

# HOUSE . . . . . No. 3546

By Mr. Koutoujian of Waltham, petition of Peter J. Koutoujian and others prohibiting the use of certain communication devices while operating a motor vehicle. Transportation.

## The Commonwealth of Massachusetts

### PETITION OF:

Peter J. Koutoujian	Carl M. Sciortino, Jr.
Barbara A. L'Italien	John W. Scibak
Martha M. Walz	

In the Year Two Thousand and Seven.

### 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  
2 appearing in the 2000 Official Edition, is hereby amended by  
3 inserting after the third paragraph the following paragraph:—  
4 A person holding a junior operator's license shall not use a  
5 mobile telephone while driving. For the purposes of this section, a  
6 "mobile telephone" shall include, but not be limited to, a mobile  
7 telephone utilizing cellular, analog, satellite, wireless or digital tele-  
8 phone technology, and capable of sending or receiving telephone  
9 communications. A violation of this section shall be punishable by a  
10 suspension of a junior operator's license for not more than 1 year  
11 and fine of not more than \$100. It shall be an affirmative defense for  
12 a junior operator to produce documentary or other evidence that the  
13 telephone call that is the basis of the alleged violation was made for  
14 the sole purpose of seeking emergency assistance. A violation of this  
15 paragraph shall not be considered as a conviction of a moving viola-  
16 tion of the motor vehicle laws for the purpose of determining sur-  
17 charges on motor vehicle premiums pursuant to Section 113 of  
18 Chapter 175. An insurance company doing business in the

19 Commonwealth shall not deny an individual the right to purchase a  
20 motor vehicle liability policy based on a violation of this paragraph.

1 SECTION 2. Said chapter 90 is hereby amended by inserting after  
2 section 24P, as so appearing, the following section:—

3 Section 24Q. (a) For the purposes of this section, a “mobile tele-  
4 phone” shall include, but not be limited to, a mobile telephone uti-  
5 lizing cellular, analog, satellite, wireless or digital telephone  
6 technology, and capable of sending or receiving telephone communi-  
7 cations.

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

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

11 (2) while using or operating a mobile telephone, unless the a  
12 mobile telephone is affixed to the vehicle or is part of a fixture in the  
13 vehicle and remains so affixed while being used or operated, or is  
14 specially adapted or designed to be affixed to the driver as headgear  
15 and is so used, to enable the driver to use or operate the mobile tele-  
16 phone without holding it in the manner contemplated in clause (1),  
17 and remains so affixed while being used or operated.

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

20 (1) the driver of a fire-fighting vehicle;

21 (2) the driver of a rescue vehicle or an ambulance; or

22 (3) a state, county, or local public safety official, if operating the  
23 vehicle with due regard to the safety of others.

24 (d) A violation of this section shall be punishable by a fine of not  
25 more than \$100. A second and subsequent violation shall be pun-  
26 ished by a fine of not more than \$250.

27 (e) It shall be an affirmative defense for an operator to produce  
28 documentary or other evidence that the phone call that represents the  
29 alleged violation was made for the sole purpose of seeking emer-  
30 gency assistance.

31 (f) A violation of this section shall not be considered as a convic-  
32 tion of a moving violation of the motor vehicle laws for the purpose  
33 of determining surcharges on motor vehicle premiums pursuant to  
34 Section 113 of Chapter 175. An insurance company doing business  
35 in the Commonwealth shall not deny an individual the right to pur-  
36 chase a motor vehicle liability policy based on a violation of this  
37 section.