

# **HOUSE . . . . . No. 3793**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, May 15, 2019.

The committee on Ways and Means, to whom was referred the Bill requiring the hands-free use of mobile telephones while driving (House, No. 3149), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 3793).

For the committee,

AARON MICHLEWITZ.

**HOUSE . . . . . No. 3793**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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An Act requiring the hands-free use of mobile telephones while driving.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to reduce distracted driving, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

*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 amended by section 33 of  
2 chapter 154 of the acts of 2018, is hereby further amended by inserting after the definition of  
3 “Hands-free mobile telephone” the following definition:-

4           “Hands-free mode”, a mode of operation of a mobile electronic device by which a user  
5 only engages in voice communication with and receives audio from the device without touching,  
6 holding or otherwise manually manipulating the device; provided, however, that the user may  
7 perform a single tap or swipe to activate or deactivate the hands-free mode feature.

8           SECTION 2. Section 7B of said chapter 90, as appearing in the 2016 Official Edition, is  
9 hereby amended by striking out, in line 172, the word “telephone” and inserting in place thereof  
10 the following words:- electronic device.

11 SECTION 3. Section 13 of said chapter 90 is hereby amended by striking out, in line 4,  
12 the word “operator”, as so appearing, and inserting in place thereof the following word:-  
13 operated.

14 SECTION 4. Said section 13 of said chapter 90 is hereby further amended by striking  
15 out, in line 6, the word “telephone”, as so appearing, and inserting in place thereof the following  
16 words:- electronic device.

17 SECTION 5. Said chapter 90 is hereby amended by striking section 13B and inserting in  
18 place thereof the following section:-

19 Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic  
20 device unless said device is being used in hands-free mode. No operator of a motor vehicle shall  
21 read or view text, images or video displayed on a mobile electronic device; provided, however,  
22 that an operator may view a map generated by a navigation system or application on a mobile  
23 electronic device that is mounted on or affixed to a vehicle’s windshield, dashboard or center  
24 console in a manner that does not impede the operation of the motor vehicle. For the purposes of  
25 this section, an operator shall not be considered to be operating a motor vehicle if the vehicle is  
26 stationary and not located in a part of the public way intended for travel.

27 (b) Evidence that the use of a mobile electronic device was in response to an emergency  
28 shall be an affirmative defense to an alleged violation of this section. For the purposes of this  
29 section, an emergency shall mean that the operator needed to report any of the following: (1) that  
30 the vehicle was disabled; (2) that medical attention or assistance was required; (3) that police  
31 intervention, fire department or other emergency services were necessary for the personal safety

32 of the operator or a passenger or to otherwise ensure the safety of the public; or (4) that a  
33 disabled vehicle or an accident was present on a roadway.

34 (c) This section shall not apply to public safety personnel or emergency first responders  
35 using a mobile electronic device while operating an emergency services vehicle and engaged in  
36 the performance of their duties.

37 (d) A violation of this section shall be punishable by a fine of \$100 for a first offense, by  
38 a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense.

39 (e) A penalty under this section shall not be a surchargeable offense under section 113B  
40 of chapter 175.

41 SECTION 6. Chapter 228 of the acts of 2000 is hereby amended by inserting the  
42 following section:-

43 Section 5A. The registry of motor vehicles, in consultation with the executive office of  
44 public safety and security, shall review and revise the Massachusetts Uniform Citation to include  
45 a field to indicate the race of each individual cited or issued a written warning by a police officer,  
46 as defined under section 1 of chapter 90 of the General Laws.

