

House Bill 23 (COMMITTEE SUBSTITUTE)

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

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 or until the offender turns 18 years of age, whichever is shorter.

(2) A second or subsequent suspension of a driver's license under this Code section shall be for a period of six months or until the offender turns 18 years of age, whichever is shorter.

(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:

61 "40-6-241.

62 A driver shall exercise due care in operating a motor vehicle on the highways of this state  
63 and shall not engage in any actions which shall distract such driver from the safe operation  
64 of such vehicle, provided that, except as prohibited by Code Section 40-6-241.1, the proper  
65 use of a radio, citizens band radio, ~~or~~ mobile telephone, or amateur or ham radio shall not  
66 be a violation of this Code section."

67 **SECTION 4.**

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

69 "40-6-241.1.

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

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

73 (2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging  
74 device, a personal digital assistant, a stand alone computer, or any other substantially  
75 similar wireless device that is used to initiate or receive a wireless communication with  
76 another person. It does not include citizens band radios, citizens band radio hybrids,  
77 commercial two-way radio communication devices, subscription-based emergency  
78 communications, in-vehicle security, navigation, and remote diagnostics systems, or  
79 amateur or ham radio devices.

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

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

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

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

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

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

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

97 surcharge to a fine for such offense be assessed against a person for conviction thereof.  
98 The court imposing such fine shall forward a record of the disposition of the case of  
99 unlawfully operating a motor vehicle while using a wireless telecommunications device  
100 to the Department of Driver Services.

101 (2) If the operator of the moving motor vehicle is involved in an accident at the time of  
102 a violation of this Code section, then the fine shall be equal to double the amount of the  
103 fine imposed in paragraph (1) of this subsection and the operator's driver's license shall  
104 be suspended pursuant to the provisions of Code Section 40-5-57.3. The suspension of  
105 the driver's license shall be implemented only upon a finding that the operator of the  
106 motor vehicle was at fault in causing the automobile accident. The law enforcement  
107 officer investigating the accident shall indicate on the written accident form whether such  
108 operator was engaging in a wireless communication at the time of the accident."

109 **SECTION 5.**

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

111 **SECTION 6.**

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