

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 113:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated,  
2 relating to issuance, expiration, and renewal of drivers' licenses, so as to prohibit license and  
3 instruction permit holders under 18 years of age from using a stand-alone electronic device  
4 or wireless telecommunications device while operating a motor vehicle or motorcycle; to  
5 provide for exceptions; to provide for penalties; to provide for related matters; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to  
10 issuance, expiration, and renewal of drivers' licenses, is amended by revising Code Section  
11 40-5-24, relating to instruction permits, graduated licensing and related restrictions, and  
12 temporary licenses, as follows:

13 "40-5-24.

14 (a)(1)(A) Any resident of this state who is at least 15 years of age may apply to the  
15 department for an instruction permit to operate a noncommercial Class C motor vehicle.  
16 The department shall, after the applicant has successfully passed all parts of the  
17 examination referred to in Code Section 40-5-27 other than the driving test, issue to the  
18 applicant an instruction permit which shall entitle the applicant, while having such  
19 permit in his or her immediate possession, to drive a Class C motor vehicle upon the  
20 public highways of this state for a period of two years when accompanied by a person  
21 at least 21 years of age who is licensed as a driver for a commercial or noncommercial  
22 Class C motor vehicle, who is fit and capable of exercising control over the vehicle, and  
23 who is occupying a seat beside the driver.

24 (B) Notwithstanding the provisions of subparagraph (A) of this paragraph, any person  
25 holding a valid Class C instruction permit may drive a Class C motor vehicle when  
26 accompanied by a disabled parent or guardian who has been issued an identification

27 card containing the international handicapped symbol pursuant to Article 8 of this  
28 chapter.

29 (C) A person who has been issued an instruction permit under this subsection shall be  
30 prohibited from operating a motor vehicle upon the highways of this state while using  
31 a stand-alone electronic device or wireless telecommunications device as such terms  
32 are defined in Code Section 40-6-241 unless such use is to report a traffic accident,  
33 medical emergency, fire, an actual or potential criminal or delinquent act, or road  
34 condition which causes an immediate and serious traffic or safety hazard. A violation  
35 of this subparagraph shall be a misdemeanor, punishable by a fine of \$150.00. If the  
36 operator of the motor vehicle is involved in an accident at the time of the violation of  
37 this subparagraph, then the fine shall be \$300.00 and the law enforcement officer  
38 investigating the accident shall indicate such information on the written accident form.  
39 The provisions of Chapter 11 of Title 17 and any other provision of law to the contrary  
40 notwithstanding, the costs of such prosecution shall not be taxed nor shall any  
41 additional penalty, fee, or surcharge to a fine for such offense be assessed against a  
42 person for conviction thereof. The court imposing such fine shall forward a record of  
43 the conviction to the department.

44 (2)(A) A person who is at least 17 years of age who has been issued an instruction  
45 permit under this subsection and has never been issued a Class D driver's license under  
46 subsection (b) of this Code section will become eligible for a Class D driver's license  
47 under subsection (b) of this Code section ~~only if such person is at least 17 years of age,~~  
48 has a valid instruction permit which is not under suspension, and, for a period of not  
49 less than 12 consecutive months prior to making application for a Class D driver's  
50 license, has not been convicted of a violation of Code Section 40-6-391, hit and run or  
51 leaving the scene of an accident in violation of Code Section 40-6-270, racing on  
52 highways or streets, using a motor vehicle in fleeing or attempting to elude an officer,  
53 reckless driving, or convicted of any offense for which four or more points are  
54 assessable under subsection (c) of Code Section 40-5-57; ~~provided, however, that a~~  
55 ~~person who is at least 16 years of age and meets all of the other qualifications of this~~  
56 ~~paragraph except for age who has completed an approved driver education training~~  
57 ~~course as provided in subsection (a.2) of Code Section 40-5-22 will be eligible for a~~  
58 ~~Class D driver's license.~~

59 (B) A person who is at least 16 years of age who has been issued an instruction permit  
60 under this subsection and has never been issued a Class D driver's license under  
61 subsection (b) of this Code section will become eligible for a Class D driver's license  
62 under subsection (b) of this Code section upon completion of an approved driver  
63 education training course as provided in subsection (a.2) of Code Section 40-5-22,

64 provided that such person has a valid instruction permit which is not under suspension,  
 65 and, for a period of not less than 12 consecutive months prior to making application for  
 66 a Class D driver's license, has not been convicted of a violation of Code Section  
 67 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section  
 68 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting  
 69 to elude an officer, reckless driving, or convicted of any offense for which four or more  
 70 points are assessable under subsection (c) of Code Section 40-5-57.

71 (3) This subsection does not apply to instruction permits for the operation of  
 72 motorcycles.

