

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Tolman, Steven (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act prohibiting the use of certain communication devices while operating a motor vehicle.

PETITION OF:

NAME:

Tolman, Steven (SEN)

DISTRICT/ADDRESS:

Second Suffolk and Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02116 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

**AN ACT PROHIBITING THE USE OF CERTAIN COMMUNICATION DEVICES WHILE
OPERATING A MOTOR VEHICLE.**

*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 8 of chapter 90 of the General Laws, as appearing in the 2000 Official
2 Edition, is hereby amended by inserting after the third paragraph the following paragraph:—
3 A person holding a junior operator’s license shall not use a mobile telephone while driving. For
4 the purposes of this section, a “mobile telephone” shall include, but not be limited to, a mobile
5 telephone utilizing cellular, analog, satellite, wireless or digital telephone technology, and
6 capable of sending or receiving telephone communications. A violation of this section shall be
7 punishable by a suspension of a junior operator’s license for not more than 1 year and fine of not
8 more than \$100. It shall be an affirmative defense for a junior operator to produce documentary
9 or other evidence that the telephone call that is the basis of the alleged violation was made for the
10 sole purpose of seeking emergency assistance. A violation of this paragraph shall not be
11 considered as a conviction of a moving violation of the motor vehicle laws for the purpose of

12 determining surcharges on motor vehicle premiums pursuant to section 113 of chapter 175. An
13 insurance company doing business in the commonwealth shall not deny an individual the right to
14 purchase a motor vehicle liability policy based on a violation of this paragraph.

15 SECTION 2. Said chapter 90 is hereby amended by inserting after section 24P, as so appearing,
16 the following section:—

17 Section 24Q. (a) For the purposes of this section, a “mobile tele- phone” shall include, but not be
18 limited to, a mobile telephone utilizing cellular, analog, satellite, wireless or digital telephone
19 technology, and capable of sending or receiving telephone communications.

20 (b) A person shall not operate a motor vehicle on a public way:

21 (1) while holding a mobile telephone in one or both hands or with any other part of the body; or

22 (2) while using or operating a mobile telephone, unless the a mobile telephone is affixed to the
23 vehicle or is part of a fixture in the vehicle and remains so affixed while being used or operated,
24 or is specially adapted or designed to be affixed to the driver as headgear and is so used, to
25 enable the driver to use or operate the mobile telephone without holding it in the manner
26 contemplated in clause (1), and remains so affixed while being used or operated.

27 (c) This section shall not apply to the following persons operating motor vehicles in the
28 execution of their duties:

29 (1) the driver of a fire-fighting vehicle;

30 (2) the driver of a rescue vehicle or an ambulance; or

31 (3) a state, county, or local public safety official, if operating the vehicle with due regard to the
32 safety of others.

33 (d) A violation of this section shall be punishable by a fine of not more than \$250. A second and
34 subsequent violation shall be punished by a fine of not more than \$500.

35 (e) It shall be an affirmative defense for an operator to produce documentary or other evidence
36 that the phone call that represents the alleged violation was made or received for the sole purpose
37 of seeking emergency assistance.

38 (f) A violation of this section shall not be considered as a conviction of a moving violation of the
39 motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums
40 pursuant to section 113 of chapter 175. An insurance company doing business in the
41 commonwealth shall not deny an individual the right to purchase a motor vehicle liability policy
42 based on a violation of this section.

43 SECTION 3. Chapter 166 of the General Laws is hereby amended by adding the following
44 section:-

45 Section 45. As a condition of being licensed as a wireless carrier in the commonwealth, a
46 wireless carrier shall agree to provide to the Executive Office of Public Safety information
47 relative to any new wireless technology which may be available to consumers in the
48 commonwealth on a yearly basis.

49 SECTION 4. The executive office of public safety shall initiate a public service announcement
50 and public awareness campaign on the proper use of a mobile telephone while operating a motor
51 vehicle. The campaign may be financed, in part, by wireless carriers operating in the
52 commonwealth.