

SENATE No. 2120

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 adoption of the accompanying bill:

An Act to prevent driver distraction and motor vehicle fatalities.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|--------------------------------|-------------------------------------|------------------|
| <i>Mark C. Montigny</i> | <i>Second Bristol and Plymouth</i> | |
| <i>William N. Brownsberger</i> | <i>Second Suffolk and Middlesex</i> | <i>1/18/2019</i> |
| <i>Christina A. Minicucci</i> | <i>14th Essex</i> | <i>2/1/2019</i> |
| <i>Smitty Pignatelli</i> | <i>4th Berkshire</i> | <i>1/25/2019</i> |
| <i>John Barrett, III</i> | <i>1st Berkshire</i> | <i>1/18/2019</i> |
| <i>Brian W. Murray</i> | <i>10th Worcester</i> | <i>1/18/2019</i> |
| <i>Steven Ultrino</i> | <i>33rd Middlesex</i> | <i>1/23/2019</i> |
| <i>Michael D. Brady</i> | <i>Second Plymouth and Bristol</i> | <i>1/23/2019</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> | <i>1/23/2019</i> |
| <i>Josh S. Cutler</i> | <i>6th Plymouth</i> | <i>1/24/2019</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>1/24/2019</i> |
| <i>Paul R. Feeney</i> | <i>Bristol and Norfolk</i> | <i>1/24/2019</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> | <i>1/24/2019</i> |
| <i>Michael F. Rush</i> | <i>Norfolk and Suffolk</i> | <i>1/24/2019</i> |
| <i>Tram T. Nguyen</i> | <i>18th Essex</i> | <i>1/28/2019</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | <i>1/28/2019</i> |
| <i>Mary S. Keefe</i> | <i>15th Worcester</i> | <i>1/28/2019</i> |
| <i>Daniel J. Ryan</i> | <i>2nd Suffolk</i> | <i>1/28/2019</i> |

| | | |
|---------------------------------|--|------------------|
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>1/29/2019</i> |
| <i>Anne M. Gobi</i> | <i>Worcester, Hampden, Hampshire and Middlesex</i> | <i>1/29/2019</i> |
| <i>Michael J. Barrett</i> | <i>Third Middlesex</i> | <i>1/29/2019</i> |
| <i>Carole A. Fiola</i> | <i>6th Bristol</i> | <i>1/29/2019</i> |
| <i>Patrick M. O'Connor</i> | <i>Plymouth and Norfolk</i> | <i>1/29/2019</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Bristol and Middlesex</i> | <i>1/30/2019</i> |
| <i>Bradford Hill</i> | <i>4th Essex</i> | <i>1/30/2019</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>1/30/2019</i> |
| <i>Adam G. Hinds</i> | <i>Berkshire, Hampshire, Franklin and Hampden</i> | <i>1/30/2019</i> |
| <i>Harriette L. Chandler</i> | <i>First Worcester</i> | <i>1/30/2019</i> |
| <i>John C. Velis</i> | <i>4th Hampden</i> | <i>1/30/2019</i> |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i> | <i>1/30/2019</i> |
| <i>Brendan P. Crighton</i> | <i>Third Essex</i> | <i>1/30/2019</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> | <i>1/31/2019</i> |
| <i>Tackey Chan</i> | <i>2nd Norfolk</i> | <i>1/31/2019</i> |
| <i>John H. Rogers</i> | <i>12th Norfolk</i> | <i>1/31/2019</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>1/31/2019</i> |
| <i>Joan B. Lovely</i> | <i>Second Essex</i> | <i>2/1/2019</i> |
| <i>Eric P. Lesser</i> | <i>First Hampden and Hampshire</i> | <i>2/1/2019</i> |
| <i>Alan Silvia</i> | <i>7th Bristol</i> | <i>2/1/2019</i> |
| <i>Liz Miranda</i> | <i>5th Suffolk</i> | <i>2/1/2019</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>2/1/2019</i> |
| <i>Joseph A. Boncore</i> | <i>First Suffolk and Middlesex</i> | <i>2/1/2019</i> |
| <i>Thomas M. Stanley</i> | <i>9th Middlesex</i> | <i>2/1/2019</i> |
| <i>Bruce J. Ayers</i> | <i>1st Norfolk</i> | <i>2/1/2019</i> |
| <i>John J. Lawn, Jr.</i> | <i>10th Middlesex</i> | <i>2/1/2019</i> |
| <i>David M. Rogers</i> | <i>24th Middlesex</i> | <i>2/1/2019</i> |
| <i>Daniel J. Hunt</i> | <i>13th Suffolk</i> | <i>2/1/2019</i> |
| <i>Mathew J. Muratore</i> | <i>1st Plymouth</i> | <i>2/1/2019</i> |
| <i>Julian Cyr</i> | <i>Cape and Islands</i> | <i>2/1/2019</i> |
| <i>Nick Collins</i> | <i>First Suffolk</i> | <i>2/4/2019</i> |

