

SENATE No. 01810

The Commonwealth of Massachusetts

PRESENTED BY:

Steven A. Tolman

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:

Steven A. Tolman

DISTRICT/ADDRESS:

Second Suffolk and Middlesex

SENATE No. 01810

By Mr. Tolman, petition (accompanied by bill, Senate, No. 1810) of Tolman for legislation to prohibit the use of certain communication devices while operating a motor vehicle [Joint Committee on Transportation].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 1984 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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
2 Official Edition, is hereby amended by inserting after the third paragraph the following
3 paragraph :—

4 A person holding a junior operator’s license shall not use a mobile telephone while
5 driving. For the purposes of this section, a “mobile telephone” shall include, but not be limited
6 to, a mobile telephone utilizing cellular, analog, satellite, wireless or digital telephone
7 technology, and capable of sending or receiving telephone communications. A violation of this
8 section shall be punishable by a suspension of a junior operator’s license for not more than 1
9 year and fine of not more than \$100. It shall be an affirmative defense for a junior operator to

10 produce documentary or other evidence that the telephone call that is the basis of the alleged
11 violation was made for the sole purpose of seeking emergency assistance. A violation of this
12 paragraph shall not be considered as a conviction of a moving violation of the motor vehicle laws
13 for the purpose of determining surcharges on motor vehicle premiums pursuant to section 113 of
14 chapter 175. An insurance company doing business in the commonwealth shall not deny an
15 individual the right to purchase a motor vehicle liability policy based on a violation of this
16 paragraph.

17 SECTION 2. Said chapter 90 is hereby amended by inserting after section 24P, as so
18 appearing, the following section :— Section 24Q. (a) For the purposes of this section, a
19 “mobile tele- phone” shall include, but not be limited to, a mobile telephone utilizing cellular,
20 analog, satellite, wireless or digital telephone technology, and capable of sending or receiving
21 telephone communications.

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

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

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

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

32 (1) the driver of a fire-fighting vehicle;
33 (2) the driver of a rescue vehicle or an ambulance; or
34 (3) a state, county, or local public safety official, if operating the vehicle with due
35 regard to the safety of others.

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

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

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

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

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

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