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

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"40-5-24. (a)(1)(A) Any resident of this state who is at least 15 years of age may apply to the department for an instruction permit to operate a noncommercial Class C motor vehicle. The department shall, after the applicant has successfully passed all parts of the examination referred to in Code Section 40-5-27 other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his or her immediate possession, to drive a Class C motor vehicle upon the public highways of this state for a period of two years when accompanied by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C motor vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, any person holding a valid Class C instruction permit may drive a Class C motor vehicle when accompanied by a disabled parent or guardian who has been issued an identification..."
card containing the international handicapped symbol pursuant to Article 8 of this chapter.

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

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

(B) A person who is at least 16 years of age who has been issued an instruction permit under this subsection and has never been issued a Class D driver's license under subsection (b) of this Code section will become eligible for a Class D driver's license under subsection (b) of this Code section upon completion of an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22.
provided that such person has a valid instruction permit which is not under suspension, and, for a period of not less than 12 consecutive months prior to making application for a Class D driver's license, has not been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, or convicted of any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57.

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

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

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

(A) Any Class D license holder shall not drive a Class C motor vehicle on the public roads, streets, or highways of this state between:
(i) Between the hours of 12:00 Midnight and 5:00 A.M. eastern standard time or eastern daylight time, whichever is applicable; and

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

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

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

(ii) During Notwithstanding the provisions of division (i) of this subparagraph, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when more than one other passenger in the vehicle who is not a member of the driver's immediate family is less than 21 years of age;

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

(ii) A violation of division (ii) of subparagraph (A) of this paragraph shall be a misdemeanor, punishable by a fine of $150.00. If the operator of the motor vehicle is involved in an accident at the time of the violation of this subparagraph, then the fine shall be $300.00 and the law enforcement officer investigating the accident shall indicate such information on the written accident form. The provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. The court imposing such fine shall forward a record of the conviction to the department.
For purposes of this paragraph, the term ‘immediate family’ shall include the license holder’s parents and step-parents, grandparents, siblings and step-siblings, children, and any other person who resides at the license holder’s residence.

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

(c) Any resident of this state who is at least 17 years of age may apply to the department for a noncommercial Class M motorcycle instruction permit. The department shall, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his or her immediate possession, to drive a motorcycle or a motor driven cycle upon the public highways of this state for a period of six months; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of this subsection except for age who has completed an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22 may apply for a Class M motorcycle instruction permit. A motorcycle instruction permit shall not be valid when carrying passengers, on a limited access highway, or at night, or while using a stand-alone electronic device or wireless telecommunications device as such terms are defined in Code Section 40-6-241 unless such use is to report a traffic accident, medical emergency, fire, an actual or potential criminal or delinquent act, or road condition which causes an immediate and serious traffic or safety hazard. Use of such devices shall be considered an offense of improper use of a motorcycle instruction permit and shall be a misdemeanor, punishable by a fine of $150.00. If the operator of the motorcycle is involved in an accident at the time of the violation of this subparagraph, then the fine shall be $300.00 and the law enforcement officer investigating the accident shall indicate such information on the written accident form. The provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. The court imposing such fine shall forward a record of the conviction to the department.
(d) Any resident of this state who is at least 18 years of age may apply to the department for an instruction permit to operate noncommercial vehicles in Classes E and F. Such permits may be issued only to persons with valid commercial or noncommercial Class C licenses or persons who have passed all required tests for a commercial or noncommercial Class C license. The department shall, after the applicant has successfully passed all parts of the appropriate examination other than the skill and driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having the permit in his or her immediate possession, to operate a vehicle of the appropriate noncommercial class upon the public highways of this state for a period of 12 months when accompanied by a licensed driver, qualified in the vehicle being operated, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver as an instructor. Prior to being issued a driver's license for Classes E and F, the applicant shall pass a knowledge and skill test for driving a Class E or F motor vehicle as provided by the commissioner.

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

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