

House Bill 5

By: Representatives Oliver of the 83rd, Watson of the 91st, Mitchell of the 88th, Drenner of the 86th, and Benfield of the 85th

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 add a points penalty for the use of cellular, hands-free, or mobile telephones
3 or other wireless communication devices under certain circumstances; to change certain
4 provisions related to exercising due care in operating a motor vehicle and the proper use of
5 radios and mobile telephones; to provide for definitions; to provide for a penalty; to provide
6 for exceptions; to provide for related matters; to repeal conflicting laws; and for other
7 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 the
12 assessment of points in the suspension or revocation of the license of a habitually negligent
13 or dangerous driver, 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	<u>Driving while distracted - use of wireless communication device</u>	<u>1 point</u>
8	Violation of child safety restraint requirements, first offense	1 point
9	Violation of child safety restraint requirements, second or	
10	subsequent offense	2 points
11	All other moving traffic violations which are not speed limit violations . .	3 points"

SECTION 2.

12
 13 Said title is further amended by striking Code Section 40-6-241, relating to exercising due
 14 care in operating a motor vehicle and the proper use of radios and mobile telephones, and
 15 inserting in lieu thereof the following:

16 "40-6-241.

17 (a) For purposes of this Code section, the term:

18 (1) 'Device' means a cellular, hands-free, or mobile telephone, wireless communication
 19 device, personal digital assistant, radio, or citizens band radio; and

20 (2) 'Engaged in a call' means talking or listening via a device and shall include holding
 21 such device to activate, deactivate, or initiate a function of such device.

22 (b) A driver shall exercise due care in operating a motor vehicle on the highways,
 23 roadways, and streets of this state and shall not engage in any actions which shall distract
 24 such driver from the safe operation of such vehicle; provided that the proper use of a radio,
 25 citizens band radio, or mobile telephone shall not be a violation of this Code section.

26 (c)(1) Except as provided in subsection (d) of this Code section, any driver who shall
 27 knowingly:

28 (A) Operate a motor vehicle which is involved in an accident resulting in death or
 29 bodily injury of any person or in property damage; and

30 (B) Be engaged in a call at the time of the accident

31 shall be guilty of driving while distracted.

32 (2) The inference that the driver of such motor vehicle was driving while distracted may
 33 be rebutted by evidence tending to show that engaging in a call at the time of the accident
 34 did not contribute to the accident.

35 (d) Subsection (c) of this Code section shall not apply to:

1 (1) Engaging in a call for the sole purpose of communicating with any of the following
2 regarding an emergency situation: an emergency response operator; a hospital,
3 physician's office, or health clinic; an ambulance company or corps; a fire department;
4 or a police department; and

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

8 (e)(1) Any person convicted of a violation of subsection (b) of this Code section shall be
9 guilty of a misdemeanor punishable as provided in Code Section 40-6-1.

10 (2) Any person convicted of a violation of subsection (c) of this Code section shall be
11 guilty of a misdemeanor punishable by a fine not to exceed \$500.00 and assessment of
12 points pursuant to Code Section 40-5-57."

13
14 **SECTION 3.**

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