

House Bill 19

By: Representatives Oliver of the 83rd, Benfield of the 85th, Gardner of the 57th, and Ashe of the 56th

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 revising 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, as follows:

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	
21	but less than 19 miles per hour	2 points
22	Exceeding the speed limit by 19 miles per hour or more	
23	but less than 24 miles per hour	3 points
24	Exceeding the speed limit by 24 miles per hour or more	
25	but less than 34 miles per hour	4 points
26	Exceeding the speed limit by 34 miles per hour or more	6 points

27 Disobedience of any traffic-control device or traffic officer 3 points
 28 Too fast for conditions 0 points
 29 Possessing an open container of an alcoholic beverage while driving 2 points
 30 Failure to adequately secure a load, except fresh farm produce,
 31 resulting in loss of such load onto the roadway which results in
 32 an accident 2 points
 33 Driving while distracted – use of wireless communication device 1 point
 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 All other moving traffic violations which are not speed limit
 38 violations 3 points”

39 **SECTION 2.**

40 Said title is further amended by revising Code Section 40-6-241, relating to exercising due
 41 care in operating a motor vehicle and the proper use of radios and mobile telephones, as
 42 follows:

43 "40-6-241.

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

45 (1) 'Device' means a cellular, hands-free, or mobile telephone, wireless communication
 46 device, personal digital assistant, radio, or citizens band radio.

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

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

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

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

57 (B) Be engaged in a call at the time of the accident
 58 shall be guilty of driving while distracted.

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

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

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

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

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

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

75 **SECTION 3.**

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