

House Bill 673 (AS PASSED HOUSE AND SENATE)

By: Representatives Carson of the 46th, Lumsden of the 12th, Golick of the 40th, Trammell of the 132nd, Smith of the 134th, 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 prohibit actions which distract a driver while operating a motor vehicle; to
3 provide for the proper and safe use of wireless telecommunications devices and stand-alone
4 electronic devices while driving; to provide for definitions; to prohibit certain actions while
5 operating a commercial motor vehicle; to provide for violations; to provide for punishment;
6 to provide for exemptions; to provide for conditions under which a citation may be issued
7 for violations; to provide for the assessment of points upon conviction; to repeal Code
8 Sections 40-6-241.1 and 40-61-241.2, relating to definitions, prohibition on certain persons
9 operating a motor vehicle while engaging in wireless communications, exceptions, and
10 penalties and prohibition on persons operating a motor vehicle while writing, sending, or
11 reading text based communications, prohibited uses of wireless telecommunication devices
12 by drivers of commercial vehicles, exceptions, and penalties for violation, respectively; to
13 correct cross-references; to provide for a short title; to provide for related matters; to repeal
14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 SECTION 1.

17 This Act shall be known and may be cited as the "Hands-Free Georgia Act."

18 SECTION 2.

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

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

- 25 (i) Aggressive driving 6 points
- 26 (ii) Reckless driving 4 points

27 (iii) Unlawful passing of a school bus 6 points

28 (iv) Improper passing on a hill or a curve 4 points

29 (v) Exceeding the speed limit by more than 14 miles per hour

30 but less than 19 miles per hour 2 points

31 (vi) Exceeding the speed limit by 19 miles per hour or more

32 but less than 24 miles per hour 3 points

33 (vii) Exceeding the speed limit by 24 miles per hour or more

34 but less than 34 miles per hour 4 points

35 (viii) Exceeding the speed limit by 34 miles per hour or more 6 points

36 (ix) Disobedience of any traffic-control device or traffic officer 3 points

37 (x) Too fast for conditions 0 points

38 (xi) Possessing an open container of an alcoholic beverage

39 while driving 2 points

40 (xii) Failure to adequately secure a load, except fresh farm

41 produce, resulting in loss of such load onto the roadway

42 which results in an accident 2 points

43 (xiii) Violation of child safety restraint requirements, first offense 1 point

44 (xiv) Violation of child safety restraint requirements, second or

45 subsequent offense 2 points

46 (xv) First violation of Code Section 40-6-241 ~~Violation of usage of~~ 1 point

47 ~~wireless telecommunications device requirements~~

48 (xvi) Second violation of Code Section 40-6-241 ~~Operating a vehicle~~ 1 point

49 ~~while text messaging~~ 2 points

50 (xvii) Third or subsequent violation of Code Section 40-6-241 3 points

51 (xviii) All other moving traffic violations which are not speed limit

52 violations 3 points"

53 **SECTION 3.**

54 Said title is further amended by revising subsections (d) and (e) of Code Section 40-6-165,

55 relating to operation of school buses, as follows:

56 "(d) The driver of a school bus shall not use or operate a ~~cellular telephone~~ wireless

57 telecommunications device, as such term is defined in Code Section 40-6-241, or two-way

58 radio while loading or unloading passengers.

59 (e) The driver of a school bus shall not use or operate a ~~cellular telephone~~ wireless

60 telecommunications device, as such term is defined in Code Section 40-6-241, while the

61 bus is in motion, unless it is being used in a similar manner as a two-way radio to allow

62 live communication between the driver and school officials or public safety officials ~~and~~
 63 ~~in accordance with the provisions of paragraph (2) of subsection (b) and of subsection (c)~~
 64 ~~of Code Section 40-6-241.2."~~

65 **SECTION 4.**

66 Said title is further amended by revising Code Section 40-6-241, relating to driver to exercise
 67 due care and proper use of radios and mobile telephones allowed, as follows:

68 "40-6-241.

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

70 (1) 'Stand-alone electronic device' means a device other than a wireless
 71 telecommunications device which stores audio or video data files to be retrieved on
 72 demand by a user.

73 (2) 'Utility services' means and includes electric, natural gas, water, waste-water, cable,
 74 telephone, or telecommunications services or the repair, location, relocation,
 75 improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers,
 76 cables, easements, rights of way, or associated infrastructure.

77 (3) 'Wireless telecommunications device' means a cellular telephone, a portable
 78 telephone, a text-messaging device, a personal digital assistant, a stand-alone computer,
 79 a global positioning system receiver, or substantially similar portable wireless device that
 80 is used to initiate or receive communication, information, or data. Such term shall not
 81 include a radio, citizens band radio, citizens band radio hybrid, commercial two-way
 82 radio communication device or its functional equivalent, subscription based emergency
 83 communication device, prescribed medical device, amateur or ham radio device, or
 84 in-vehicle security, navigation, or remote diagnostics system.

85 (b) A driver shall exercise due care in operating a motor vehicle on the highways of this
 86 state and shall not engage in any actions which shall distract such driver from the safe
 87 operation of such vehicle, provided that, except as prohibited by Code Sections 40-6-241.1
 88 and 40-6-241.2, the proper use of a radio, citizens band radio, mobile telephone, or amateur
 89 or ham radio shall not be a violation of this Code section.

