—in requiring hands-free use of electronic devices while driving.

Another significant factor in automobile deaths is the failure to wear a seatbelt and Massachusetts ranks last in the nation in seatbelt use. By providing for primary enforcement of our seatbelt law, this bill will address this serious concern and should result in increased seatbelt use. While I believe this is essential to road safety, I am aware of concerns that such a law could be misused or misapplied and look forward to working together to address those concerns.

We have also seen a recent spike in crashes in roadway work zones—a troubling trend that has killed 14 road workers since 2009. This legislation would grant MassDOT additional

tools to ensure the safety of the men and women who build and repair our roadways, including setting up temporary speed limits in work zones and doubling the fine for speeding in these zones.

Ignition interlocks have been a valuable tool in the fight against repeat drunk driving. This bill corrects what we believe to be two inconsistencies in the law: first by allowing first-time offenders who apply for hardship licenses to be placed into the ignition interlock program like second and subsequent offenders; and also by clarifying the registry's ability to penalize those who attempt to drive drunk, even with an interlock device.

The roads must also be safe for all users – motorists, bicyclists, pedestrians – and to that end this legislation includes new provisions of law requiring state-owned heavy trucks, and state- and municipally-contracted vehicles to be equipped with convex and cross-over mirrors, and sideguards to protect pedestrians, bicyclists, and motorcyclists from being caught under a truck and run over by its rear wheels. These provisions follow provisions already in place in Boston and Cambridge, and in other jurisdictions across the country.

Finally, the explosion of new mobility options has thrown into stark relief the difficulty of legislating for every eventuality. Micromobility options like bike share programs and electric scooter programs provide a valuable “last mile” solution that complements our existing transit system. Our recent Commission on the Future of Transportation in the Commonwealth has rightly noted that these options are with us to stay, and properly integrating them into our transportation system will be a critical step in addressing future mobility. However, without a statutory framework for these new devices, especially electric scooters, cities and towns have been unable to move forward with allowing their use. To encourage their safe adoption, we are proposing to treat electric scooters as we do bicycles as a first step and to establish an advisory group to recommend more permanent policies.

I know that we share the same commitment to making our roadways safer for all users. The attached proposal will move Massachusetts forward in several important areas of road safety, with the goal of reducing roadway fatalities and injuries across the Commonwealth. I urge your prompt enactment of these important recommendations.

Respectfully submitted,

Charles D. Baker,
Governor

SENATE No. 7

Senate, January 24, 2019 -- Message from His Excellency the Governor recommending legislation relative to improving safety on the roads of the Commonwealth

The Commonwealth of Massachusetts

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

An Act relative to improving safety on the roads of the Commonwealth.

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 amended by section 33 of
2 chapter 154 of the acts of 2018, is hereby amended by inserting after the definition of “Bus or
3 motor bus” the following 2 definitions:-

4 “Convex mirrors”, door-mounted, wide-angle mirrors that enable an operator to see
5 objects along the left and right sides of a motor vehicle, trailer, semi-trailer or semi-trailer unit.

6 “Cross-over mirrors”, mirrors mounted on a hood or fender that enable the operator to see
7 objects in the area immediately in front of a conventional cab hood.

8 SECTION 2. Said section 1 of chapter 90 of the General Laws, as so amended, is hereby
9 further amended by inserting after the definition of “Department” the following definition:-

10 "Electric Scooter", a device that shall not be operated at a speed in excess of 20 miles per
11 hour without human propulsion. The operation of electric scooters shall be subject to section 11B

12 of chapter 85; provided, however, notwithstanding section 11B, paragraph 2(i) of chapter 85, a
13 seat shall not be required on an electric scooter.

14 SECTION 3. Said section 1 of chapter 90 of the General Laws, as so amended, is hereby
15 further amended by inserting after the definition of “Hands-free mobile telephone” the following
16 definition:-

17 “Hands-free mode”, operation of a mobile electronic device by which a user engages in a
18 voice communication or receives audio without the use of either hand; provided, however, that a
19 mobile electronic device may require a single tap or swipe to activate, deactivate or initiate the
20 hands-free mode feature if the device can be used without diverting the operator’s attention from
21 the roadway.

