

House Bill 938 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Peake of the 137th, Rice of the 51st, Ramsey of the 72nd, Lindsey of the 54th, Williams of the 178th, and others

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 prohibit writing, sending, or reading a

7 text based communication by any person while operating a motor vehicle; to provide

8 penalties for violations; to exempt headsets used for communication purposes; to provide for

9 related matters; to provide for an effective date and applicability; to repeal conflicting laws;

10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is

14 amended by revising subparagraph (c)(1)(A) of Code Section 40-5-57, relating to suspension

15 or revocation of the licenses of habitually negligent or dangerous drivers and the point

16 system, as follows:

17 "(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be

18 assessed for each offense shall be as provided in the following schedule:

19 Aggressive driving 6 points

20 Reckless driving 4 points

21 Unlawful passing of a school bus 6 points

22 Improper passing on a hill or a curve 4 points

23 Exceeding the speed limit by more than 14 miles per hour but

24 less than 19 miles per hour 2 points

25 Exceeding the speed limit by 19 miles per hour or more but

26 less than 24 miles per hour 3 points

27	Exceeding the speed limit by 24 miles per hour or more but	
28	less than 34 miles per hour	4 points
29	Exceeding the speed limit by 34 miles per hour or more	6 points
30	Disobedience of any traffic-control device or traffic officer	3 points
31	Too fast for conditions	0 points
32	Possessing an open container of an alcoholic beverage while driving	2 points
33	Failure to adequately secure a load, except fresh farm produce,	
34	resulting in loss of such load onto the roadway which results in	
35	an accident	2 points
36	Violation of child safety restraint requirements, first offense	1 point
37	Violation of child safety restraint requirements, second or	
38	subsequent offense	2 points
39	<u>Operating a vehicle while engaging in prohibited wireless</u>	
40	<u>communication</u>	<u>2 points</u>
41	All other moving traffic violations which are not speed limit	
42	violations	3 points"

43 SECTION 2.

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

45 "40-5-57.4.

46 (a) The driver's license of any operator of a motor vehicle who is determined to be at fault
 47 for causing an automobile accident while violating paragraph (1) of subsection (b) of Code
 48 Section 40-6-241.1 shall be suspended as provided in this Code section.

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

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

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

56 SECTION 3.

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

59 "40-6-241.

60 A driver shall exercise due care in operating a motor vehicle on the highways of this state
 61 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 use of a radio, citizens band radio, ~~or~~ mobile telephone, or amateur or ham radio shall not be a violation of this Code section."

SECTION 4.

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

"40-6-241.1.

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

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

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

(b) (1) Except in a driver emergency and as provided in subsection (c) of this Code section, no person who has an instruction permit or a Class D license and is under 18 years of age shall operate a motor vehicle on any public road or highway of this state while engaging in a wireless communication using a wireless telecommunications device.

(2) No person shall operate a motor vehicle on any public road or highway of this state while using a wireless telecommunications device to write, send, or read any text based communication, including but not limited to a text message, instant message, electronic mail, or Internet data.

(c) The provisions of this Code section shall not apply to:

(1) A person reporting a traffic accident, medical emergency, fire, serious road hazard, or a situation in which the person reasonably believes a person's health or safety is in immediate jeopardy;

(2) A person reporting the perpetration or potential perpetration of a crime;

(3) A public utility employee or contractor acting within the scope of his or her employment when responding to a public utility emergency;

(4) A law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder during the performance of his or her official duties; or

(5) A person engaging in wireless communication while in a motor vehicle which is lawfully parked.

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

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

SECTION 5.

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

"40-6-250.

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

SECTION 6.

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

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SECTION 7.

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