SENATE DOCKET, NO. 167 FILED ON: 1/11/2013

# SENATE . . . . . No. 1647

## The Commonwealth of Massachusetts

PRESENTED BY:

***Cynthia S. Creem***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to hands free cell phone devices.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Cynthia S. Creem* | *First Middlesex and Norfolk* |

SENATE DOCKET, NO. 167 FILED ON: 1/11/2013

# SENATE . . . . . No. 1647

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1647) of Cynthia S. Creem for legislation relative to hands free cell phone devices. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1732* OF 2011-2012.]

## The Commonwealth of Massachusetts

An Act relative to hands free cell phone devices.

*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 13B of Chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding at the end, the following new section:-

Section 13C:- (a) No individual shall operate a motor vehicle on a public way while using a mobile telphone unless the telephone is affixed to the vehicle, part of a fixture in the vehicle, operated as headgear, or a hands free device.

This section shall not apply to the driver of a fire-fighting vehicle, a rescue vehicle, an ambulance; or a state, county, or local public safety official operating a motor vehicle in the course of her duties.

(b) A violation of this section shall be punishable by a fine of $50. A second offense shall be punishable by a fine of $100. Each subsequent offense shall be punishable by a fine of not more than $250.

(c) It shall be an affirmative defense for an operator under this section to produce evidence that the use of a mobile telephone that is the basis of the alleged violation was in the case of an emergency. For the purpose of this paragraph, an emergency shall mean that the operator needed to communicate with another to report any of the following: (1) that the vehicle or vessel was disabled; (2) that medical attention or assistance was required on the vehicle or vessel; (3) that police intervention, fire department or other emergency services was necessary

18 for the personal safety of a passenger or to otherwise ensure the safety of the passengers; or (4)
19 that a disabled vehicle or an accident was present on a roadway.

20 (d) A penalty under this section shall not be a surchargeable offense under
21 section 113B of chapter 175