

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE DRS55020-LK-41 (2/3)

Short Title: No Cell Phone Usage by Under 18 Drivers. (Public)

Sponsors: Senator Brock.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO RESTRICT THE OPERATION OF A MOTOR VEHICLE BY DRIVERS
UNDER EIGHTEEN YEARS OF AGE WHILE USING A MOBILE
TELEPHONE.

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. Use of mobile telephones in motor vehicles restricted.

(a) As used in this section:

- (1) 'Engage in a call' means talking into or listening on a handheld mobile telephone, but shall not include holding a mobile telephone to activate, deactivate, or initiate a function of the telephone.
- (2) 'Handheld mobile telephone' means a mobile telephone with which a user engages a call using at least one hand.
- (3) 'Immediate proximity' means that distance that permits the operator of a mobile telephone to hear telecommunications transmitted over the mobile telephone, but shall not require physical contact with the operator's ear.
- (4) 'Mobile telephone' means the device used by subscribers and other users of a wireless telephone service to access the service.
- (5) 'Using' means holding a mobile telephone to, or in the immediate proximity of, the user's ear.
- (6) 'Wireless telephone service' means 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 the term is defined in 47 C.F.R. § 20.3.

1 (b) Except as otherwise provided in this section, no person under the age of 18
2 years shall operate a motor vehicle on a public highway while using a mobile telephone
3 to engage in a call while the vehicle is in motion. An operator of a motor vehicle who
4 holds a mobile telephone to, or in the immediate proximity of, his or her ear while the
5 motor vehicle is in motion is presumed to be engaging in a call within the meaning of
6 this section. The presumption established by this subsection is rebuttable by evidence
7 tending to show that the operator was not engaged in a call. The provisions of this
8 section shall not be construed as authorizing the seizure or forfeiture of a mobile
9 telephone, unless otherwise provided by law.

10 (c) Subsection (b) of this section shall not apply to the use of a mobile telephone
11 for the sole purpose of communicating with any of the following regarding an
12 emergency situation:

13 (1) An emergency response operator.

14 (2) A hospital.

15 (3) A physician's office or health clinic.

16 (4) An ambulance company or corps.

17 (5) A fire department.

18 (d) Violation of subsection (b) of this section is an infraction punishable by a fine
19 of not more than one hundred dollars (\$100.00)."

20 **SECTION 2.** This act becomes effective December 1, 2005, and applies to
21 offenses committed on or after that date.