22 SECTION 4. Said section 1 of chapter 90, as so amended, is hereby further amended by
23 inserting after the definition of “Killed in action” the following definition:-

24 “Lateral protective device”, an apparatus installed on a motor vehicle, trailer, semi-trailer
25 or semi-trailer unit between the front and rear wheels to help prevent injuries to a vulnerable
26 user, particularly from falling underneath the vehicle.

27 SECTION 5. Said section 1 of chapter 90 of the General Laws, as so amended, is hereby
28 further amended by inserting in the definition of “motorized scooter” after the word
29 “motorcycle” the following words:- electric scooters,.

30 SECTION 6. Said section 1 of chapter 90 of the General Laws, as so amended, is hereby
31 further amended by inserting in the definition of “motor vehicles” after the word “bicycle”, in
32 line 14, the following:-electric scooters.

33 SECTION 7. Section 7 of said chapter 90 of the General Laws, as appearing in the 2016
34 Official Edition, is hereby amended by inserting after the third paragraph the following
35 paragraph:-

36 A class 3 or above motor vehicle, trailer, semi-trailer or semi-trailer unit, as classified by
37 the Federal Highway Administration, with a gross vehicle weight rating of more than 10,000
38 pounds, shall be equipped with a lateral protective device, convex mirrors and cross-over mirrors
39 if it is purchased or leased by the commonwealth. This paragraph shall not apply to an
40 ambulance, fire apparatus, low-speed vehicle, agricultural tractor, vehicles used exclusively for
41 snow and ice removal or any other class or type of vehicle as determined by the registrar. The
42 registrar shall adopt regulations establishing standards, consistent with the United States
43 Department of Transportation's Volpe side guard standard DOT-VNTSC-OSTR38 16-05, and
44 specifications for the size, design and mounting of lateral protective devices, convex mirrors and
45 cross-over mirrors. The registrar may provide for exemptions consistent with this provision and
46 alternative means of compliance with the convex mirror and cross-over mirror requirement,
47 including use of cameras and sensors, and said regulations may provide alternative means of
48 compliance for the lateral protective devices requirement.

49 SECTION 8. The fourth paragraph of said section 7 of said chapter 90 of the General
50 Laws, as inserted by section 6 of this act, is hereby amended by inserting after the word
51 "commonwealth", in the first sentence, the following:- or operated under a contract with the
52 commonwealth or municipality.

53 SECTION 9. The fourth paragraph of said section 7 of said chapter 90 of the General
54 Laws, as inserted by said section 6 of this act, is hereby further amended by adding the following

55 sentence:- A contractor's failure to comply with this paragraph may be grounds for termination
56 of the contract and may be punished by a fine of not more than \$500 for the first offense and not
57 more than \$1,000 for a second or subsequent offense.

58 SECTION 10. Section 7B of said chapter 90 of the General Laws, as appearing in the
59 2016 Official Edition, is hereby amended by striking out, in line 172, the word "telephone" and
60 inserting in place thereof the following words:- electronic device.

61 SECTION 11. Said section 7B of chapter 90, as so appearing, is hereby further amended
62 by striking out, in lines 177 and 178, the words "intervention is necessary for the personal safety
63 of a passenger or to otherwise ensure the safety of the passengers; and (d)" and inserting in place
64 thereof the following:- or fire department intervention or some other emergency service is
65 necessary for the safety of the operator or to otherwise ensure the safety of the passengers; (d)
66 that police or fire department intervention or some other emergency service is necessary for the
67 safety of a pedestrian in or near the roadway; (e) that police department intervention is necessary
68 due to a motor vehicle being operated in a manner that poses a threat to the safety of travelers on
69 the roadway or to pedestrians; or (f).

70 SECTION 12. Section 8M of chapter 90, as appearing in the 2016 Official Edition, is
71 hereby amended by inserting after the word "travel", in line 6, the following words:- by a motor
72 vehicle or bicycle.

