

The House Committee on Motor Vehicles offers the following substitute to HB 23:

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 provide penalties for violations; to
7 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
8 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 wireless telecommunications device requirements . 2 points
 38 All other moving traffic violations which are not speed limit
 39 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 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 the driver's license is not submitted to the court at the time of conviction, 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."

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:

60 "40-6-241.

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

65 **SECTION 4.**

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

67 "40-6-241.1.

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

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

71 (2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging
72 device, a personal digital assistant, a stand alone computer, or any other substantially
73 similar wireless device that is used to initiate or receive a wireless communication. It
74 does not include citizens band radios, citizens band radio hybrids, commercial two-way
75 radio communication devices, or amateur or ham radio devices.

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

80 (c) The provisions of this Code section shall not apply to a person who has an instruction
81 permit or a Class D license and is under 18 years of age who engages in a wireless
82 communication using a wireless telecommunications device to do any of the following:

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

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

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

88 (4) Engage in a wireless communication while the motor vehicle is lawfully parked.

89 (d)(1) Any conviction for a violation of the provisions of this Code section shall be
90 punishable by a fine of not less than \$50.00 nor more than \$100.00. The provisions of
91 Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the
92 costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or
93 surcharge to a fine for such offense be assessed against a person for conviction thereof.

94 The court imposing such fine shall forward a record of the disposition of the case of

95 unlawfully operating a motor vehicle while using a wireless telecommunications device
96 to the Department of Driver Services.

97 (2) 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 fine imposed in paragraph (1) of this subsection and the operator's driver's license shall
100 be suspended pursuant to the provisions of Code Section 40-5-57.3. The suspension of
101 the driver's license shall be implemented only upon a finding that the operator of the
102 motor vehicle was at fault in causing the automobile accident. The law enforcement
103 officer investigating the accident shall indicate on the written accident form that such
104 operator was engaging in a wireless communication at the time of the accident."

105 **SECTION 5.**

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

107 **SECTION 6.**

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