73 (b)(1) ~~Any~~ Upon application by any resident of this state who is ~~at least 17 years of age~~  
 74 ~~and who, for a period of at least 12 months, had a valid instruction permit issued under~~  
 75 ~~subsection (a) of this Code section may apply to the department for a Class D driver's~~  
 76 ~~license to operate a noncommercial Class C vehicle if such resident has otherwise~~  
 77 ~~complied with all prerequisites for the issuance of such Class D driver's license as~~  
 78 ~~provided in subsection (a) of this Code section, provided that a resident at least 17 years~~  
 79 ~~of age who has at any age surrendered to the department shall issue such license upon~~  
 80 ~~surrender of a valid instruction permit or driver's license issued by the department. The~~  
 81 ~~department may allow an applicant who has been issued an instruction permit or driver's~~  
 82 ~~license by another state or the District of Columbia or who has submitted to the~~  
 83 ~~department proof, to the satisfaction of the department, of a valid instruction permit or~~  
 84 ~~driver's license issued by another state or the District of Columbia may to apply his or her~~  
 85 ~~driving record under such previously issued permit or driver's license toward meeting the~~  
 86 ~~eligibility requirements for a Class D driver's license the same as if such previously~~  
 87 ~~issued permit or driver's license were an instruction permit issued under subsection (a)~~  
 88 ~~of this Code section; provided, however, that a person such an eligible applicant who is~~  
 89 ~~at least 16 less than 17 years of age and meets all of the other qualifications of this~~  
 90 ~~paragraph except for age who has completed shall complete an approved driver education~~  
 91 ~~training course as provided in subsection (a.2) of Code Section 40-5-22 may apply for~~  
 92 ~~prior to issuance of a Class D driver's license.~~

93 (2) The ~~department shall, after all applicable requirements have been met, issue to the~~  
 94 ~~applicant a Class D driver's license which issued pursuant to this Code section shall~~  
 95 ~~entitle the applicant, while having such license in his or her immediate possession, to~~  
 96 ~~drive a Class C motor vehicle upon the public highways of this state under the following~~  
 97 ~~conditions:~~

98 (A) Any Class D license holder shall not drive a Class C motor vehicle ~~on~~ upon the  
 99 ~~public roads, streets, or highways of this state between;~~

100 (i) Between the hours of 12:00 Midnight and 5:00 A.M. eastern standard time or  
 101 eastern daylight time, whichever is applicable; ~~and~~

102 ~~(B)(ii) While using a stand-alone electronic device or wireless telecommunications~~  
 103 ~~device as such terms are defined in Code Section 40-6-241 unless such use is to report~~  
 104 ~~a traffic accident, medical emergency, fire, an actual or potential criminal or~~  
 105 ~~delinquent act, or road condition which causes an immediate and serious traffic or~~  
 106 ~~safety hazard; and~~

107 ~~(i)(iii) Any Class D license holder shall not drive a Class C motor vehicle upon the~~  
 108 ~~public roads, streets, or highways of this state when~~ When more than three other  
 109 passengers in the vehicle who are not members of the driver's immediate family are  
 110 less than 21 years of age;

111 ~~(ii)(B)(i) During the first~~ six-month period immediately following issuance of such  
 112 license, any Class D license holder shall not drive a Class C motor vehicle upon the  
 113 ~~public roads, streets, or highways~~ of this state when any other passenger in the vehicle  
 114 is not a member of the driver's immediate family.

115 ~~(iii)(ii) During~~ Notwithstanding the provisions of division (i) of this subparagraph,  
 116 ~~during~~ the second six-month period immediately following issuance of such license,  
 117 any Class D license holder shall not drive a Class C motor vehicle upon the ~~public~~  
 118 ~~roads, streets, or highways~~ of this state when more than one other passenger in the  
 119 vehicle who is not a member of the driver's immediate family is less than 21 years of  
 120 age;

121 (C)(i) Except as provided for in division (ii) of this subparagraph, provided, however,  
 122 ~~that~~ a Class D license holder shall not be charged with a violation of this paragraph  
 123 alone but may be charged with violating this paragraph in addition to any other traffic  
 124 offense; and

125 (ii) A violation of division (ii) of subparagraph (A) of this paragraph shall be a  
 126 misdemeanor, punishable by a fine of \$150.00. If the operator of the motor vehicle  
 127 is involved in an accident at the time of the violation of this subparagraph, then the  
 128 fine shall be \$300.00 and the law enforcement officer investigating the accident shall  
 129 indicate such information on the written accident form. The provisions of Chapter 11  
 130 of Title 17 and any other provision of law to the contrary notwithstanding, the costs  
 131 of such prosecution shall not be taxed nor shall any additional penalty, fee, or  
 132 surcharge to a fine for such offense be assessed against a person for conviction  
 133 thereof. The court imposing such fine shall forward a record of the conviction to the  
 134 department.

