

Senate Bill 110

By: Senators Tate of the 38th, Harbison of the 15th, Jackson of the 2nd, Henson of the 41st,
Sims of the 12th and others

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 applicable to motor vehicles and traffic, so as to prohibit
3 the use of telecommunications devices for oral communications, unless such device is a
4 hands-free communication device; to provide for exceptions; to provide for related matters;
5 to provide for an effective date and applicability; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
10 miscellaneous provisions applicable to motor vehicles and traffic, is amended by revising
11 Code Section 40-6-241.1, relating to definitions, the prohibition on certain persons operating
12 a motor vehicle while engaging in a wireless communication, exceptions, and penalties, as
13 follows:

14 "40-6-241.1.

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

16 (1) 'Engage in a wireless communication' means an oral communication, talking, ~~writing,~~
17 ~~sending, or reading a text-based communication~~, or listening on a wireless
18 telecommunications device.

19 (2) 'Hands-free device' means a wireless telecommunications device which is operated
20 with the use of wireless technology and does not require hands for the device's operation
21 and includes operation of such devices with the use of headsets, voice activation,
22 earphones, or hands-free car kits.

23 ~~(2)(3)~~ (3) 'Wireless telecommunications device' means a cellular telephone, a text-messaging
24 device, a personal digital assistant, a stand alone computer, or any other substantially
25 similar wireless device that is used to initiate or receive a wireless communication with
26 another person. It does not include citizens band radios, citizens band radio hybrids,

27 commercial two-way radio communication devices, subscription-based emergency
 28 communications, in-vehicle security, navigation, and remote diagnostics systems or
 29 amateur or ham radio devices.

30 ~~(b)(1) Except in a driver emergency and~~ as provided in subsection (c) of this Code
 31 section, no person who has an instruction permit or a Class D license and is under 18
 32 years of age shall operate a motor vehicle on any public road or highway of this state
 33 while engaging in a wireless communication using a wireless telecommunications device.

34 (2) Except as provided in subsection (c) of this Code section, no person 18 years of age
 35 or older shall operate a motor vehicle on any public road or highway of this state while
 36 engaging in a wireless communication using a wireless telecommunications device unless
 37 the device is a hands-free device.

38 (c) The provisions of this Code section shall not apply to a person ~~who has an instruction~~
 39 ~~permit or a Class D license and is under 18 years of age who engages in a wireless~~
 40 ~~communication~~ using a wireless telecommunications device to do any of the following:

- 41 (1) Report a traffic accident, medical emergency, or serious road hazard;
- 42 (2) Report a situation in which the person believes his or her personal safety is in
 43 jeopardy;
- 44 (3) Report or avert the perpetration or potential perpetration of a criminal act against the
 45 driver or another person; or
- 46 (4) Engage in a wireless communication while the motor vehicle is lawfully parked.

47 (d)(1) Any conviction for a violation of the provisions of this Code section shall be
 48 punishable by a fine of ~~\$150.00~~ \$300.00. The provisions of Chapter 11 of Title 17 and
 49 any other provision of law to the contrary notwithstanding, the costs of such prosecution
 50 shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such
 51 offense be assessed against a person for conviction thereof. The court imposing such fine
 52 shall forward a record of the disposition of the case of unlawfully operating a motor
 53 vehicle while using a wireless telecommunications device to the Department of Driver
 54 Services.

55 (2) If the operator of the moving motor vehicle is involved in an accident at the time of
 56 a violation of this Code section, then the fine shall be equal to double the amount of the
 57 fine imposed in paragraph (1) of this subsection. The law enforcement officer
 58 investigating the accident shall indicate on the written accident form whether such
 59 operator was engaging in a wireless communication at the time of the accident.

60 (e) Each violation of this Code section shall constitute a separate offense."

61 **SECTION 2.**

62 Said article is further amended by revising Code Section 40-6-241.2, relating to prohibiting
 63 writing, sending, or reading text based communications while operating a motor vehicle,
 64 exceptions, and penalties, as follows:

65 "40-6-241.2.

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

73 (b) No person ~~who is 18 years of age or older or who has a Class C license~~ shall operate
 74 a motor vehicle on any public road or highway of this state while using a wireless
 75 telecommunications device to write, send, or read any text based communication, including
 76 but not limited to a text message, instant message, e-mail, or Internet data.

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

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

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

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

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

87 (5) A person engaging in wireless communication while in a motor vehicle which is
 88 lawfully parked.

89 (d) Any conviction for a violation of the provisions of this Code section shall be a
 90 misdemeanor punishable by a fine of ~~\$150.00~~ \$300.00. The provisions of Chapter 11 of
 91 Title 17 and any other provision of law to the contrary notwithstanding, the costs of such
 92 prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine
 93 for such offense be assessed against a person for conviction thereof. The court imposing
 94 such fine shall forward a record of the disposition to the Department of Driver Services.
 95 Any violation of this Code section shall constitute a separate offense."

96 **SECTION 3.**

97 This Act shall become effective on July 1, 2013, and shall apply to offenses committed on
98 or after such date.

99 **SECTION 4.**

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