

The Senate Public Safety Committee offered 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 modify certain conditions when fleeing or attempting to elude a police officer shall be treated  
8 as a felony offense; to provide for related matters; to provide an effective date; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

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

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

- 18 Aggressive driving ..... 6 points
- 19 Reckless driving ..... 4 points
- 20 Unlawful passing of a school bus ..... 6 points
- 21 Improper passing on a hill or a curve ..... 4 points
- 22 Exceeding the speed limit by more than 14 miles per hour but  
23 less than 19 miles per hour ..... 2 points
- 24 Exceeding the speed limit by 19 miles per hour or more but  
25 less than 24 miles per hour ..... 3 points

26 Exceeding the speed limit by 24 miles per hour or more but  
 27 less than 34 miles per hour . . . . . 4 points  
 28 Exceeding the speed limit by 34 miles per hour or more . . . . . 6 points  
 29 Disobedience of any traffic-control device or traffic officer . . . . . 3 points  
 30 Too fast for conditions . . . . . 0 points  
 31 Possessing an open container of an alcoholic beverage while driving . . . . 2 points  
 32 Failure to adequately secure a load, except fresh farm produce,  
 33 resulting in loss of such load onto the roadway which results in  
 34 an accident . . . . . 2 points  
 35 Violation of child safety restraint requirements, first offense . . . . . 1 point  
 36 Violation of child safety restraint requirements, second or  
 37 subsequent offense . . . . . 2 points  
 38 Violation of usage of wireless telecommunications device requirements . 2 points  
 39 All other moving traffic violations which are not speed limit  
 40 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."

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### 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:

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

(2) '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, and remote diagnostics systems, or amateur or ham radio devices.

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

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

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

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

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

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

94 (d)(1) Any conviction for a violation of the provisions of this Code section shall be  
 95 punishable by a fine of not less than \$50.00 nor more than \$100.00. The provisions of  
 96 Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the  
 97 costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or  
 98 surcharge to a fine for such offense be assessed against a person for conviction thereof.  
 99 The court imposing such fine shall forward a record of the disposition of the case of  
 100 unlawfully operating a motor vehicle while using a wireless telecommunications device  
 101 to the Department of Driver Services.

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

#### 110 **SECTION 5.**

111 Said title is further amended in Code Section 40-6-395 of the Official Code of Georgia  
 112 Annotated, relating to fleeing or attempting to elude a police officer and impersonating a law  
 113 enforcement officer, by revising subparagraph (b)(5)(A) as follows:

114 "(5)(A) Any person violating the provisions of subsection (a) of this Code section who,  
 115 while fleeing or attempting to elude a pursuing police vehicle or police officer in an  
 116 attempt to escape arrest for any offense, other than a violation of this chapter; not  
 117 expressly provided for in this paragraph:

118 (i) ~~operates~~ Operates his or her vehicle in excess of ~~30~~ 20 miles an hour above the  
 119 posted speed limit;

120 (ii) ~~strikes~~ Strikes or collides with another vehicle or a pedestrian;

121 (iii) ~~flees~~ Flees in traffic conditions which place the general public at risk of receiving  
 122 serious injuries;

123 (iv) ~~Commits a violation of paragraph (5) of subsection (a) of Code Section~~  
 124 ~~40-6-391; or~~

125 (v) ~~leaves~~ Leaves the state

126 shall be guilty of a felony punishable by a fine of \$5,000.00 or imprisonment for not  
 127 less than one year nor more than five years or both."

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**SECTION 6.**

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This Act shall become effective on July 1, 2009, and Section 5 of this Act shall apply to

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offenses committed on or after such date.

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**SECTION 7.**

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