

The House Committee on Public Safety & Homeland Security offers the following substitute to HB 938:

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; to prohibit use of wireless
5 telecommunications devices by persons under 18 years of age with an instruction permit or
6 Class D license while operating a motor vehicle; to provide penalties for violations; to
7 exempt headsets used for communication purposes; to provide for related matters; to provide
8 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
12 amended by revising subparagraph (c)(1)(A) of Code Section 40-5-57, relating to suspension
13 or revocation of the licenses of habitually negligent or dangerous drivers and the point
14 system, as follows:

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

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

27 Exceeding the speed limit by 34 miles per hour or more 6 points
 28 Disobedience of any traffic-control device or traffic officer 3 points
 29 Too fast for conditions 0 points
 30 Possessing an open container of an alcoholic beverage while driving 2 points
 31 Failure to adequately secure a load, except fresh farm produce,
 32 resulting in loss of such load onto the roadway which results in
 33 an accident 2 points
 34 Violation of child safety restraint requirements, first offense 1 point
 35 Violation of child safety restraint requirements, second or
 36 subsequent offense 2 points
 37 Operating a vehicle while engaging in a wireless communication
 38 (under 18) 2 points
 39 All other moving traffic violations which are not speed limit
 40 violations 3 points"

SECTION 2.

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

"40-5-57.4.

(a) The driver's license of any operator of a motor vehicle who is determined to be at fault for causing an automobile accident while violating Code Section 40-6-241.1 shall be suspended as provided in this Code section.

(b)(1) A first suspension of a driver's license under this Code section shall be for a period of 90 days or until the offender turns 18 years of age, whichever is shorter.

(2) A second or subsequent suspension of a driver's license under this Code section shall be for a period of six months or until the offender turns 18 years of age, whichever is shorter.

(c) After the suspension period and when the person pays a restoration fee of \$60.00 or, when processed by mail, \$50.00, the suspension shall terminate."

SECTION 3.

Said title is further amended by revising Code Section 40-6-241, relating to drivers' exercise of due care and proper use of radios and mobile telephones, as follows:

"40-6-241.

A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions which shall distract such driver from the safe operation of such vehicle, provided that, except as prohibited by Code Section 40-6-241.1, the proper

61 use of a radio, citizens band radio, ~~or~~ mobile telephone, or amateur or ham radio shall not
 62 be a violation of this Code section."

63 **SECTION 4.**

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

65 "40-6-241.1.

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

67 (1) 'Engage in a wireless communication' means talking, writing, sending, or reading a
 68 text-based communication, or listening on a wireless telecommunications device.

69 (2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging
 70 device, a personal digital assistant, a stand alone computer, or any other substantially
 71 similar wireless device that is used to initiate or receive a wireless communication with
 72 another person. It does not include citizens band radios, citizens band radio hybrids,
 73 commercial two-way radio communication devices, subscription-based emergency
 74 communications, in-vehicle security, navigation, and remote diagnostics systems, or
 75 amateur or ham radio devices.

76 (b) Except in a driver emergency and as provided in subsection (c) of this Code section,
 77 no person who has an instruction permit or a Class D license and is under 18 years of age
 78 shall operate a motor vehicle on any public road or highway of this state while engaging
 79 in a wireless communication using a wireless telecommunications device.

80 (c) The provisions of this Code section shall not apply to a person who has an instruction
 81 permit or a Class D license and is under 18 years of age who engages in a wireless
 82 communication using a wireless telecommunications device to do any of the following:

83 (1) Report a traffic accident, medical emergency, or serious road hazard;

84 (2) Report a situation in which the person believes his or her personal safety is in
 85 jeopardy;

86 (3) Report or avert the perpetration or potential perpetration of a criminal act against the
 87 driver or another person; or

88 (4) Engage in a wireless communication while the motor vehicle is lawfully parked.

89 (d)(1) Any conviction for a violation of the provisions of this Code section shall be
 90 punishable by a fine of not less than \$50.00 nor more than \$100.00. The provisions of
 91 Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the
 92 costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or
 93 surcharge to a fine for such offense be assessed against a person for conviction thereof.
 94 The court imposing such fine shall forward a record of the disposition of the case of
 95 unlawfully operating a motor vehicle while using a wireless telecommunications device
 96 to the Department of Driver Services.

97 (2) If the operator of the moving motor vehicle causes an accident at the time of a
 98 violation of this Code section, then the fine shall be equal to double the amount of the
 99 fine imposed in paragraph (1) of this subsection and the operator's driver's license shall
 100 be suspended pursuant to the provisions of Code Section 40-5-57.3. The suspension of
 101 the driver's license shall be implemented only upon a finding that the operator of the
 102 motor vehicle was at fault in causing the automobile accident. The law enforcement
 103 officer investigating the accident shall indicate on the written accident form any evidence
 104 that such operator was engaging in a wireless communication at the time of the accident."

105 **SECTION 5.**

106 Said Title is further amended in Code Section 40-6-250 of the Official Code of Georgia
 107 Annotated, relating to wearing a device which impairs hearing or vision while operating a
 108 motor vehicle, as follows:

109 "40-6-250.

110 No person shall operate a motor vehicle while wearing a headset or headphone which
 111 would impair such person's ability to hear, nor shall any person while operating a motor
 112 vehicle wear any device which impairs such person's vision; provided, however, that a
 113 person may wear a headset or headphone for communication purposes ~~only while operating~~
 114 ~~a motorcycle. This Code section shall not apply to hearing aids or instruments for the~~
 115 ~~improvement of defective human hearing, eyeglasses, or sunglasses. This Code section~~
 116 ~~shall not apply to any law enforcement officer or firefighter equipped with any~~
 117 ~~communications device necessary in the performance of such person's duties."~~

118 **SECTION 6.**

119 This Act shall become effective on July 1, 2010, and shall apply to offenses committed on
 120 or after such date.

121 **SECTION 7.**

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