

HOUSE No. 3679

By Mr. Wagner of Chicopee, petition of Joseph F. Wagner relative to further regulating the use of certain communication devices while operating a motor vehicle. Transportation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT FURTHER REGULATING 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 most recently amended by Chapter 428 of the acts of 2006, is hereby
3 amended by inserting after the sixth paragraph the following para-
4 graph:—
5 No person under 18 years of age shall use a mobile telephone
6 while operating a motor vehicle on any public way. For the pur-
7 poses of this section, a “mobile telephone” shall include, but not be
8 limited to, a mobile telephone utilizing cellular, analog, satellite,
9 wireless or digital telephone technology, and capable of sending or
10 receiving telephone communications. A violation of this paragraph
11 shall be punishable by suspension of the junior operator’s license or
12 learner’s permit for not more than 1 year and a fine of not more than
13 \$250 for a first offense. A second or subsequent offense shall be
14 punished by suspension of the junior operator’s license or learner’s
15 permit for not more than 1 year and a fine of not more than \$500. It
16 shall be an affirmative defense for a junior operator to produce docu-
17 mentary or other evidence that the telephone call that is the basis of
18 the alleged violation was made for the sole purpose of seeking emer-
19 gency assistance. A violation of this paragraph shall not be consid-
20 ered as a conviction of a moving violation of the motor vehicle laws
21 for the purpose of determining surcharges on motor vehicle pre-
22 miums pursuant to Section 113 of Chapter 175. An insurance com-
23 pany doing business in the Commonwealth shall not deny an

24 individual the right to purchase a motor vehicle liability policy based
25 on a violation of this paragraph.

1 SECTION 2. Section 13 of said Chapter 90 is hereby amended by
2 striking out, in lines 4 to 7, inclusive, the words “, except that a
3 person may operate a motor vehicle while using a citizens band
4 radio or mobile telephone as long as one hand remains on the
5 steering wheel at all times”.

1 SECTION 3. Said Chapter 90 is hereby amended by inserting
2 after section 24P 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) No person shall 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 mobile
12 telephone is affixed to the vehicle or is part of a fixture in the vehicle
13 and remains so affixed while being used or operated, or is specially
14 adapted or designed to be affixed to the driver as headgear and is so
15 used, to enable the driver to use or operate the mobile telephone
16 without holding it in the manner contemplated in clause (1), and
17 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 \$250 for a first offense and by a fine of not more than
26 \$500 for a second or subsequent offense.

27 (e) It shall be an affirmative defense for an operator of a motor
28 vehicle to produce documentary or other evidence that the phone call
29 that is the basis of the alleged violation was made for the sole pur-
30 pose of seeking emergency 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.