

Senate Bill 360

By: Senators Murphy of the 27th, Tate of the 38th, Hamrick of the 30th, Balfour of the 9th,  
Jackson of the 24th and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to prohibit persons 18 years of age or younger from using wireless telecommunications devices for sending or receiving text messages while operating a motor vehicle; to provide penalties for violations; to change certain provisions relating to a driver's exercise of due care; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

- "(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be assessed for each offense shall be as provided in the following schedule:
- |  |          |
|--|----------|
| Aggressive driving   | 6 points |
| Reckless driving   | 4 points |
| Unlawful passing of a school bus   | 6 points |
| Improper passing on a hill or a curve  | 4 points |
| Exceeding the speed limit by more than 14 miles per hour but less than 19 miles per hour | 2 points |
| Exceeding the speed limit by 19 miles per hour or more but less than 24 miles per hour   | 3 points |
| Exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour   | 4 points |
| Exceeding the speed limit by 34 miles per hour or more                                   | 6 points |
| Disobedience of any traffic-control device or traffic officer                            | 3 points |

27	Too fast for conditions . . . . .	0 points
28	Possessing an open container of an alcoholic beverage while driving . . . .	2 points
29	Failure to adequately secure a load, except fresh farm produce,	
30	resulting in loss of such load onto the roadway which results in	
31	an accident . . . . .	2 points
32	Violation of child safety restraint requirements, first offense . . . . .	1 point
33	Violation of child safety restraint requirements, second or	
34	subsequent offense . . . . .	2 points
35	<u>Violation of driving while using a wireless</u>	
36	<u>telecommunications device to engage in text messaging (18 and under) . .</u>	4 points
37	All other moving traffic violations which are not speed limit	
38	violations . . . . .	3 points"

## 39 SECTION 2.

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

41 "40-5-57.4.

42 (a) The driver's license of any person operating a motor vehicle in violation of Code  
 43 Section 40-6-241.1 shall be suspended as provided in this Code section. The person shall  
 44 submit the driver's license to the court upon conviction, and the court shall forward the  
 45 driver's license to the department. If the driver's license is not submitted to the court at the  
 46 time of conviction, the person shall submit the driver's license to the department upon  
 47 receiving proper notice of the suspension pursuant to the provisions of this chapter.

48 (b)(1) A first suspension of a driver's license under this Code section shall be for a period  
 49 of six months.

50 (2) A second or subsequent suspension of a driver's license under this Code section shall  
 51 be for a period of 12 months.

52 (c) The suspension shall terminate after the suspension period and when the person pays  
 53 a restoration fee of \$100.00 or, when processed by mail, \$90.00, and the department shall  
 54 return the person's driver's license to such person."

## 55 SECTION 3.

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

58 "40-6-241.

59 A driver shall exercise due care in operating a motor vehicle on the highways of this state  
 60 and shall not engage in any actions which shall distract such driver from the safe operation  
 61 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 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) 'Text messaging' means writing, typing, sending, or reading a text-based communication 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 text message 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 18 years of age or younger shall operate a motor vehicle on any public road or highway of this state while using a wireless telecommunications device to engage in text messaging.

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

(1) A person reporting a traffic accident, medical emergency, serious road hazard, or a situation in which the person believes his or her personal safety is in jeopardy;

(2) A person reporting or averting the perpetration or potential perpetration of a crime;

(3) A public utility service employee responding, within the scope of his or her employment, to a public utility emergency; or

(4) A law enforcement officer, firefighter, emergency medical services provider, or other similarly employed public safety first responder during the performance of his or her official duties.

(d) Any conviction for a violation of the provisions of this Code section shall be punishable by a fine of \$500.00. The court imposing such fine shall forward a record of the disposition of the case of unlawfully operating a motor vehicle while using a wireless telecommunications device to the Department of Driver Services."

#### SECTION 5.

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

97

**SECTION 6.**

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