73 SECTION 13. Said section 8M of chapter 90, as so appearing, is hereby further amended
74 by inserting after the word "purposes", in line 19, the following words:- and no other person in
75 the vehicle was capable of using a mobile telephone, hands free-mobile telephone or mobile
76 electronic device.

77 SECTION 14. Said section 8M of chapter 90, as so appearing, is hereby further amended
78 by striking out, in lines 26 and 27, the words “or (iv) that a disabled vehicle or an accident was
79 present in the public way” and inserting in place thereof the following:- (iv) that a disabled
80 vehicle or an accident was present in the public way; (v) that police or fire department
81 intervention or some other emergency service was necessary for the safety of a pedestrian in or
82 near the roadway; or (vi) that police department intervention was necessary due to a motor
83 vehicle being operated in a manner that posed a threat to the safety of travelers on the roadway or
84 to pedestrians.

85 SECTION 15. Said section 8M of chapter 90, as so appearing, is hereby further amended
86 by striking out the fourth paragraph.

87 SECTION 16. Section 12A of chapter 90 of the General Laws, as appearing in the 2016
88 Official Edition, is hereby amended by striking out, in lines 23 and 24, the words “not be a
89 moving violation for purposes of the safe driver insurance plan” and inserting in place thereof
90 the following:- be a surchargeable incident for violations occurring on a way intended for motor
91 vehicles under section 113B of chapter 175 or under a motor vehicle liability policy as defined in
92 section 34A that is issued pursuant to said chapter 175.

93 SECTION 17. Said section 12A of chapter 90, as so appearing, is hereby further amended
94 by striking out, in line 35, the words “or (4)” and inserting in place thereof the following:- (4)
95 that police department intervention is necessary due to a motor vehicle being operated in a
96 manner that posed a threat to the safety of travelers on the roadway or to pedestrians; or (5).

97 SECTION 18. Section 13 of said chapter 90 of the General Laws, as amended by chapter
98 97 of the acts of 2018, is hereby further amended by striking out, in line 3, the word “may” and
99 inserting in place thereof the following:- is likely to.

100 SECTION 19. Said section 13 of chapter 90, as so amended, is hereby further amended
101 by striking out, in line 4, the word “operator” and inserting in place thereof the following word:-
102 operated.

103 SECTION 20. Said section 13 of chapter 90, as so amended, is hereby further amended
104 by striking out, in line 6, the words “mobile telephone” and inserting in place thereof the
105 following words:- mobile electronic device in hands-free mode.

106 SECTION 21. Section 13A of chapter 90 of the General Laws, as appearing in the 2016
107 Official Edition, is hereby amended by striking out, in lines 33 through 36, inclusive, the
108 following sentence:-

109 The provisions of this section shall be enforced by law enforcement agencies only when
110 an operator of a motor vehicle has been stopped for a violation of the motor vehicle laws or some
111 other offense.

112 SECTION 22. Said chapter 90 of the General Laws is hereby further amended by striking
113 out section 13B and inserting in place thereof the following section:-

114 Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device
115 while operating a vehicle unless the person is using the device in hands-free mode. No operator
116 of a motor vehicle shall touch or hold in either hand a mobile electronic device while operating a
117 motor vehicle except to perform a single tap or swipe to activate, deactivate or initiate hands-free

118 mode. No operator of a motor vehicle shall use a mobile electronic device or other device
119 capable of accessing the internet to: (i) compose, send or read an electronic message; (ii) access
120 social media; (iii) use camera functions, including video calls; (iv) watch videos not intended for
121 navigation purposes; (v) review or input information on a mobile electronic device; or (vi)
122 manually input information into a global positioning system or navigation device while operating
123 a vehicle. Nothing in this section shall prohibit the use of a display which enhances the
124 operator's view to maneuver the vehicle or to perform a single tap or swipe to activate,
125 deactivate or initiate a command to a global positioning system or navigation device or function.
126 An operator of a motor vehicle who holds a mobile electronic device to or in the immediate
127 proximity of the operator's head, in the operator's hand or on the operator's lap while operating a
128 motor vehicle shall be presumed to be in violation of this section. For the purposes of this
129 section, an operator shall not be considered to be operating a motor vehicle if the vehicle is
130 stationary and not located in part of a roadway intended for travel by a motor vehicle or bicycle.