47 SECTION 7. Said chapter 228 is hereby further amended by striking out section 10 and  
48 inserting in place thereof the following section:-

49 Section 10. (a) Annually, the secretary of public safety and security shall transmit the  
50 necessary data collected by the registry of motor vehicles to an entity in the commonwealth,  
51 including but not limited to a university, non-profit organization or institution, whether private or  
52 public, with experience in the analysis of such data, for annual preparation of an analysis and

53 report of its findings. The secretary shall forthwith transmit the entity's annual report to the  
54 department of the attorney general, the department of state police, the Massachusetts Chiefs of  
55 Police Association, the executive office of public safety and security and the clerks of the house  
56 of representatives and the senate. The executive office of public safety and security shall, in  
57 consultation with the attorney general, if such data suggest that a state police barracks or  
58 municipal, college, university or other educational institution or hospital police department  
59 appears to have engaged in racial or gender profiling, require such barracks or department for a  
60 period of 1 year to collect information on all traffic stops, including those not resulting in a  
61 warning, citation or arrest. This information shall include the reason for the stop in addition to  
62 the other information already required under the Massachusetts Uniform Citation. Upon appeal  
63 by the colonel of state police, the municipality, college, university or other educational institution  
64 or hospital, respectively, the attorney general may determine that collecting such information is  
65 not required.

66 (b) Data collected by the registry and the executive office of public safety and security  
67 shall be stored in a secured database and such data shall be destroyed or caused to be destroyed  
68 not later than 3 years following the date of the data's transmittal to an entity pursuant to  
69 subsection (a). Said entity shall also destroy or cause to be destroyed all data it receives from the  
70 registry or the executive office of public safety and security not later than 6 months following the  
71 date of the issuance of its annual report. Any entity in receipt of data under this section shall  
72 execute in writing an agreement protective of privacy in language deemed sufficient by the  
73 secretary to ensure the use of procedures which maintain the security and privacy of the  
74 information so received.

75 SECTION 8. Said chapter 228 is hereby further amended by adding the following  
76 section:-

77 Section 11. The secretary of the executive office of public safety and security shall  
78 promulgate regulations for the implementation, administration and enforcement of the uniform  
79 protocol for state police and municipal police officers, and all other police officers, as defined  
80 under section 1 of chapter 90 of the General Laws on how to use the Massachusetts Uniform  
81 Citation to record the race of each individual cited by an officer, as required pursuant to section  
82 6.

83 SECTION 9. Item 8000-0600 of chapter 154 of the acts of 2018 is hereby amended by  
84 inserting after the words “chapter 228 of the acts of 2000; provided” the following words:- that  
85 the secretary shall expend no less than \$300,000 for the collection and analysis of all data  
86 collected pursuant to chapter 228 of the acts of 2000; provided further.

87 SECTION 10. Annually, by April 1, the executive office of public safety and security, in  
88 consultation with the registry of motor vehicles and the department of elementary and secondary  
89 education, shall develop and implement a public awareness campaign informing and educating  
90 drivers of (i) the dangers posed by the use of technology while operating a motor vehicle,  
91 including but not limited to mobile electronic devices and in-vehicle applications that do not  
92 enhance the safe operation of a motor vehicle and (ii) the obligations with respect to and  
93 penalties for distracted driving established under applicable laws, including but not limited to  
94 sections 8M, 13 and 13B of chapter 90 of the General Laws.

95 SECTION 11. Notwithstanding any general or special law to the contrary, the executive  
96 office of public safety and security shall conduct a study to determine what impact, if any,

97 changes in traffic laws since 2009 have had on traffic warnings, citations and arrests in the  
98 commonwealth, including whether changes resulted in a disproportionate impact in any  
99 geographic area or on any demographic group. The secretary shall utilize data collected pursuant  
100 to chapter 228 of the acts of 2000, and to the extent such data is unavailable, shall coordinate  
101 with local and state law enforcement agencies to collect relevant aggregate data on the issuance  
102 of traffic warnings, citations and arrests. The executive office of public safety and security shall  
103 submit a report to the clerks of the house of representatives and the senate, the chairs of the joint  
104 committee on transportation and the chairs of the joint committee on public safety and homeland  
105 security not later than June 1, 2020.

106 SECTION 12. Section 9 shall take effect upon passage of this act.

107 SECTION 13. Except as otherwise specified, this act shall take effect 90 days after  
108 passage; provided, however, that notwithstanding any general or special law or regulation to the  
109 contrary, an operator shall be issued a warning for a first violation of section 13B of chapter 90  
110 of the General Laws occurring after the effective date of section 5 and on or prior to December  
111 31, 2019.