

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**SENATE BILL 102**

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

(Public)

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Sponsors: Senators Brock; Goodall and Pittenger.

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Referred to: Judiciary II.

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February 10, 2005

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

5 The General Assembly of North Carolina enacts:

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

8 **"§ 20-140.6. Use of mobile telephones in motor vehicles restricted.**

9 (a) As used in this section:

10 (1) 'Engage in a call' means talking into or listening on a handheld mobile  
11 telephone, but shall not include holding a mobile telephone to activate,  
12 deactivate, or initiate a function of the telephone.

13 (2) 'Handheld mobile telephone' means a mobile telephone with which a  
14 user engages a call using at least one hand.

15 (3) 'Immediate proximity' means that distance that permits the operator of  
16 a mobile telephone to hear telecommunications transmitted over the  
17 mobile telephone, but shall not require physical contact with the  
18 operator's ear.

19 (4) 'Mobile telephone' means the device used by subscribers and other  
20 users of a wireless telephone service to access the service.

21 (5) 'Using' means holding a mobile telephone to, or in the immediate  
22 proximity of, the user's ear.

23 (6) 'Wireless telephone service' means a two-way real time voice  
24 telecommunications service that is interconnected to a public switched  
25 telephone network and is provided by a commercial mobile radio  
26 service as the term is defined in 47 C.F.R. § 20.3.

27 (b) Except as otherwise provided in this section, no person under the age of 18  
28 years shall operate a motor vehicle on a public highway while using a mobile telephone  
29 to engage in a call while the vehicle is in motion. An operator of a motor vehicle who

1 holds a mobile telephone to, or in the immediate proximity of, his or her ear while the  
2 motor vehicle is in motion is presumed to be engaging in a call within the meaning of  
3 this section. The presumption established by this subsection is rebuttable by evidence  
4 tending to show that the operator was not engaged in a call. The provisions of this  
5 section shall not be construed as authorizing the seizure or forfeiture of a mobile  
6 telephone, unless otherwise provided by law.

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

10 (1) An emergency response operator.

11 (2) A hospital.

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

13 (4) An ambulance company or corps.

14 (5) A fire department.

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

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