

House Bill 23

By: Representatives Ramsey of the 72nd, Rice of the 51st, Lindsey of the 54th, Williams of the 178th, and Levitas of the 82nd

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 cell phones by persons
5 under 18 years of age while operating a motor vehicle; to prohibit the practice of text
6 messaging by persons under 18 years of age while operating a motor vehicle; to provide
7 penalties for violations; to provide for related matters; to provide an effective date; to repeal
8 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 Violation of usage of cell phone or text messaging requirements,

38 first offense 1 point

39 Violation of usage of cell phone or text messaging requirements,

40 second or subsequent offense 2 points

41 All other moving traffic violations which are not speed limit

42 violations 3 points"

SECTION 2.

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

"40-5-57.3.

(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 or 40-6-241.2 shall be suspended as provided in this Code section. The person shall submit the driver's license to the court upon conviction and the court shall forward the driver's license to the department. If not convicted in a court, the person shall submit the driver's license to the department upon receiving proper notice of the suspension pursuant to the provisions of this chapter.

(b)(1) A first suspension of a driver's license under this Code section shall be for a period of 90 days.

(2) A second or subsequent suspension of a driver's license under this Code section shall be for a period of six months.

(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 and the department shall return the person's driver's license to such person."

60

SECTION 3.

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

63 "40-6-241.

64 A driver shall exercise due care in operating a motor vehicle on the highways of this state
65 and shall not engage in any actions which shall distract such driver from the safe operation
66 of such vehicle, provided that the proper use of a radio, or citizens band radio,~~or mobile~~
67 ~~telephone~~ shall not be a violation of this Code section."

68

SECTION 4.

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

70 "40-6-241.1.

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

72 (1) 'Engage in a telephone call' means talking or listening on a wireless
73 telecommunications device.

74 (2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging
75 device, a personal digital assistant, a stand alone computer, or any other substantially
76 similar wireless device that is readily removable from the vehicle and is used to initiate
77 or receive a telephone call. A 'wireless telecommunications device' shall not include any
78 device or component that is permanently affixed to a motor vehicle. It does not include
79 citizens band radios, citizens band radio hybrids, commercial two-way radio
80 communication devices, or electronic communication devices with a push-to-talk
81 function.

82 (b) Except in a driver emergency and as provided in subsection (c) of this Code section,
83 no person under 18 years of age shall operate a motor vehicle on any public road or
84 highway of this state while using any wireless telecommunications device to engage in a
85 telephone call.

86 (c) The provisions of this Code section shall not apply to a person under 18 years of age
87 who uses a wireless telecommunications device to do any of the following:

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

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

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

93 (4) Engage in a call while the motor vehicle is lawfully parked.

94 (d)(1) The first violation of the provisions of this Code section shall be punishable by a
95 fine of not more than \$175.00.

- 96 (2) Each subsequent violation shall be punishable by a fine of not more than \$500.00.
 97 (3) If the operator of the moving motor vehicle is involved in an accident at the time of
 98 a violation of this Code section, then the fine shall be equal to double the amount of the
 99 standard fine imposed in paragraphs (1) and (2) of this subsection and the operator's
 100 driver's license shall be suspended pursuant to the provisions of Code Section 40-5-57.3.
 101 The suspension of the driver's license shall be implemented only upon a finding that the
 102 operator of the motor vehicle was at fault in causing the automobile accident. The law
 103 enforcement officer investigating the accident shall indicate on the written accident form
 104 that such operator was using a wireless telecommunications device at the time of the
 105 accident.
 106 (4) Any violation of this Code section is a primary offense and shall constitute a moving
 107 violation."

108 SECTION 5.

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

110 "40-6-241.2.

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

112 (1) 'Wireless telecommunications device' means a cellular telephone, a text-messaging
 113 device, a personal digital assistant, a stand alone computer, or any other substantially
 114 similar wireless device that is readily removable from the vehicle and is used to write,
 115 send, or read text or data through manual input. A 'wireless telecommunications device'
 116 shall not include any device or component that is permanently affixed to a motor vehicle.
 117 It does not include citizens band radios, citizens band radio hybrids, commercial two-way
 118 radio communication devices, or electronic communication devices with a push-to-talk
 119 function.

120 (2) 'Write, send, or read a text-based communication' means using a wireless
 121 telecommunications device to manually communicate with any person by using a
 122 text-based communication referred to as a text message, instant message, or electronic
 123 mail.

124 (b) Except as provided in subsection (c) of this Code section, no person under the age of
 125 18 shall operate any motor vehicle upon any public road or highway of this state while
 126 using a wireless telecommunications device to write, send, or read a text-based
 127 communication.

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

129 (1) Any law enforcement officer, firefighter, or operator of an authorized emergency
 130 vehicle while engaged in the actual performance of his or her official duties;

131 (2) Any operator of a moving motor vehicle using a wireless telecommunications device
 132 to:
 133 (A) Report illegal activity;
 134 (B) Summon medical or other emergency help;
 135 (C) Prevent injury to a person or property;
 136 (D) Relay information between a transit or for-hire operator and that operator's
 137 dispatcher, in which the device is permanently affixed to the vehicle; or
 138 (E) Navigate using a global positioning system; or
 139 (3) A physician or other health care provider using a wireless telecommunications device
 140 to communicate with a hospital, health clinic, or the office of such physician or provider,
 141 or to otherwise provide for the health care of an individual or medical emergency through
 142 a text-based communication.
 143 (d)(1) The first violation of the provisions of this Code section shall be punishable by a
 144 fine of not more than \$175.00.
 145 (2) Each subsequent violation shall be punishable by a fine of not more than \$500.00.
 146 (3) If the operator of the moving motor vehicle is involved in an accident at the time of
 147 a violation of this Code section, then the fine shall be equal to double the amount of the
 148 standard fine imposed in paragraphs (1) and (2) of this subsection and the operator's
 149 driver's license shall be suspended pursuant to the provisions of Code Section 40-5-57.3.
 150 The suspension of the driver's license shall be implemented only upon a finding that the
 151 operator of the motor vehicle was at fault in causing the automobile accident. The law
 152 enforcement officer investigating the accident shall indicate on the written accident form
 153 that such operator was using a wireless telecommunications device at the time of the
 154 accident.
 155 (4) Any violation of this Code section is a primary offense and shall constitute a moving
 156 violation."

157 **SECTION 6.**

158 This Act shall become effective on July 1, 2009.

159 **SECTION 7.**

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