

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-177
SENATE BILL 1289**

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 OR PUBLIC VEHICULAR AREA, 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:

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

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

- (1) Additional technology. – Any technology that provides access to digital media such as a camera, electronic mail, music, the Internet, or games.
- (2) 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.
- (3) 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 under the age of 18 years 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.

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

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

(1) Any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office, or health clinic; a public or privately owned ambulance company or service; a fire department; or a law enforcement agency.

(2) The motor vehicle operator's parent, legal guardian or spouse.

(e) Penalty. – Any person violating this section shall have committed an infraction and shall pay a fine of twenty-five dollars (\$25.00). This offense is an offense for which a defendant may waive the right to a hearing or trial and admit responsibility for the infraction pursuant to G.S. 7A-148. No drivers license points, insurance surcharge, or court costs shall be assessed as a result of a violation of this section."

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

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

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

(2) A supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.

(3) For the first six months after issuance, the permit holder may drive only between the hours of 5:00 a.m. and 9:00 p.m.

(4) After the first six months after issuance, the permit holder may drive at any time.

(5) Every person occupying the vehicle being driven by the permit holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(6) The permit holder shall not use a mobile telephone or other additional technology associated with a mobile telephone while operating the motor vehicle on a public street or highway or public vehicular area."

SECTION 3. G.S. 20-11(d) reads as rewritten:

"(d) Level 2. – A person who is at least 16 years old but less than 18 years old may obtain a limited provisional license if the person meets all of the following requirements:

(1) Has held a limited learner's permit issued by the Division for at least 12 months.

(2) Has not been convicted of a motor vehicle moving violation or seat belt infraction or a violation of G.S. 20-137.3 during the preceding six months.

(3) Passes a road test administered by the Division.

(4) Has a driving eligibility certificate or a high school diploma or its equivalent."

SECTION 4. G.S. 20-11(e) reads as rewritten:

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

- (1) The license holder shall be in possession of the license.
- (2) The license holder may drive without supervision in any of the following circumstances:
 - a. From 5:00 a.m. to 9:00 p.m.
 - b. When driving to or from work.
 - c. When driving to or from an activity of a volunteer fire department, volunteer rescue squad, or volunteer emergency medical service, if the driver is a member of the organization.
- (3) The license holder may drive with supervision at any time. When the license holder is driving with supervision, the supervising driver shall be seated beside the license holder in the front seat of the vehicle when it is in motion. The supervising driver need not be the only other occupant of the front seat, but shall be the person seated next to the license holder.
- (4) When the license holder is driving the vehicle and is not accompanied by the supervising driver, there may be no more than one passenger under 21 years of age in the vehicle. This limit does not apply to passengers who are members of the license holder's immediate family or whose primary residence is the same household as the license holder. However, if a family member or member of the same household as the license holder who is younger than 21 years of age is a passenger in the vehicle, no other passengers under 21 years of age, who are not members of the license holder's immediate family or members of the license holder's household, may be in the vehicle.
- (5) Every person occupying the vehicle being driven by the license holder shall have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.
- (6) The license holder shall not use a mobile telephone or other additional technology associated with a mobile telephone while operating the vehicle on a public street or highway or public vehicular area."

SECTION 5. G.S. 20-11(f) reads as rewritten:

"(f) Level 3. – A person who is at least 16 years old but less than 18 years old may obtain a full provisional license if the person meets all of the following requirements:

- (1) Has held a limited provisional license issued by the Division for at least six months.
- (2) Has not been convicted of a motor vehicle moving violation or seat belt infraction or a violation of G.S. 20-137.3 during the preceding six months.

- (3) Has a driving eligibility certificate or a high school diploma or its equivalent.

A person who meets these requirements may obtain a full provisional license by mail."

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

"(g) Level 3 Restrictions. – The restrictions on Level 1 and Level 2 drivers concerning time of driving, supervision, and passenger limitations do not apply to a full provisional license. However, the prohibition against operating a motor vehicle while using a mobile telephone under G.S. 20-137.3(b) shall apply to a full provisional license."

SECTION 7. G.S. 20-11(l) reads as rewritten:

"(l) Violations. – It is unlawful for the holder of a limited learner's permit, a temporary permit, or a limited provisional license to drive a motor vehicle in violation of the restrictions that apply to the permit or license. Failure to comply with a restriction concerning the time of driving or the presence of a supervising driver in the vehicle constitutes operating a motor vehicle without a license. Failure to comply with the restriction regarding the use of a mobile telephone while operating a motor vehicle is an infraction punishable by a fine of twenty-five dollars (\$25.00). Failure to comply with any other restriction, including seating and passenger limitations, is an infraction punishable by a monetary penalty as provided in G.S. 20-176. Failure to comply with the provisions of ~~subsection (e)~~ subsections (e) and (g) of this section shall not constitute negligence per se or contributory negligence by the driver or passenger in any action for the recovery of damages arising out of the operation, ownership or maintenance of a motor vehicle. Any evidence of failure to comply with the provisions of subdivisions (1), (2), (3), (4), and (5) of subsection (e) of this section shall not be admissible in any criminal or civil trial, action, or proceeding except in an action based on a violation of this section. No drivers license points or insurance surcharge shall be assessed for failure to comply with seating and occupancy limitations in subsection (e) of this section. No drivers license points or insurance surcharge shall be assessed for failure to comply with subsection (e) or (g) of this section regarding the use of a mobile telephone while operating a motor vehicle."

SECTION 8. This act becomes effective December 1, 2006, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 5:58 p.m. this 1st day of August, 2006