

HOUSE No. 3793

The Commonwealth of Massachusetts

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.

FILED ON: 5/15/2019

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The Commonwealth of Massachusetts

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

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:

SECTION 1. Section 1 of chapter 90 of the General Laws, as amended by section 33 of chapter 154 of the acts of 2018, is hereby further amended by inserting after the definition of “Hands-free mobile telephone” the following definition:-

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

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

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

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

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

Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device unless said device is being used in hands-free mode. No operator of a motor vehicle shall read or view text, images or video displayed on a mobile electronic device; provided, however, that an operator may view a map

generated by a navigation system or application on a mobile electronic device that is mounted on or affixed to a vehicle's windshield, dashboard or center console in a manner that does not impede the operation of the motor vehicle. For the purposes of this section, an operator shall not be considered to be operating a motor vehicle if the vehicle is stationary and not located in a part of the public way intended for travel.

(b) Evidence that the use of a mobile electronic device was in response to an emergency shall be an affirmative defense to an alleged violation of this section. For the purposes of this section, an emergency shall mean that the operator needed to report any of the following: (1) that the vehicle was disabled; (2) that medical attention or assistance was required; (3) that police intervention, fire department or other emergency services were necessary for the personal safety of the operator or a passenger or to otherwise ensure the safety of the public; or (4) that a disabled vehicle or an accident was present on a roadway.

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

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

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

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

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

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

Section 10. (a) Annually, the secretary of public safety and security shall transmit the necessary data

collected by the registry of motor vehicles to an entity in the commonwealth, including but not limited to a university, non-profit organization or institution, whether private or public, with experience in the analysis of such data, for annual preparation of an analysis and report of its findings. The secretary shall forthwith transmit the entity's annual report to the department of the attorney general, the department of state police, the Massachusetts Chiefs of Police Association, the executive office of public safety and security and the clerks of the house of representatives and the senate. The executive office of public safety and security shall, in consultation with the attorney general, if such data suggest that a state police barracks or municipal, college, university or other educational institution or hospital police department appears to have engaged in racial or gender profiling, require such barracks or department for a period of 1 year to collect information on all traffic stops, including those not resulting in a warning, citation or arrest. This information shall include the reason for the stop in addition to the other information already required under the Massachusetts Uniform Citation. Upon appeal by the colonel of state police, the municipality, college, university or other educational institution or hospital, respectively, the attorney general may determine that collecting such information is not required.

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

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

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

by an officer, as required pursuant to section 6.

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

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

SECTION 11. Notwithstanding any general or special law to the contrary, the executive office of public safety and security shall conduct a study to determine what impact, if any, changes in traffic laws since 2009 have had on traffic warnings, citations and arrests in the commonwealth, including whether changes resulted in a disproportionate impact in any geographic area or on any demographic group. The secretary shall utilize data collected pursuant to chapter 228 of the acts of 2000, and to the extent such data is unavailable, shall coordinate with local and state law enforcement agencies to collect relevant aggregate data on the issuance of traffic warnings, citations and arrests. The executive office of public safety and security shall submit a report to the clerks of the house of representatives and the senate, the chairs of the joint committee on transportation and the chairs of the joint committee on public safety and homeland security not later than June 1, 2020.

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

SECTION 13. Except as otherwise specified, this act shall take effect 90 days after passage; provided, however, that notwithstanding any general or special law or regulation to the contrary, an operator shall be issued a warning for a first violation of section 13B of chapter 90 of the General Laws occurring after the

effective date of section 5 and on or prior to December 31, 2019.