

House Bill 125

By: Representatives Mobley of the 58th, Dean of the 49th, DeLoach of the 127th, Houston of the 139th and Hudson of the 95th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to change certain provisions relating to suspension or revocation of the licenses
3 of habitually negligent or dangerous drivers and the point system; to change certain
4 provisions relating to drivers’ exercise of due care and proper use of radios and mobile
5 telephones; to prohibit certain use of mobile telephones; to provide for enforcement; to
6 provide penalties for violations; to provide an effective date; to repeal conflicting laws; and
7 for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
11 amended by striking subparagraph (c)(1)(A) of Code Section 40-5-57, relating to suspension
12 or revocation of the licenses of habitually negligent or dangerous drivers and the point
13 system, and inserting in lieu thereof the following:

14 "(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be
15 assessed for each offense shall be as provided in the following schedule:

16	Aggressive Driving	6 points
17	Reckless driving	4 points
18	Unlawful passing of a school bus	6 points
19	Improper passing on a hill or a curve	4 points
20	Exceeding the speed limit by more than 14 miles per hour but less than 19	
21	miles per hour	2 points
22	Exceeding the speed limit by 19 miles per hour or more but less than 24	
23	miles per hour	3 points
24	Exceeding the speed limit by 24 miles per hour or more but less than 34	
25	miles per hour	4 points

1 Exceeding the speed limit by 34 miles per hour or more 6 points
 2 Disobedience of any traffic-control device or traffic officer 3 points
 3 Too fast for conditions 0 points
 4 Possessing an open container of an alcoholic beverage while driving . . . 2 points
 5 Failure to adequately secure a load, except fresh farm produce, resulting in
 6 loss of such load onto the roadway which results in an accident 2 points
 7 Violation of child safety restraint requirements, first offense 1 point
 8 Violation of child safety restraint requirements, second or subsequent
 9 offense 2 points
 10 Engaged in actions which distract the driver and result in an accident with
 11 physical injury or property damage 2 points
 12 All other moving traffic violations which are not speed limit violations . 3 points"

13 **SECTION 2.**

14 Said title is further amended by striking Code Section 40-6-241, relating to drivers' exercise
 15 of due care and proper use of radios and mobile telephones, and inserting in lieu thereof the
 16 following:

17 "40-6-241.

18 A driver shall exercise due care in operating a motor vehicle on the highways of this state
 19 and shall not engage in any actions which shall distract such driver from the safe operation
 20 of such vehicle, ~~provided that the proper use of a radio, citizens band radio, or mobile~~
 21 ~~telephone shall not be a violation of this Code section~~ and contribute to an accident
 22 resulting in physical injury or property damage. Any person who violates this Code section
 23 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine
 24 not to exceed \$50.00."

25 **SECTION 3.**

26 Said title is further amended by inserting a new Code section to read as follows:

27 "40-6-241.1.

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

29 (1) 'Hand-held mobile communication device' means the device used by subscribers and
 30 other users of wireless telephone service to access such service.

31 (2) 'Hands-free mobile telephone' shall mean a hand-held mobile communication device
 32 that has an internal feature or function, or that is equipped with an attachment or addition,
 33 whether or not permanently part of such hand-held mobile communication device, by

1 which a user engages in a call without the use of either hand, whether or not the use of
2 either hand is necessary to activate, deactivate, or initiate a function of such device.

3 (b)(1) No person shall operate a motor vehicle upon a highway while using a hand-held
4 mobile communication device, other than a hands-free mobile telephone, to engage in a
5 call while such motor vehicle is in motion.

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

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

12 (1) The use of a hand-held mobile communication device for the sole purpose of
13 communicating with any of the following regarding an emergency situation: an
14 emergency response operator; a hospital, physician's office, or health clinic; an
15 ambulance company or corps; a fire department; or a police department; or

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

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

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

23 **SECTION 4.**

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

26 **SECTION 5.**

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