90 (c) While operating a motor vehicle on any highway of this state, no individual shall:

91 (1) Physically hold or support, with any part of his or her body a:

92 (A) Wireless telecommunications device, provided that such exclusion shall not
 93 prohibit the use of an earpiece, headphone device, or device worn on a wrist to conduct
 94 a voice based communication; or

95 (B) Stand-alone electronic device;

96 (2) Write, send, or read any text based communication, including but not limited to a text
 97 message, instant message, e-mail, or Internet data on a wireless telecommunications

- 98 device or stand-alone electronic device; provided, however, that such prohibition shall
99 not apply to:
- 100 (A) A voice based communication which is automatically converted by such device to
101 be sent as a message in a written form; or
- 102 (B) The use of such device for navigation of such vehicle or for global positioning
103 system purposes;
- 104 (3) Watch a video or movie on a wireless telecommunications device or stand-alone
105 electronic device other than watching data related to the navigation of such vehicle; or
- 106 (4) Record or broadcast a video on a wireless telecommunications device or stand-alone
107 electronic device; provided that such prohibition shall not apply to electronic devices
108 used for the sole purpose of continuously recording or broadcasting video within or
109 outside of the motor vehicle.
- 110 (d) While operating a commercial motor vehicle on any highway of this state, no
111 individual shall:
- 112 (1) Use more than a single button on a wireless telecommunications device to initiate
113 or terminate a voice communication; or
- 114 (2) Reach for a wireless telecommunications device or stand-alone electronic device in
115 such a manner that requires the driver to no longer be:
- 116 (A) In a seated driving position; or
- 117 (B) Properly restrained by a safety belt.
- 118 (e) Each violation of this Code section shall constitute a separate offense.
- 119 (f) (1) Except as provided for in paragraph (2) of this subsection, any person convicted of
120 violating this Code section shall be guilty of a misdemeanor which shall be punished as
121 follows:
- 122 (A) For a first conviction with no conviction of and no plea of nolo contendere accepted
123 to a charge of violating this Code section within the previous 24 month period of time,
124 as measured from the dates any previous convictions were obtained or pleas of nolo
125 contendere were accepted to the date the current conviction is obtained or plea of nolo
126 contendere is accepted, a fine of not more than \$50.00, but the provisions of Chapter 11
127 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of
128 such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to
129 a fine for such offense be assessed against a person for conviction thereof;
- 130 (B) For a second conviction within a 24 month period of time, as measured from the
131 dates any previous convictions were obtained or pleas of nolo contendere were accepted
132 to the date the current conviction is obtained or plea of nolo contendere is accepted, a fine
133 of not more than \$100.00, but the provisions of Chapter 11 of Title 17 and any other
134 provision of law to the contrary notwithstanding, the costs of such prosecution shall not

135 be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be
 136 assessed against a person for conviction thereof ; or

137 (C) For a third or subsequent conviction within a 24 month period of time, as measured
 138 from the dates any previous convictions were obtained or pleas of nolo contendere were
 139 accepted to the date the current conviction is obtained or plea of nolo contendere is
 140 accepted, a fine of not more than \$150.00, but the provisions of Chapter 11 of Title 17
 141 and any other provision of law to the contrary notwithstanding, the costs of such
 142 prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine
 143 for such offense be assessed against a person for conviction thereof.

144 (2) Any person appearing before a court for a first charge of violating paragraph (1) of
 145 subsection (c) of this Code section who produces in court a device or proof of purchase
 146 of such device that would allow such person to comply with such paragraph in the future
 147 shall not be guilty of such offense. The court shall require the person to affirm that they
 148 have not previously utilized the privilege under this paragraph.

149 (g) Subsections (c) and (d) of this Code section shall not apply when the prohibited
 150 conduct occurred:

151 (1) While reporting a traffic accident, medical emergency, fire, an actual or potential
 152 criminal or delinquent act, or road condition which causes an immediate and serious
 153 traffic or safety hazard;

154 (2) By an employee or contractor of a utility services provider acting within the scope
 155 of his or her employment while responding to a utility emergency;

156 (3) By a law enforcement officer, firefighter, emergency medical services personnel,
 157 ambulance driver, or other similarly employed public safety first responder during the
 158 performance of his or her official duties; or

159 (4) While in a motor vehicle which is lawfully parked."

160 **SECTION 5.**

161 Said title is further amended by repealing in its entirety Code Section 40-6-241.1, relating
 162 to definitions, prohibition on certain persons operating a motor vehicle while engaging in
 163 wireless communications, exceptions, and penalties.

164 **SECTION 6.**

165 Said title is further amended by repealing in its entirety Code Section 40-6-241.2, relating
 166 to prohibition on persons operating a motor vehicle while writing, sending, or reading text
 167 based communications, prohibited uses of wireless telecommunication devices by drivers of
 168 commercial vehicles, exceptions, and penalties for violation.

169

SECTION 7.

170 Said title is further amended by replacing "Code Section 40-6-241.2" with "Code
171 Section 40-6-241" wherever the former occurs in:

172 (1) Code Section 40-5-142, relating to definitions relative to commercial drivers' licenses;

173 and

174 (2) Code Section 40-5-159, relating to violations by commercial drivers' license holders.

175

SECTION 8.

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