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

141 (c) Documentary or other evidence that the use of a mobile electronic device was for
142 emergency purposes and that no other person in the vehicle was capable of using a mobile
143 electronic device shall be an affirmative defense to an alleged violation of this section. For the
144 purposes of this section, “emergency purposes” shall mean that the operator used the mobile
145 electronic device for voice communication with another person to report: (i) that the motor
146 vehicle was disabled; (ii) that medical attention or assistance was required; (iii) that police or fire
147 department intervention or some other emergency service was necessary for the safety of the
148 operator or to otherwise ensure the safety of the passengers; (iv) that a disabled vehicle or an
149 accident was present in the roadway; (v) that police or fire department intervention or some other
150 emergency service was necessary for the safety of a pedestrian in or near the roadway; or (vi)
151 that police intervention was necessary due to a motor vehicle being operated in a manner that
152 pose a threat to the safety of travelers on the roadway or to pedestrians.

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

156 SECTION 23. Said chapter 90 of the General Laws is hereby further amended by
157 inserting after section 17 the following section:-

158 Section 17½. (a) For purposes of this section, the term “active construction zone” shall
159 mean an area on a public highway or on the adjacent right of way where construction, repair,
160 maintenance or survey work is being performed by the department, a utility company or a private
161 contractor under contract with the department.

162 (b) Notwithstanding section 18, the department may establish a speed limit in an active
163 construction zone without conducting an engineering study. A rate of speed in excess of a speed
164 limit posted under this section shall be prima facie evidence that the speed is not reasonable and
165 proper. The operation of a motor vehicle traveling at a rate of speed in excess of a speed limit
166 established under this section shall be subject to a fine of 2 times the amount otherwise in effect
167 for the violation issued. The speed limit shall be effective when signs giving notice of that speed
168 limit are prominently displayed and construction, repair, maintenance or survey work is being
169 performed. The signs may carry either a fixed speed limit or electronic message that displays
170 adjusted speed limits when work is being performed. The signs shall notify motorists that a rate
171 of speed in excess of the posted limit is subject to a fine of 2 times the amount otherwise in effect
172 for the violation issued.

173 SECTION 24. Subparagraph (1) of paragraph (c) of section 24 of said chapter 90, as
174 appearing in the 2016 Official Edition, is hereby amended by striking subparagraph (1) and
175 inserting in place thereof the following subparagraph:-

176 (1) Where the license or right to operate has been revoked under section twenty-four D
177 or twenty-four E, or revoked under paragraph (b) and such person has not been convicted of a
178 like offense or has not been assigned to an alcohol or controlled substance education, treatment
179 or rehabilitation program because of a like offense by a court of the commonwealth or any other
180 jurisdiction preceding the date of the commission of the offense for which he has been convicted,
181 the registrar shall not restore the license or reinstate the right to operate to such person unless the
182 prosecution of such person has been terminated in favor of the defendant, until one year after the
183 date of conviction; provided, however, that such person may, after the expiration of three months
184 from the date of conviction, apply for and shall be granted a hearing before the registrar for the

185 purpose of requesting the issuance of a new license for employment or educational purposes,
186 which license shall be effective for not more than an identical twelve hour period every day on
187 the grounds of hardship and a showing by the person that the causes of the present and past
188 violations have been dealt with or brought under control, and the registrar may, in his discretion,
189 issue such license under such terms and conditions as he deems appropriate and necessary; and
190 provided, further, that such person may, after the expiration of six months from the date of
191 conviction, apply for and shall be granted a hearing before the registrar for the purpose of
192 requesting the issuance of a new license on a limited basis on the grounds of hardship and a
193 showing by the person that the causes of the present and past violations have been dealt with or
194 brought under control and the registrar may, in his discretion, issue such a license under such
195 terms and conditions as he deems appropriate and necessary. A mandatory restriction on a
196 hardship license granted by the registrar under this subparagraph shall be that such person have
197 an ignition interlock device installed on each vehicle owned, each vehicle leased and each
198 vehicle operated by the licensee for the duration of the hardship license. Any operator who does
199 not seek or is not granted a hardship license under this section shall be required to have an
200 ignition interlock restriction for a period of not less than six months following reinstatement of
201 their license or right to operate.

