

House Bill 1589

By: Representatives Mobley of the 69th, Smith of the 19th and Teague of the 58th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,
2 relating to miscellaneous provisions of uniform rules of the road, so as to change certain
3 provisions relating to drivers' exercise of due care and proper use of radios and mobile
4 telephones; to prohibit certain use of mobile telephones; to provide for enforcement; to
5 provide penalties for violations; to provide an effective date; to repeal conflicting laws; and
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
10 miscellaneous provisions of uniform rules of the road, is amended by striking Code Section
11 40-6-241, relating to drivers' exercise of due care and proper use of radios and mobile
12 telephones, and inserting in lieu thereof the following:

13 "40-6-241.

14 A driver shall exercise due care in operating a motor vehicle on the highways of this state
15 and shall not engage in any actions which shall distract such driver from the safe operation
16 of such vehicle, ~~provided; provided, however,~~ that the proper use of a radio; or citizens
17 band radio; ~~or mobile telephone~~ shall not be a violation of this Code section; and provided,
18 further, that use of a mobile telephone shall be subject to the provisions of Code Section
19 40-6-241.1."

20 **SECTION 2.**

21 Said article is further amended by inserting a new Code section to read as follows:

22 "40-6-241.1.

23 (a) As used in this Code section, the term:

24 (1) 'Hands-free mobile telephone' shall mean a mobile telephone that has an internal
25 feature or function, or that is equipped with an attachment or addition, whether or not

1 permanently part of such mobile telephone, by which a user engages in a call without the
2 use of either hand, whether or not the use of either hand is necessary to activate,
3 deactivate, or initiate a function of such telephone.

4 (2) 'Mobile telephone' means the device used by subscribers and other users of wireless
5 telephone service to access such service.

6 (b)(1) No person shall operate a motor vehicle upon a highway while using a mobile
7 telephone, other than a hands-free mobile telephone, to engage in a call while such motor
8 vehicle is in motion.

9 (2) The trier of fact may, in its discretion, infer that an operator of a motor vehicle who
10 held a mobile telephone to, or in the immediate proximity of, his or her ear while such
11 motor vehicle was in motion was engaged in a call within the meaning of this subsection.
12 Such inference may be rebutted by evidence tending to show that the operator was not
13 engaged in a call.

14 (c) Subsection (b) of this Code section shall not apply to:

15 (1) The use of a mobile telephone for the sole purpose of communicating with any of the
16 following regarding an emergency situation: an emergency response operator; a hospital,
17 physician's office, or health clinic; an ambulance company or corps; a fire department;
18 or a police department; or

19 (2) Any of the following persons while in the performance of their official duties: a law
20 enforcement officer; a member of a fire department; or the operator of an emergency
21 vehicle designated as such under Code Section 40-8-92.

22 (d)(1) A violation of subsection (b) of this Code section shall be a misdemeanor
23 punishable by a fine of not more than \$100.00.

24 (2) No person shall be charged with a violation of subsection (b) of this Code section
25 alone but may be charged with such a violation in addition to any other traffic offense."

26 SECTION 3.

27 This Act shall become effective upon its approval by the Governor or upon its becoming law
28 without such approval.

29 SECTION 4.

30 All laws and parts of laws in conflict with this Act are repealed.