SENATE No. 2120

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 2120) of Mark C. Montigny, William N. Brownsberger, Christina A. Minicucci, Smitty Pignatelli and other members of the General Court for legislation to prevent driver distraction and motor vehicle fatalities. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1962 OF 2017-2018.]

The Commonwealth of Massachusetts

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

An Act to prevent driver distraction and motor vehicle fatalities.

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 appearing in the 2016
2 Official Edition, is hereby amended by inserting after the definition of “Hands-free mobile
3 telephone” the following definition:-

4 “Hands-free mode”, operation of a mobile electronic device that has an internal feature or
5 function or that is equipped with an attachment or addition, whether or not permanently a part of
6 the mobile electronic device, by which a user engages in a voice communication or receives
7 audio without the use of either hand; provided, however, that a mobile electronic device may
8 require a single tap or swipe to activate, deactivate or initiate the hands-free mode feature.

9 SECTION 2. Section 7B of said chapter 90, as so appearing, is hereby amended by
10 striking out, in line 172, the word “telephone” and inserting in place thereof the following
11 words:- electronic device.

12 SECTION 3. Said section 7B of said chapter 90, as so appearing, is hereby further
13 amended by striking out, in lines 177 and 178, the words "intervention is necessary for the
14 personal safety of a passenger or to otherwise ensure the safety of the passengers; and (d)" and
15 inserting in place thereof the following words:- or fire department intervention or some other
16 emergency service is necessary for the safety of the operator or to otherwise ensure the safety of
17 the passengers; (d) that police or fire department intervention or some other emergency service is
18 necessary for the safety of a pedestrian in or near the roadway; (e) that police department
19 intervention is necessary due to a motor vehicle being operated in a manner that poses a threat to
20 the safety of travelers on the roadway or to pedestrians; or (f).

21 SECTION 4. Section 8M of said chapter 90, as so appearing, is hereby amended by
22 inserting after the word “travel”, in line 6, the following words:- by a motor vehicle or bicycle

23 SECTION 5. Said section 8M of said chapter 90, as so appearing, is hereby further
24 amended by striking out the second paragraph and inserting in place thereof the following
25 paragraph:-

26 A junior operator who violates the preceding paragraph shall be subject to the penalties
27 provided in section 13B of chapter 90. In addition, for a first offense, the junior operator’s
28 license or permit shall be suspended for 60 days and shall not be eligible for license or permit
29 reinstatement until the junior operator completes a program selected by the registrar that
30 encourages attitudinal changes in young drivers, for a second offense, the junior operator’s

31 license or permit shall be suspended for 180 days and for a third or subsequent offense the junior
32 operator's license or permit shall be suspended for 1 year.

33 SECTION 6. Said section 8M of said chapter 90, as so appearing, is hereby further
34 amended by inserting after the word "purposes", in line 19, the following words:- and no other
35 person in the vehicle was capable of using a mobile telephone, hands free-mobile telephone or
36 mobile electronic device.

37 SECTION 7. Said section 8M of said chapter 90, as so appearing, is hereby further
38 amended by striking out, in lines 26 and 27, "or (iv) " and inserting in place thereof the following
39 words:- (iv) that a disabled vehicle or an accident was present in the public way; (v) that police
40 or fire department intervention or some other emergency service was necessary for the safety of
41 a pedestrian in or near the roadway; or (vi) that police department intervention was necessary
42 due to a motor vehicle being operated in a manner that posed a threat to the safety of travelers on
43 the roadway or to pedestrians.

44 SECTION 8. Said section 8M of said chapter 90, as so appearing, is hereby further
45 amended by striking out the fourth paragraph.