202 SECTION 25. Section 24½ of said chapter 90, as appearing in the 2016 Official Edition,
203 is hereby amended by striking the third sentence and inserting in place thereof the following new
204 sentence:-

205 The registrar may, after hearing, impose administrative sanctions including extending the
206 period of time that an operator has an ignition interlock device restriction on their license or
207 revoking the license and right to operate of the individual for a period of time up to a lifetime

208 loss, for conditions including, but not limited to, whoever removes such device or fails to have it
209 inspected, maintained or monitored on at least 2 occasions during the period of the restricted
210 license or right to operate if the licensee has operated or attempted to operate a vehicle with a
211 blood alcohol level that caused the certified ignition interlock device to prohibit a vehicle from
212 starting on at least 2 occasions or that recorded a blood alcohol level in excess of .02 on at least 2
213 occasions.

214 SECTION 26. The first paragraph of section 24D of said chapter 90 is hereby amended
215 by striking in the first sentence the words “forty-five nor more than ninety days;” and inserting in
216 place thereof the following:- 6 months nor more than 1 year;

217 SECTION 27. The fourth paragraph of said section 24D of said chapter 90 is hereby
218 amended by striking the third sentence and inserting in place thereof the following sentences:-

219 The registrar, at the registrar’s discretion, may issue such license under such terms and
220 conditions as the registrar may prescribe; provided, however, that any such license shall include
221 a mandatory restriction that such person have an ignition interlock device installed on each
222 vehicle owned, each vehicle leased and each vehicle operated by the licensee for the duration of
223 the hardship license. Any operator who does not seek or is not granted a hardship license under
224 this section shall be required to have an ignition interlock restriction for a period of not less than
225 6 months following reinstatement of their license or right to operate.

226 SECTION 28. Said chapter 90 is hereby further amended by inserting after section 24 the
227 following section:-Section 24D^{1/2}: The registrar of motor vehicles, in cooperation with the
228 highway safety division, the department of elementary and secondary education, the department
229 of higher education and municipal law enforcement shall develop and implement an annual

230 public awareness campaign for junior and adult operators which shall include, but not be limited
231 to, the dangers and consequences of distracted driving, information on the restrictions of mobile
232 telephone and mobile electronic device use while operating a motor vehicle under sections 8M,
233 12A, 13 and 13B of chapter 90 of the General Laws, information on the fines and punishments
234 which may be imposed for violations of said chapter 90 and bicycle safety. The registrar of
235 motor vehicles shall include information on the hazards of distracted driving in each revised
236 publication of the driver's manual.

237 SECTION 29. The registry of motor vehicles may promulgate regulations to implement
238 section 13B of chapter 90 of the General Laws and to further define “mobile electronic device”
239 under section 1 of said chapter 90.

240 SECTION 30. Chapter 155 of the acts of 2010, is hereby amended by striking out section
241 14 in its entirety.

242 SECTION 31. The department of transportation shall establish a low-speed mobility
243 device advisory working group to review the use of electric scooters and other micro-mobility
244 devices throughout the commonwealth. By December 31, 2020, the group shall submit a report
245 to the governor and general court regarding the use of low-speed mobility devices in the
246 commonwealth, including, but not limited to, specific recommendations for changes to the
247 general laws of the commonwealth after December 31, 2020.

248 SECTION 32. Section 7 shall take effect on January 1, 2020.

249 SECTION 33. Section 8 and 9 shall take effect on January 1, 2022.