

# MOBILE PHONE & TEXTING<sup>1</sup>

These laws take effect on September 30, 2010

## Requirements

***Use of mobile phone or electronic device by operator who is under 18.***

Penalty structure:

1<sup>st</sup> offense: \$100 CMVI; RMV 60 day suspension and attitude course.

2<sup>nd</sup> offense: \$250 CMVI; 180 day suspension

3<sup>rd</sup> offense: \$500 CMVI; 1 year suspension

This law covers any mobile phone, including a hands-free device, and any mobile electronic device (including texting device, a pager, PDA, laptop, video games and digital cameras, etc.)

Only exception: Emergency use for disabled vehicle or accident, medical attention, police/emergency services needed.

## Statute

G.L. c. 90, § 8M

## Penalty

CMVI

\$100

*See other info*

***Mobile phone use or texting by public transportation operator.***

Covers all buses, trains, vessels and vehicles owned by MBTA, MassPort, Steamship Authority.

Fact that unit is hands-free is no defense.

Only exceptions:

Use permitted by written job guidelines.

Emergency used (same definition above).

## Statute

G.L. c. 90, § 12A

## Penalty

CMVI

\$500

***Mobile phone use as an adult operator without having at least one hand on***

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<sup>1</sup> See Chapter 155 of the Acts of 2010.

***the steering wheel.***

2<sup>nd</sup> offense within 12 months: \$75

3<sup>rd</sup> offense within 12 months: \$150

**Statute**

G.L. c. 90, § 13

**Penalty**

CMVI

\$35

*See other info*

***Texting while operating a vehicle.*** The operator used an electronic device or mobile phone to manually compose, send or read an electronic message.

2<sup>nd</sup> offense CMVI \$250

3<sup>rd</sup> offense CMVI \$500

**Statute**

G.L. c. 90, § 13B

**Penalty**

CMVI

\$100

*See other info*

***Negligent operation and injury from mobile phone use.***

***Elements***

While committing any of the offenses above:

Using a mobile phone as a minor (§ 8M);

Using a phone or texting as a public transportation operator (§ 12A); or

Sending or receiving a “text” (§ 13B)

The operator drove negligently so that the lives and safety of the public might be endangered; and

Caused injury to some other person, vehicle or property.

***Right of arrest:*** While no statutory arrest exists for negligent operation, case law states it constitutes a breach of the peace justifying warrantless arrest *when observed by an officer. Comm. v. Ceria*, 13 Mass. App. Ct. 230 (1982).

***Penalty:*** HC NLT 2 weeks, NMT 2 years; and/or Fine NLT \$20, NMT \$200.

\$250 head injury surcharge. No CWOFF without judge's written finding that it is "in the interests of justice"

**RMV revocation:** 60 days for 1<sup>st</sup> offense; 1 year for subsequent offenses within 3 years. If junior operator: 180 days for 1<sup>st</sup> offense; 1 year for subsequent offenses within 3 years. May revoke registration if defendant is exclusive owner of vehicle.

**Statute**

G.L. c. 90,  
§ 24(2)(a)

**Penalty**

Crime

*See other info*

***Elderly drivers***

***Mandatory in-person license renewals for drivers 75 and older.*** The driver must take an eye test at the registry branch or submit a "vision certificate" from an optometrist or ophthalmologist.

***New procedure to request medical evaluation of motorist.*** G.L. c. 90, § 22I creates a procedure, known by registry officials as the "Complaint Medical." Section 22I authorizes a police officer or a health care provider to request that the registry conduct an evaluation of an operator to assess his or her ability to safely drive a motor vehicle. The written request must present "reasonable cause to believe" that the motorist is physically or medically incapable of safe operation, or that the motorist has a "cognitive or functional impairment" affecting safe operation.

This report may not be based solely on a driver's age.

So long as their reports are made in "good faith," officers and health care providers are immune from civil liability. They are also immune if they fail to report.

The registry must conduct its review of the operator's capacity no later than 30 days from the receipt of the report. The reports are confidential, not public records.