

House Bill 1520

By: Representative Jones of the 44th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
2 offenses against health and morals, so as to prohibit the sale of wireless telephones and
3 wireless prepaid telephones to any person under the age of 18 years of age without the prior
4 written consent of such person's parent or guardian; to provide for definitions; to provide
5 criminal penalties; to require certain signage or notice; to provide for administration and
6 enforcement; to provide for related matters; to provide for an effective date and applicability;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
11 health and morals, is amended by adding a new article to read as follows:

12 "ARTICLE 8

13 16-12-200.

14 As used in this article, the term:

15 (1) 'Community service' means a public service which a minor might appropriately be
16 required to perform, as determined by the court, as punishment for certain offenses
17 provided for in this article.

18 (2) 'Minor' means any person who is under the age of 18 years.

19 (3) 'Person' means any natural person or any firm, partnership, company, corporation, or
20 other entity.

21 (4) 'Prepaid wireless telephone' means a wireless telephone for which a customer pays
22 a wireless service provider in advance by any method for a wireless telecommunications
23 connection.

24 (5) 'Proper identification' means any document issued by a governmental agency
 25 containing a description of the person, such person's photograph, or both, and giving such
 26 person's date of birth and includes, without being limited to, a passport, military
 27 identification card, driver's license, or an identification card authorized under Code
 28 Sections 40-5-100 through 40-5-104. 'Proper identification' shall not include a birth
 29 certificate.

30 (6) 'Wireless telecommunications connection' means any mobile station for wireless
 31 service that connects a provider of wireless service to a provider of telephone service.

32 (7) 'Wireless telephone' means a device used for 'commercial mobile service' as defined
 33 under Section 332(D) of the federal Telecommunications Act of 1996 (47 U.S.C. Section
 34 157, et seq.), regulations of the Federal Communications Commission, and the Omnibus
 35 Budget Reconciliation Act of 1993 (P.L. 103-66) and includes real-time, two-way
 36 interconnected voice service which is provided over networks which utilize intelligent
 37 switching capability and offer seamless handoff to customers.

38 16-12-201.

39 (a)(1) It shall be unlawful for any person knowingly to:

40 (A) Sell or barter, directly or indirectly, a wireless telephone or prepaid wireless
 41 telephone to a minor unless the prior written consent of a custodial parent or guardian
 42 of such minor is obtained; or

43 (B) Purchase a wireless telephone or prepaid wireless telephone for any minor unless
 44 the minor for whom the purchase is made is the child of the purchaser.

45 (2)(A) The prohibition contained in paragraph (1) of this subsection shall not apply
 46 with respect to sale of a wireless telephone or prepaid wireless telephone by a person
 47 when such person has been furnished with proper identification showing that the person
 48 to whom the wireless telephone or prepaid wireless telephone is sold is 18 years of age
 49 or older.

50 (B) In any case where a reasonable or prudent person could reasonably be in doubt as
 51 to whether or not the person to whom the wireless telephone or prepaid wireless
 52 telephone is to be sold or otherwise furnished is actually 18 years of age or older, it
 53 shall be the duty of the person selling or otherwise furnishing such wireless telephone
 54 or prepaid wireless telephone to conduct a physical examination of proper identification
 55 as provided for in subsection (b) of this Code section in order to verify the age of such
 56 person or to utilize an Internet based age and identification verification service
 57 approved by the Public Service Commission. The failure to make a verification in any
 58 case where the person to whom the wireless telephone or prepaid wireless telephone is
 59 sold or otherwise furnished is less than 18 years of age may be considered by the trier

60 of fact in determining whether the person selling or otherwise furnishing such a
 61 wireless telephone or prepaid wireless telephone did so knowingly.

62 (3) Any person who violates this subsection shall be guilty of a misdemeanor.

63 (b)(1) It shall be unlawful for any minor to:

64 (A) Purchase or attempt to purchase a wireless telephone or prepaid wireless telephone.

65 This subparagraph shall not apply to the purchase of a wireless telephone or prepaid
 66 wireless telephone by a minor when a parent or guardian of such minor gives the seller
 67 of the wireless telephone or prepaid wireless telephone prior written consent for such
 68 purchase; or

69 (B) Misrepresent such minor's identity or age or use any false identification for the
 70 purpose of purchasing or procuring a wireless telephone or prepaid wireless telephone.

71 (2) A minor who commits an offense provided for in paragraph (1) of this subsection
 72 may be punished as follows:

73 (A) By requiring the performance of community service not exceeding 20 hours;

74 (B) By requiring attendance at a publicly or privately sponsored lecture or discussion
 75 on the hazards of using a wireless telephone while driving, provided such lecture or
 76 discussion is offered without charge to the minor; or

77 (C) By a combination of the punishments described in subparagraphs (A) and (B) of
 78 this paragraph.

79 16-12-202.

80 (a) Any person owning or operating a place of business in which wireless telephones or
 81 prepaid wireless telephones are sold or offered for sale shall post in a conspicuous place
 82 a sign or notice which shall contain the following statement:

83 'SALE OF WIRELESS TELEPHONES OR PREPAID WIRELESS TELEPHONES TO
 84 PERSONS UNDER 18 YEARS OF AGE WITHOUT THE PRIOR WRITTEN
 85 CONSENT OF A CUSTODIAL PARENT OR GUARDIAN OF SUCH MINOR IS
 86 PROHIBITED BY LAW.'

87 Such sign or notice shall be printed in letters of at least one-half inch in height.

88 (b) Any person who fails to comply with the requirements of subsection (a) of this Code
 89 section shall be guilty of a misdemeanor.

90 16-12-203.

91 (a) The provisions of this article shall be enforced through actions brought in any court of
 92 competent jurisdiction by the prosecuting attorney for the county in which the alleged
 93 violation occurred. Any fine collected for a violation of said provisions shall be paid to the
 94 clerk of the court of the jurisdiction in which the violation occurred. Upon receipt of a fine

95 for any violation of said provisions, the clerk shall promptly notify the Public Service
96 Commission of the violation.
97 (b) The Public Service Commission shall administer this article and may make reasonable
98 rules and regulations for its administration."

99 **SECTION 2.**

100 This Act shall become effective upon its approval by the Governor or upon its becoming law
101 without such approval and shall apply to conduct on and after that date.

102 **SECTION 3.**

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