

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 36

Short Title: Ban Mobile Phone Use. (Public)

Sponsors: Senators Dannelly; Atwater, D. Berger, Jenkins, Jones, Mansfield, Purcell, Robinson, and White.

Referred to: Judiciary II.

February 7, 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.

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.

(b1) School Bus Offense. – Except as otherwise provided in this section, no person shall operate a school bus on a public street or highway or public vehicular area while using a mobile



1 telephone or any additional technology associated with a mobile telephone while the school bus  
2 is in motion. This prohibition shall not apply to the use of a mobile telephone or additional  
3 technology associated with a mobile telephone in a stationary school bus.

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

6 (d) Exceptions. – The provisions of subsections (b) and (b1) of this section shall not  
7 apply if the use of a mobile telephone is for the sole purpose of communicating an emergency  
8 situation to an emergency response operator, a publicly or privately owned ambulance  
9 company or service, a fire department, or a law enforcement agency.

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

20 **SECTION 2.** G.S. 20-137.4 is repealed.

21 **SECTION 3.** G.S. 20-137.4A is repealed.

22 **SECTION 4.** This act becomes effective December 1, 2011, and applies to  
23 offenses committed on or after that date.