

House Bill 83

By: Representative Parham of the 94<sup>th</sup>

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 his or her official duties:  
 20 a law enforcement officer; a member of a fire department; or the operator of an  
 21 emergency 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 \$15.00.

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.