

2012 -- S 2416

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MISCELLANEOUS RULES

Introduced By: Senators Cote, Sosnowski, Lombardo, and Tassoni

Date Introduced: February 15, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 31-22 of the General Laws entitled "Miscellaneous Rules" is
2 hereby amended by adding thereto the following section:

3 **31-22-31. Use of mobile telephone while driving – Presumption of negligence in a**
4 **motor vehicle accident.** – (a) For purposes of this section, the following terms shall have the
5 following meanings:

6 (1) “Mobile telephone” means a cellular, analog, wireless, or digital telephone capable of
7 sending or receiving telephone communications without an access line for service.

8 (2) “Using” or “use” means holding a mobile telephone to, or in the immediate proximity
9 of, the user's ear.

10 (3) “Hand-held mobile telephone” means a mobile telephone with which a user engages
11 in a call using at least one hand.

12 (4) “Hands-free mobile telephone” means a mobile telephone that has an internal feature
13 or function, or that is equipped with an attachment or addition, whether or not permanently part of
14 such mobile telephone, by which a user engages in a call without the use of either hand, whether
15 or not the use of either hand is necessary to activate, deactivate or initiate a function of such
16 telephone.

17 (5) “Engage in a call” means talking into or listening on a hand-held mobile telephone.

18 (b) Except as otherwise provided in this section, in any civil action in a Rhode Island
19 state court that involves a claim for damages, whether to property or person, which damages are

1 alleged to arise out of a motor vehicle accident, and it is determined by a preponderance of
2 evidence that the operator of a motor vehicle involved in such motor vehicle accident was
3 engaged in a call while using a hand-held mobile telephone at the time of said accident, said
4 operator shall be presumed to be negligent in the operation of said motor vehicle and that said
5 negligence was a proximate cause of the accident. The presumption established by this subsection
6 may be rebutted by other evidence. The presumption shall not arise if the motor vehicle being
7 operated by the user of the mobile telephone was stationary and not moving both immediately
8 prior to and at the time of the accident.

9 (c) The provisions of this section shall not be construed as authorizing the seizure or
10 forfeiture of a mobile telephone, unless otherwise provided by law.

11 (d) Subsection (b) of this section shall not apply to:

12 (1) The use of a mobile telephone for the sole purpose of communicating with any of the
13 following regarding an emergency situation: an emergency response operator; a hospital,
14 physician's office or health clinic; an ambulance company or corps; a fire department, district or
15 company; or a police department;

16 (2) Any of the following persons while in the performance of their official duties: a
17 peace officer as defined in section 12-7-21; a firefighter or an operator of an ambulance or
18 authorized emergency vehicle; or the operator of a taxi cab, tow truck, or bus without passengers;
19 or

20 (3) The use of a hands-free mobile telephone.

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would create a rebuttable presumption of negligence in any civil action regarding
2 a motor vehicle accident whereby it is determined that the operator of a motor vehicle was using a
3 mobile telephone at the time of accident.

4 This act would take effect upon passage.

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