

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Cynthia Stone Creem**

*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 relative to hands free cell phone devices.

PETITION OF:

NAME:

Cynthia Stone Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S02048 OF 2007-2008.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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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 8 of Chapter 90 of the General Laws, as appearing in the 2004 Official  
2 Edition, is hereby amended by adding at the end, the following:-

3 No person shall operate a motor vehicle on a public way:

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

5 (2) while using or operating a mobile telephone, unless the telephone is

6 a. affixed to the vehicle or part of a fixture in the vehicle and remains so affixed while being  
7 operated

8 b. operated as headgear, in accordance with the recommended use of the product by the  
9 manufacturer; or

10 c. a hands free, so called, device

11 This section shall not apply to the driver of:

12 (1) a fire-fighting vehicle

13 (2) a rescue vehicle

14 (3) an ambulance; or

15 (4) a state, county, or local public safety official operating a motor vehicle in the course of her  
16 duties

17 A violation of this section shall be punishable by a fine of \$50. A second offense shall be  
18 punishable by a fine of \$100. Each subsequent offense shall be punishable by a fine of not more  
19 than \$250.

20 It shall be an affirmative defense to a violation of this section, to produce documentary or other  
21 evidence that the telephone call that is the bases of the alleged violation was made for the sole  
22 purpose of seeking emergency assistance.

23 A violation of this paragraph shall not be considered as a conviction of a moving violation of  
24 motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums  
25 pursuant to section 113B of Chapter 175.

26 No insurance company doing business in the commonwealth shall deny an individual the right to  
27 purchase a motor vehicle liability policy based on a violation of this section.

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