135 ~~(C)~~(D) For purposes of this paragraph, the term 'immediate family' shall include the  
 136 license holder's parents and step-parents, grandparents, siblings and step-siblings,  
 137 children, and any other person who resides at the license holder's residence.

138 (3) A person who is at least 18 years of age who has been issued a Class D driver's  
 139 license under this subsection and has never been issued a Class C driver's license under  
 140 this chapter will become eligible for a Class C driver's license under this chapter only if  
 141 such person has a valid Class D driver's license which is not under suspension and, for  
 142 a period of not less than 12 consecutive months prior to making application for a Class  
 143 C driver's license, has not been convicted of a violation of Code Section 40-6-391, hit and  
 144 run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on  
 145 highways or streets, using a motor vehicle in fleeing or attempting to elude an officer,  
 146 reckless driving, or convicted of any offense for which four or more points are assessable  
 147 under subsection (c) of Code Section 40-5-57 ~~and is at least 18 years of age.~~

148 (c) Any resident of this state who is at least 17 years of age may apply to the department  
 149 for a noncommercial Class M motorcycle instruction permit. The department shall, after  
 150 the applicant has successfully passed all parts of the examination other than the driving test,  
 151 issue to the applicant an instruction permit which shall entitle the applicant, while having  
 152 such permit in his or her immediate possession, to drive a motorcycle or a motor driven  
 153 cycle upon the ~~public~~ highways of this state for a period of six months; provided, however,  
 154 that a person who is at least 16 years of age and meets all of the other qualifications of this  
 155 subsection except for age who has completed an approved driver education training course  
 156 as provided in subsection (a.2) of Code Section 40-5-22 may apply for a Class M  
 157 motorcycle instruction permit. A motorcycle instruction permit shall not be valid when  
 158 carrying passengers, on a limited access highway, ~~or at night, or while using a stand-alone~~  
 159 electronic device or wireless telecommunications device as such terms are defined in Code  
 160 Section 40-6-241 unless such use is to report a traffic accident, medical emergency, fire,  
 161 an actual or potential criminal or delinquent act, or road condition which causes an  
 162 immediate and serious traffic or safety hazard. Use of such devices shall be considered an  
 163 offense of improper use of a motorcycle instruction permit and shall be a misdemeanor,  
 164 punishable by a fine of \$150.00. If the operator of the motorcycle is involved in an  
 165 accident at the time of the violation of this subparagraph, then the fine shall be \$300.00 and  
 166 the law enforcement officer investigating the accident shall indicate such information on  
 167 the written accident form. The provisions of Chapter 11 of Title 17 and any other provision  
 168 of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor  
 169 shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against  
 170 a person for conviction thereof. The court imposing such fine shall forward a record of the  
 171 conviction to the department.

172 (d) Any resident of this state who is at least 18 years of age may apply to the department  
173 for an instruction permit to operate noncommercial vehicles in Classes E and F. Such  
174 permits may be issued only to persons with valid commercial or noncommercial Class C  
175 licenses or persons who have passed all required tests for a commercial or noncommercial  
176 Class C license. The department shall, after the applicant has successfully passed all parts  
177 of the appropriate examination other than the skill and driving test, issue to the applicant  
178 an instruction permit which shall entitle the applicant, while having the permit in his or her  
179 immediate possession, to operate a vehicle of the appropriate noncommercial class upon  
180 the public highways of this state for a period of 12 months when accompanied by a  
181 licensed driver, qualified in the vehicle being operated, who is fit and capable of exercising  
182 control over the vehicle, and who is occupying a seat beside the driver as an instructor.  
183 Prior to being issued a driver's license for Classes E and F, the applicant shall pass a  
184 knowledge and skill test for driving a Class E or F motor vehicle as provided by the  
185 commissioner.

186 (e) The department shall issue a temporary driver's permit to an applicant for a driver's  
187 license permitting him or her to operate a specified type or class of motor vehicle while the  
188 department is completing its investigation and determination of all facts relative to such  
189 applicant's eligibility to receive a driver's license. Such permit must be in his or her  
190 immediate possession while operating a motor vehicle, and it shall be invalid when the  
191 applicant's license has been issued or for good cause has been refused. Such permit shall  
192 be valid for no more than 45 days. When a license has been refused, the permit shall be  
193 returned to the department within ten days of receipt of written notice of refusal.

194 (f) For the purposes of this Code section, the term 'approved driver education training  
195 course' shall include those driver education training courses approved by the Department  
196 of Driver Services."

197 **SECTION 2.**

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