

Senate Bill 360

By: Senators Murphy of the 27th, Tate of the 38th, Hamrick of the 30th, Balfour of the 9th, Jackson of the 24th and others

**AS PASSED**

**A BILL TO BE ENTITLED  
AN ACT**

1 To establish the "Caleb Sorohan Act for Saving Lives by Preventing Texting While Driving";  
2 to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and  
3 traffic, so as to change certain provisions relating to the suspension or revocation of the  
4 licenses of habitually negligent or dangerous drivers and the point system; to change certain  
5 provisions relating to drivers' exercise of due care; to prohibit writing, sending, or reading  
6 a text based communication by certain persons while operating a motor vehicle; to provide  
7 penalties for violations; to exempt headsets used for communication purposes; to provide for  
8 related matters; to provide for an effective date and applicability; to repeal conflicting laws;  
9 and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **WHEREAS**, the General Assembly finds that there has been a proliferation of cellular  
12 telephone use and that virtually every driver in Georgia now possesses such a device; and

13 **WHEREAS**, distractions caused by such devices, particularly the act of sending or reading  
14 text based messages has resulted in numerous traffic accidents, injuries, and deaths  
15 throughout our state and nation; and

16 **WHEREAS**, young drivers are particularly susceptible to such distractions due to their  
17 inexperience and increased willingness to take risks while driving; and

18 **WHEREAS**, it is the responsibility of this body to take action to protect drivers from those  
19 who abuse their driving privilege by recklessly text messaging while driving.

20 **SECTION 1.**

21 This Act shall be known and may be cited as the "Caleb Sorohan Act for Saving Lives by  
22 Preventing Texting While Driving."

## SECTION 2.

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

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

Aggressive driving . . . . .	6 points
Reckless driving . . . . .	4 points
Unlawful passing of a school bus . . . . .	6 points
Improper passing on a hill or a curve . . . . .	4 points
Exceeding the speed limit by more than 14 miles per hour but less than 19 miles per hour . . . . .	2 points
Exceeding the speed limit by 19 miles per hour or more but less than 24 miles per hour . . . . .	3 points
Exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour . . . . .	4 points
Exceeding the speed limit by 34 miles per hour or more . . . . .	6 points
Disobedience of any traffic-control device or traffic officer . . . . .	3 points
Too fast for conditions . . . . .	0 points
Possessing an open container of an alcoholic beverage while driving . . . .	2 points
Failure to adequately secure a load, except fresh farm produce, resulting in loss of such load onto the roadway which results in an accident . . . . .	2 points
Violation of child safety restraint requirements, first offense . . . . .	1 point
Violation of child safety restraint requirements, second or subsequent offense . . . . .	2 points
<u>Operating a vehicle while text messaging . . . . .</u>	<u>1 point</u>
All other moving traffic violations which are not speed limit violations . . . . .	3 points"

### 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 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 '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 devices, and remote diagnostics systems, or amateur or ham radio devices.

(b) No person who is 18 years of age or older or who has a Class C license 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, e-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) Any conviction for a violation of the provisions of this Code section shall be a misdemeanor punishable by a fine of \$150.00. 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 to the Department of Driver Services. Any violation of this Code section shall constitute a separate offense."

**SECTION 5.**

Said title is further amended by revising Code Section 40-6-250, 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.

**SECTION 7.**

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