

Senate Bill 327

By: Senators Thompson of the 33rd and Thomas of the 54th

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 the practice of text messaging
5 while operating a motor vehicle; to prohibit use of cell phones other than hands-free devices
6 while operating a motor vehicle; to provide penalties for violations; to provide for related
7 matters; 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 text messaging or usage of cell phone requirements,

37 first offense 1 point

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

39 second or subsequent offense 2 points

40 All other moving traffic violations which are not speed limit

41 violations 3 points"

SECTION 2.

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

45 "40-6-241.

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

SECTION 3.

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

52 "40-6-241.1.

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

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

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

66 (b) Except as provided in subsection (c) of this Code section, no person shall operate any
 67 motor vehicle upon any public road or highway of this state while using a wireless
 68 telecommunications device to write, send, or read a text-based communication. For
 69 purposes of this Code section, except as otherwise provided for in Code Section
 70 40-6-241.2, a person shall not be deemed to be writing, reading, or sending a text-based
 71 communication if the person reads, selects, or enters a telephone number or name in a
 72 wireless telecommunications device for the purpose of making a telephone call.

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

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

76 (2) An operator of a moving motor vehicle using a wireless telecommunications device
 77 to:

78 (A) Report illegal activity;

79 (B) Summon medical or other emergency help;

80 (C) Prevent injury to a person or property;

81 (D) Relay information between a transit or for-hire operator and that operator's
 82 dispatcher, in which the device is permanently affixed to the vehicle; or

83 (E) Navigate using a global positioning system; or

84 (3) A physician or other health care provider using a wireless telecommunications device
 85 to communicate with a hospital, health clinic, or the office of the physician, or to
 86 otherwise provide for the health care of an individual or medical emergency through a
 87 text-based communication.

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

90 (2) Each subsequent violation shall be punishable by a fine of not more than \$500.00.

91 (3) If the operator of the moving motor vehicle is involved in an accident at the time of
 92 a violation of this Code section, then the fine shall be equal to double the amount of the
 93 standard fine imposed in paragraphs (1) and (2) of this subsection and the law
 94 enforcement officer investigating the accident shall indicate on the written accident form
 95 that such operator was using a wireless telecommunications device at the time of the
 96 accident.

97 (4) Any violation of this Code section is a primary offense and shall constitute a moving
 98 violation."

SECTION 4.

99

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

101 "40-6-241.2.

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

103 (1) 'Hands-free device' means a wireless communications device designed so that calls
104 may be initiated and conducted without being touched or moved by the hands.

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

113 (b) Except in a driver emergency and as provided in subsection (c) of this Code section,
114 no person shall operate a motor vehicle on any public road or highway of this state while
115 using any wireless telecommunications device to engage in a telephone call; provided,
116 however, that a driver may initiate, receive, and engage in calls through the use of a
117 hands-free device.

118 (c) The provisions of this Code section shall not apply to a person who uses a wireless
119 telecommunications device to do any of the following:

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

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

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

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

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

128 (2) Each subsequent violation shall be punishable by a fine of not more than \$500.00.

129 (3) If the operator of the moving motor vehicle is involved in an accident at the time of
130 a violation of this Code section, then the fine shall be equal to double the amount of the
131 standard fine imposed in paragraphs (1) and (2) of this subsection and the law
132 enforcement officer investigating the accident shall indicate on the written accident form
133 that such operator was using a wireless telecommunications device at the time of the
134 accident.

135 (4) Any violation of this Code section is a primary offense and shall constitute a moving
136 violation."

137 **SECTION 5.**

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