

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1289

Short Title: Cell Phone Use by Drivers Under 18 Prohibited. (Public)

Sponsors: Senators Bingham, Purcell; Allran, and Apodaca.

Referred to: Judiciary II.

May 11, 2006

A BILL TO BE ENTITLED

AN ACT TO REDUCE FATALITIES AMONG NEW TEEN DRIVERS BY MAKING THE USE OF A MOBILE PHONE UNLAWFUL FOR A PERSON LESS THAN EIGHTEEN YEARS OF AGE AND WHO HOLDS A PROVISIONAL LICENSE WHILE DRIVING A MOTOR VEHICLE ON A PUBLIC STREET OR HIGHWAY, AS RECOMMENDED BY THE NC CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-140.6. Unlawful use of a mobile phone.

(a) Definitions. – For purposes of this section, the following terms shall mean:

- (1) Mobile telephone. – A device used by subscribers and other users of wireless telephone service to access such service.
- (2) 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.
- (3) Using. – Holding a mobile telephone to, or in the immediate proximity of, the user's ear.
- (4) Handheld mobile telephone. – A mobile telephone with which a user engages in a call using at least one hand.
- (5) Hands-free mobile telephone. – A mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such 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.

1 (6) Engage in a call. – Talking into or listening on a mobile, or handheld
2 mobile telephone, but shall not include holding a mobile telephone to
3 activate, deactivate, or initiate a function of such telephone.

4 (7) Immediate proximity. – That distance as permits the operator of a
5 mobile telephone to hear telecommunications transmitted over such
6 mobile telephone but shall not require physical contact with such
7 operator's ear.

8 (8) Additional technology. – Any technology that provides access to
9 digital media such as a camera, electronic mails, music, the Internet, or
10 games.

11 (b) Offense. – Except as otherwise provided in this section, no person under the
12 age of 18 years shall operate a motor vehicle on a public street or highway while using a
13 mobile telephone, hands-free mobile telephone technology, or any other additional
14 technology associated with a mobile phone that would distract the driver while the
15 vehicle is in motion. A provisional licensee who operates a motor vehicle and who
16 holds a mobile telephone to, or in the immediate proximity of, his or her ear while the
17 motor vehicle is in motion is presumed to be engaging in a call within the meaning of
18 this section. The presumption established by this subsection is rebuttable by evidence
19 tending to show that the operator was not engaged in a call.

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

22 (d) Exceptions. – The provisions of subsection (b) of this section shall not apply
23 if the use of a mobile telephone is for the sole purpose of communicating with any of
24 the following regarding an emergency situation: an emergency response operator; a
25 hospital, physician's office, or health clinic; a public or privately owned ambulance
26 company or service; a fire department; or a law enforcement agency.

27 (e) Local Ordinances. – No local government may pass any ordinance regulating
28 the use of mobile telephones while operating motor vehicles on public streets,
29 highways, or public vehicular areas.

30 (f) Violation. – A violation of this section shall be a waivable infraction and
31 requires payment of court costs. There shall be no fines, insurance points, or drivers
32 license points assessed for a violation of this section. Upon waiver of responsibility, or
33 being found responsible by a court of competent jurisdiction, the Division of Motor
34 Vehicles shall be notified and provided with any information the Division requires to
35 impose the penalty.

36 (g) Penalty. – The penalty for a violation of this section shall require a
37 provisional licensee to remain at the licensee's current level of graduated licensing for
38 an additional six months, or until the licensee turns 18 years of age, if that occurs before
39 the date of the completion of the six-month penalty period."

40 **SECTION 2.** G.S. 20-11(c) reads as rewritten:

41 "(c) Level 1 Restrictions. – A limited learner's permit authorizes the permit holder
42 to drive a specified type or class of motor vehicle only under the following conditions:

43 (1) The permit holder must be in possession of the permit.

- 1 (2) A supervising driver must be seated beside the permit holder in the
2 front seat of the vehicle when it is in motion. No person other than the
3 supervising driver can be in the front seat.
- 4 (3) For the first six months after issuance, the permit holder may drive
5 only between the hours of 5:00 a.m. and 9:00 p.m.
- 6 (4) After the first six months after issuance, the permit holder may drive at
7 any time.
- 8 (5) Every person occupying the vehicle being driven by the permit holder
9 must have a safety belt properly fastened about his or her body, or be
10 restrained by a child passenger restraint system as provided in
11 G.S. 20-137.1(a), when the vehicle is in motion.
- 12 (6) The permit holder shall not use a mobile telephone or handheld mobile
13 telephone while operating a motor vehicle except in compliance with
14 G.S. 20-140.6."

15 **SECTION 3.** G.S. 20-11(e) reads as rewritten:

16 "(e) Level 2 Restrictions. – A limited provisional license authorizes the license
17 holder to drive a specified type or class of motor vehicle only under the following
18 conditions:

- 19 (1) The license holder shall be in possession of the license.
- 20 (2) The license holder may drive without supervision in any of the
21 following circumstances:
 - 22 a. From 5:00 a.m. to 9:00 p.m.
 - 23 b. When driving to or from work.
 - 24 c. When driving to or from an activity of a volunteer fire
25 department, volunteer rescue squad, or volunteer emergency
26 medical service, if the driver is a member of the organization.
- 27 (3) The license holder may drive with supervision at any time. When the
28 license holder is driving with supervision, the supervising driver shall
29 be seated beside the license holder in the front seat of the vehicle when
30 it is in motion. The supervising driver need not be the only other
31 occupant of the front seat, but shall be the person seated next to the
32 license holder.
- 33 (4) When the license holder is driving the vehicle and is not accompanied
34 by the supervising driver, there may be no more than one passenger
35 under 21 years of age in the vehicle. This limit does not apply to
36 passengers who are members of the license holder's immediate family
37 or whose primary residence is the same household as the license
38 holder. However, if a family member or member of the same
39 household as the license holder who is younger than 21 years of age is
40 a passenger in the vehicle, no other passengers under 21 years of age,
41 who are not members of the license holder's immediate family or
42 members of the license holder's household, may be in the vehicle.
- 43 (5) Every person occupying the vehicle being driven by the license holder
44 shall have a safety belt properly fastened about his or her body, or be

1 restrained by a child passenger restraint system as provided in
2 G.S. 20-137.1(a), when the vehicle is in motion.

3 (6) The permit holder shall not use a mobile telephone or handheld mobile
4 telephone while operating a motor vehicle except in compliance with
5 G.S. 20-140.6."

6 **SECTION 4.** G.S. 20-11(g) reads as rewritten:

7 "(g) Level 3 Restrictions. – The restrictions on Level 1 and Level 2 drivers
8 concerning time of driving, supervision, and passenger limitations do not apply to a full
9 provisional ~~license~~-license; however, the restriction on the use of a mobile telephone or
10 handheld mobile telephone while operating a motor vehicle except in compliance with
11 G.S. 20-140.6 still applies."

12 **SECTION 5.** This act becomes effective October 1, 2006.