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SENATE BILL 1289  
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Short Title: Cell Phone Use by Drivers Under 18 Prohibited.

(Public)

Sponsors:

Referred to:

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 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

1           switched telephone network and is provided by a commercial mobile  
2           radio service, as such term is defined by 47 C.F.R. § 20.3.

3       (b)   Offense. – Except as otherwise provided in this section, no person under the  
4       age of 18 years shall operate a motor vehicle on a public street or highway or public  
5       vehicular area while using a mobile telephone or any additional technology associated  
6       with a mobile telephone while the vehicle is in motion. This prohibition shall not apply  
7       to the use of a mobile telephone or additional technology in a stationary vehicle.

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

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

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

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

17      (e)   Violation. – Any person violating this section shall have committed an  
18      infraction and shall pay a fine of twenty-five dollars (\$25.00). This offense is an offense  
19      for which a defendant may waive the right to a hearing or trial and admit responsibility  
20      for the infraction pursuant to G.S. 7A-148. No drivers license points, insurance  
21      surcharge, or court costs shall be assessed as a result of a violation of this section. Upon  
22      admission of responsibility, or being found responsible by a court of competent  
23      jurisdiction, the clerk of court shall notify the Division of Motor Vehicles and provide  
24      to the Division any information the Division requires to impose the penalty.

25      (f)   Penalty. – The penalty for a violation of this section shall require a drivers  
26      license permit holder or a provisional licensee to remain for an additional six months at  
27      the same graduated licensing level that the permittee or the licensee was at the time the  
28      violation occurred, or until the permittee or licensee reaches 18 years of age, whichever  
29      occurs first."

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

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

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

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

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

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

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

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

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

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

- 8           (1) Has held a limited learner's permit issued by the Division for at least  
9           12 months.  
10          (2) Has not been convicted of a motor vehicle moving violation or seat  
11          belt infraction or a violation of G.S. 20-137.3 during the preceding six  
12          months.  
13          (3) Passes a road test administered by the Division.  
14          (4) Has a driving eligibility certificate or a high school diploma or its  
15          equivalent."

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

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

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

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

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

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

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

- 12 (1) Has held a limited provisional license issued by the Division for at  
13 least six months.  
14 (2) Has not been convicted of a motor vehicle moving violation or seat  
15 belt infraction or a violation of G.S. 20-137.3 during the preceding six  
16 months.  
17 (3) Has a driving eligibility certificate or a high school diploma or its  
18 equivalent.

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

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

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

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

27 "(l) Violations. – It is unlawful for the holder of a limited learner's permit, a  
28 temporary permit, or a limited provisional license to drive a motor vehicle in violation  
29 of the restrictions that apply to the permit or license. Failure to comply with a restriction  
30 concerning the time of driving or the presence of a supervising driver in the vehicle  
31 constitutes operating a motor vehicle without a license. Failure to comply with the  
32 restriction regarding the use of a mobile telephone while operating a motor vehicle is an  
33 infraction punishable by a fine of twenty-five dollars (\$25.00) and subjects the permit  
34 holder or provisional licensee to the penalty provided in G.S. 20-137.3(f). Failure to  
35 comply with any other restriction, including seating and passenger limitations, is an  
36 infraction punishable by a monetary penalty as provided in G.S. 20-176. Failure to  
37 comply with the provisions of ~~subsection (e)~~ subsections (e) and (g) of this section shall  
38 not constitute negligence per se or contributory negligence by the driver or passenger in  
39 any action for the recovery of damages arising out of the operation, ownership or  
40 maintenance of a motor vehicle. Any evidence of failure to comply with the provisions  
41 of subdivisions (1), (2), (3), (4), and (5) of subsection (c) of this section shall not be  
42 admissible in any criminal or civil trial, action, or proceeding except in an action based  
43 on a violation of this section. No drivers license points or insurance surcharge shall be

1 assessed for failure to comply with seating and occupancy limitations in subsection (e)  
2 of this section. No drivers license points or insurance surcharge shall be assessed for  
3 failure to comply with subsection (e) or (g) of this section regarding the use of a mobile  
4 telephone while operating a motor vehicle."

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