

House Bill 938

By: Representatives Peake of the 137th, Rice of the 51st, Ramsey of the 72nd, Lindsey of the 54th, Williams of the 178th, 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 for sending or reading text messages while operating a motor
6 vehicle; to provide penalties for violations; to provide for related matters; to provide an
7 effective date; to repeal conflicting laws; and for other 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 suspension
12 or revocation of the licenses of habitually negligent or dangerous drivers and the point
13 system, 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 but | |
| 21 | less than 19 miles per hour | 2 points |
| 22 | Exceeding the speed limit by 19 miles per hour or more but | |
| 23 | less than 24 miles per hour | 3 points |
| 24 | Exceeding the speed limit by 24 miles per hour or more but | |
| 25 | 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 Violation of child safety restraint requirements, first offense 1 point

34 Violation of child safety restraint requirements, second or

35 subsequent offense 2 points

36 Violation of engaging in wireless communications while

37 using wireless telecommunications device requirements (text

38 messaging) 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:

"40-5-57.4.

(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) The suspension shall terminate after the suspension period and when the person pays a restoration fee of \$60.00 or, when processed by mail, \$50.00, 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) 'Wireless communication' means writing, sending, or reading a text-based
 72 communication 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 shall operate a motor vehicle on any public road or highway of this state while
 82 engaging in a wireless communication using a wireless telecommunications device.

83 (c) The provisions of this Code section shall not apply to a person who engages in a
 84 wireless communication using a wireless telecommunications device to do any of the
 85 following:

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

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

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

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

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

97 The court imposing such fine shall forward a record of the disposition of the case of
98 unlawfully operating a motor vehicle while using a wireless telecommunications device
99 to the Department of Driver Services.

100 (2) If the operator of the moving motor vehicle is determined to be at fault for causing
101 an automobile accident at the time of a violation of this Code section, the fine shall be
102 equal to double the amount of the fine imposed in paragraph (1) of this subsection and
103 the operator's driver's license shall be suspended pursuant to the provisions of Code
104 Section 40-5-57.4. The law enforcement officer investigating the accident shall indicate
105 on the written accident form whether such operator was engaging in a wireless
106 communication at the time of the accident."

107 **SECTION 5.**

108 This Act shall become effective on July 1, 2010, and shall apply to offenses committed on
109 or after such date.

110 **SECTION 6.**

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