

House Bill 10

By: Representatives Mayo of the 84th, Kaiser of the 59th, Drenner of the 85th, Williams of the 87th, and Waites of the 60th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,
2 relating to miscellaneous provisions of the uniform rules of the road, so as to provide that
3 only hands-free telephone calls shall be conducted by a driver of a motor vehicle; to provide
4 for exceptions; to provide for penalties; to provide for related matters; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
9 miscellaneous provisions of the uniform rules of the road, is amended by revising Code
10 Section 40-6-241, relating to the exercise of due care by drivers while operating a motor
11 vehicle, as follows:

12 "40-6-241.

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

14 (1) 'Hands-free telephone call' means a telephone call made by a driver using a wireless
15 telecommunications device in which communication with another person or party is
16 maintained or conducted without such driver holding such wireless telecommunications
17 device in his or her hands or supporting such wireless telecommunications device with
18 his or her head and shoulder; provided, however, that while exercising due care, a driver
19 may hold such wireless telecommunications device in his or her hand to read, select, or
20 enter a telephone number for the initiation or continuation of such telephone call.

21 (2) 'Wireless telecommunications device' shall have the same meaning as provided for
22 in Code Section 40-6-241.1.

23 (b) A driver shall exercise due care in operating a motor vehicle on the public roads or
24 highways of this state and shall not engage in any actions which shall distract such driver
25 from the safe operation of such vehicle, provided that, except as prohibited by subsection

26 (c) of this Code section and Code Sections 40-6-241.1 and 40-6-241.2, the proper use of

27 a radio, citizens band radio, ~~mobile telephone~~ wireless telecommunications device, or
 28 amateur or ham radio shall not be a violation of this Code section.

29 (c) Except for a hands-free telephone call, a driver shall not use a wireless
 30 telecommunications device to place or conduct a telephone call while operating a motor
 31 vehicle on the public roads or highways of this state.

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

33 (1) A person reporting a traffic accident, medical emergency, fire, serious road hazard,
 34 or situation in which the person reasonably believes a person's health or safety is in
 35 immediate jeopardy;

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

37 (3) A public utility employee or contractor acting within the scope of his or her
 38 employment when responding to a public utility emergency;

39 (4) A law enforcement officer, firefighter, emergency medical services personnel,
 40 ambulance driver, or other similarly employed public safety first responder during the
 41 performance of his or her official duties;

42 (5) A driver of a motor vehicle with more than six wheels or a commercial motor vehicle
 43 as defined in Code Section 40-1-1; or

44 (6) A person using a wireless telecommunications device to place a call while in a motor
 45 vehicle which is lawfully parked.

46 (e) Any conviction for a violation of subsection (c) of this Code section shall be a
 47 misdemeanor punishable by a fine of \$150.00. The provisions of Chapter 11 of Title 17
 48 and any other provision of law to the contrary notwithstanding, the costs of such
 49 prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine
 50 for such offense be assessed against a person for conviction thereof. The court imposing
 51 such fine shall forward a record of the disposition to the Department of Driver Services.
 52 Any violation of subsection (c) of this Code section shall constitute a separate offense."

53 **SECTION 2.**

54 Said article is further amended by revising subsections (a) and (c) of Code Section
 55 40-6-241.1, relating to the prohibition of certain persons operating a motor vehicle while
 56 engaging in wireless communications, as follows:

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

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

61 (2) 'Hands-free accessory' means an attachment or built-in feature on a wireless
 62 telecommunications device that allows a person who is a driver of a motor vehicle to

63 engage in a wireless communication without such person holding such wireless
 64 telecommunications device in his or her hands or supporting such wireless
 65 telecommunications device with his or her head and shoulder after the application to
 66 engage in a wireless communication has been selected or initiated.

67 ~~(2)~~(3) 'Wireless telecommunications device' means a cellular telephone, a text-messaging
 68 device, a personal digital assistant, a stand alone computer, or any other substantially
 69 similar wireless device that is used to initiate or receive a wireless communication with
 70 another person. It does not include citizens band radios, citizens band radio hybrids,
 71 commercial two-way radio communication devices, ~~subscription-based~~ subscription
 72 based emergency communications, in-vehicle security, navigation devices, and remote
 73 diagnostics systems or amateur or ham radio devices."

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

- 78 (1) Report a traffic accident, medical emergency, or serious road hazard;
 79 (2) Report a situation in which the person believes his or her personal safety is in
 80 jeopardy;
 81 (3) Report or avert the perpetration or potential perpetration of a criminal act against the
 82 driver or another person; or
 83 (4) Engage in a wireless communication while the motor vehicle is lawfully parked."

84 **SECTION 3.**

85 Said article is further amended by revising subsections (a) and (c) of Code Section
 86 40-6-241.2, relating to the prohibition of writing, sending, or reading text based
 87 communications while operating a motor vehicle, as follows:

88 "(a) As used in ~~the~~ this Code section, the term:

89 (1) 'Hands-free accessory' means an attachment or built-in feature on a wireless
 90 telecommunications device that allows a person who is a driver of a motor vehicle to
 91 write, send, or read any text based communication without such person holding such
 92 wireless telecommunications device in his or her hands after the application to write,
 93 send, or read any text based communication has been selected or initiated.

94 ~~(1)~~(2) 'Wireless ~~wireless~~ telecommunications device' means a cellular telephone, ~~a text~~
 95 ~~messaging~~ text-messaging device, a personal digital assistant, a stand alone computer, or
 96 any other substantially similar wireless device that is used to initiate or receive a wireless
 97 communication with another person. It does not include citizens band radios, citizens
 98 band radio hybrids, commercial two-way radio communication devices, subscription

99 based emergency communications, in-vehicle security, navigation devices, and remote
100 diagnostics systems; or amateur or ham radio devices."

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

102 (1) A person ~~reporting~~ using a wireless telecommunications device through a hands-free
103 accessory to report a traffic accident, medical emergency, fire, serious road hazard, or a
104 situation in which the person reasonably believes a person's health or safety is in
105 immediate jeopardy;

106 (2) A person ~~reporting~~ using a wireless telecommunications device through a hands-free
107 accessory to report the perpetration or potential perpetration of a crime;

108 (3) A public utility employee or contractor acting within the scope of his or her
109 employment when responding to a public utility emergency;

110 (4) A law enforcement officer, firefighter, emergency medical services personnel,
111 ambulance driver, or other similarly employed public safety first responder during the
112 performance of his or her official duties; or

113 (5) A person engaging in wireless communication using a wireless telecommunications
114 device through a hands-free accessory while in a motor vehicle which is lawfully parked."

115 **SECTION 4.**

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