46 SECTION 9. Section 12A of said chapter 90, as so appearing, is hereby amended by
47 striking out, in lines 23 and 24, the words "not be a moving violation for purposes of the safe
48 driver insurance plan" and inserting in place thereof the following words:- be a surchargeable
49 incident for violations occurring on a way intended for motor vehicles.

50 SECTION 10. Said section 12A of said chapter 90, as so appearing, is hereby further
51 amended by inserting after the figure "175", in line 25, the following words:- or under a motor
52 vehicle liability policy as defined in section 34A that is issued pursuant to said chapter 175.

53 SECTION 11. Said section 12A of said chapter 90, as so appearing, is hereby further
54 amended by striking out, in line 35, “or (4)” and inserting in place thereof the following words:-
55 (4) that police department intervention is necessary due to a motor vehicle being operated in a
56 manner that poses a threat to the safety of travelers on the roadway or to pedestrians; or (5).

57 SECTION 12. Said section 13 of said chapter 90, as so appearing, is hereby further
58 amended by striking out, in line 6, the words “mobile telephone” and inserting in place thereof
59 the following words:- mobile electronic device in hands-free mode.

60 SECTION 13. Said section 13 of said chapter 90, as so appearing, is hereby further
61 amended by striking out, in line 7, the words “as long as” and inserting in place thereof the
62 following words:- if the operator can do so without diverting attention from the roadway and.

63 SECTION 14. Said chapter 90 is hereby further amended by striking out section 13B, as
64 so appearing, and inserting in place thereof the following section:-

65 Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device
66 while operating a vehicle unless the person is using the device in hands-free mode. No operator
67 of a motor vehicle shall touch or hold in either hand a mobile electronic device while operating a
68 motor vehicle except to perform a single tap or swipe to activate, deactivate or initiate hands-free
69 mode. No operator of a motor vehicle shall use a mobile electronic device or other device
70 capable of accessing the internet to: (i) compose, send or read an electronic message; (ii) access
71 social media; (iii) use camera functions, including video calls; (iv) review or input information
72 on a mobile electronic device; or (v) manually input information into a global positioning system
73 or navigation device while operating a vehicle. Nothing in this section shall prohibit the use of a
74 display which enhances the operator’s view to maneuver the vehicle. An operator of a motor

75 vehicle who holds a mobile electronic device to or in the immediate proximity of the operator's
76 head or in the operator's hand on the operator's lap while operating a motor vehicle shall be
77 presumed to be in violation of this section. For the purposes of this section, an operator shall not
78 be considered to be operating a motor vehicle if the vehicle is stationary and not located in part
79 of a roadway intended for travel by a motor vehicle or bicycle.

80 (b) Whoever violates this section or section 8M shall be punished by a fine of \$100 for a
81 first offense, by a fine of \$250 for a second offense and by a fine of \$500 for a third or
82 subsequent offense within 6 years. A third or subsequent violation of this section or of said
83 section 8M shall be a surchargeable incident under section 113B of chapter 175 or under a motor
84 vehicle liability policy as defined by section 34A that is issued pursuant to said chapter 175.

85 (c) Documentary or other evidence that the use of a mobile electronic device was for
86 emergency purposes and that no other person in the vehicle was capable of using a mobile
87 electronic device shall be an affirmative defense to an alleged violation of this section. For the
88 purposes of this section, "emergency purposes" shall mean that the operator used the mobile
89 electronic device for voice communication with another person to report: (i) that the motor
90 vehicle was disabled; (ii) that medical attention or assistance was required; (iii) that police or fire
91 department intervention or some other emergency service was necessary for the safety of the
92 operator or to otherwise ensure the safety of the passengers; (iv) that a disabled vehicle or an
93 accident was present in the roadway; (v) that police or fire department intervention or some other
94 emergency service was necessary for the safety of a pedestrian in or near the roadway; or (vi)
95 that police intervention was necessary due to a motor vehicle being operated in a manner that
96 poses a threat to the safety of travelers on the roadway or to pedestrians.

97 SECTION 15. The registry of motor vehicles may promulgate regulations to implement
98 section 13B of chapter 90 of the General Laws and to further define “mobile electronic device”
99 under section 1 of said chapter 90.