

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 44

Short Title: Prohibit Mobile Phone Use/Hands-Free Only. (Public)

Sponsors: Representative Pierce (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Commerce and Job Development Subcommittee on Science and Technology, if favorable, Transportation, if favorable, Finance.

February 8, 2011

A BILL TO BE ENTITLED

AN ACT TO MAKE USING A MOBILE PHONE UNLAWFUL WHILE DRIVING A
MOTOR VEHICLE ON A PUBLIC STREET OR HIGHWAY OR PUBLIC VEHICULAR
AREA UNLESS HANDS-FREE TECHNOLOGY IS USED BY THE OPERATOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-137.3 reads as rewritten:

"§ 20-137.3. Unlawful use of a mobile phone.

(a) Definitions. – The following definitions apply in this section:

- (1) Additional technology. – Any technology that provides access to digital media, including, but not limited to, a camera, music, the Internet, or games. The term includes electronic mail and text messaging.
- (2) Emergency situation. – Circumstances such as medical concerns, unsafe road conditions, matters of public safety, or mechanical problems that create a risk of harm for the operator or passengers of a school bus.
- (3) Mobile telephone. – A device used by subscribers and other users of wireless telephone service to access the service. The term includes (i) a device with which a user engages in a call using at least one hand and (ii) a device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of the mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate, or initiate a function of such telephone.
- (4) School bus. – As defined in G.S. 20-4.01(27)d4. The term also includes any school activity bus as defined in G.S. 20-4.01(27)d3. and any vehicle transporting public, private, or parochial school students for compensation.
- (5) Wireless telephone service. – A service that is a two-way real-time voice telecommunications service that is interconnected to a public switched telephone network and is provided by a commercial mobile radio service, as such term is defined by 47 C.F.R. § 20.3.

(b) Offense. – Except as otherwise provided in this section, no person shall operate a motor vehicle on a public street or highway or public vehicular area while using a mobile telephone or any additional technology associated with a mobile telephone while the vehicle is in motion. This prohibition shall not apply to the use of a mobile telephone or additional technology in a stationary vehicle or when hands-free technology is used by the operator.



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1 (b1) School Bus Offense. – Except as otherwise provided in this section, no person shall
2 operate a school bus on a public street or highway or public vehicular area while using a mobile
3 telephone or any additional technology associated with a mobile telephone while the school bus
4 is in motion. This prohibition shall not apply to the use of a mobile telephone or additional
5 technology associated with a mobile telephone in a stationary school bus.

6 (c) Seizure. – The provisions of this section shall not be construed as authorizing the
7 seizure or forfeiture of a mobile telephone, unless otherwise provided by law.

8 (d) Exceptions. – The provisions of subsections (b) and (b1) of this section shall not
9 apply if the use of a mobile telephone is for the sole purpose of communicating an emergency
10 situation to an emergency response operator, a publicly or privately owned ambulance
11 company or service, a fire department, or a law enforcement agency, or if the operator uses
12 either hand to activate, deactivate, initiate, or terminate a call on a mobile telephone.

13 (e) Penalty. – Any person violating subsection (b) of this section shall have committed
14 an infraction and shall pay a fine of one hundred dollars (\$100.00). This offense is an offense
15 for which a defendant may waive the right to a hearing or trial and admit responsibility for the
16 infraction pursuant to G.S. 7A-148. A violation of subsection (b1) of this section shall be a
17 Class 2 misdemeanor and shall be punishable by a fine of not less than one hundred dollars
18 (\$100.00). No drivers license points or insurance surcharge shall be assessed as a result of a
19 violation of this section. Failure to comply with the provisions of this section shall not
20 constitute negligence per se or contributory negligence by the operator in any action for the
21 recovery of damages arising out of the operation, ownership, or maintenance of a vehicle or
22 school bus.

23 **§ 20-137.3. Unlawful use of a mobile phone by persons under 18 years of age.**

24 (a) Definitions.—The following definitions apply in this section:

25 (1) Additional technology.—Any technology that provides access to digital
26 media including, but not limited to, a camera, music, the Internet, or games.
27 The term does not include electronic mail or text messaging.

28 (2) Mobile telephone.—A device used by subscribers and other users of wireless
29 telephone service to access the service. The term includes: (i) a device with
30 which a user engages in a call using at least one hand, and (ii) a device that
31 has an internal feature or function, or that is equipped with an attachment or
32 addition, whether or not permanently part of the mobile telephone, by which
33 a user engages in a call without the use of either hand, whether or not the use
34 of either hand is necessary to activate, deactivate, or initiate a function of
35 such telephone.

36 (3) Wireless telephone service.—A service that is a two-way real-time voice
37 telecommunications service that is interconnected to a public switched
38 telephone network and is provided by a commercial mobile radio service, as
39 such term is defined by 47 C.F.R. § 20.3.

40 (b) Offense.—Except as otherwise provided in this section, no person under the age of
41 18 years shall operate a motor vehicle on a public street or highway or public vehicular area
42 while using a mobile telephone or any additional technology associated with a mobile
43 telephone while the vehicle is in motion. This prohibition shall not apply to the use of a mobile
44 telephone or additional technology in a stationary vehicle.

45 (c) Seizure.—The provisions of this section shall not be construed as authorizing the
46 seizure or forfeiture of a mobile telephone, unless otherwise provided by law.

47 (d) Exceptions.—The provisions of subsection (b) of this section shall not apply if the
48 use of a mobile telephone is for the sole purpose of communicating with:

49 (1) Any of the following regarding an emergency situation: an emergency
50 response operator; a hospital, physician's office, or health clinic; a public or

1 privately owned ambulance company or service; a fire department; or a law
2 enforcement agency.
3 (2) ~~The motor vehicle operator's parent, legal guardian or spouse.~~
4 (e) ~~Penalty.—Any person violating this section shall have committed an infraction and~~
5 ~~shall pay a fine of twenty five dollars (\$25.00). This offense is an offense for which a~~
6 ~~defendant may waive the right to a hearing or trial and admit responsibility for the infraction~~
7 ~~pursuant to G.S. 7A-148. No drivers license points, insurance surcharge, or court costs shall be~~
8 ~~assessed as a result of a violation of this section."~~
9 **SECTION 2.** G.S. 20-137.4 is repealed.
10 **SECTION 3.** G.S. 20-137.4A is repealed.
11 **SECTION 4.** This act becomes effective December 1, 2011, and applies to
12 offenses committed on or after that date.