

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 527

Short Title: Ban Mobile Phone Use While Driving. (Public)

Sponsors: Representatives McAllister, Luebke (Primary Sponsors); Alexander, Coleman, Dickson, Farmer-Butterfield, Fisher, Harrison, Jones, Lucas, McGee, and Parmon.

Referred to: Judiciary III.

March 12, 2007

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.

The General Assembly of North Carolina enacts:

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

"§ 20-137.4. Unlawful use of a mobile phone.

(a) Definitions. – For purposes of this section, the following terms shall mean:

- (1) Mobile telephone. – A device used by subscribers and other users of wireless telephone service to access such service.
- (2) 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.
- (3) Using. – Holding a mobile telephone to, or in the immediate proximity of, the user's ear.
- (4) Handheld mobile telephone. – A mobile telephone with which a user engages in a call using at least one hand.
- (5) Hands-free mobile telephone. – A mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such 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.
- (6) Engage in a call. – 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 such telephone.

1 (7) Immediate proximity. – That distance as permits the operator of a
2 mobile telephone to hear telecommunications transmitted over such
3 mobile telephone, but shall not require physical contact with such
4 operator's ear.

5 (8) Additional technology. – Any technology that provides access to
6 digital media such as a camera, electronic mail, music, the Internet, or
7 games.

8 (b) Offense. – Except as otherwise provided in this section, no person shall
9 operate a motor vehicle upon a public street or highway while using a mobile telephone
10 to engage in a call, or additional technology, while such vehicle is in motion. An
11 operator of a motor vehicle who holds a mobile telephone to, or in the immediate
12 proximity of, his or her ear while such vehicle is in motion is presumed to be engaging
13 in a call within the meaning of this section. The presumption established by this
14 subsection is rebuttable by evidence tending to show that the operator was not engaged
15 in a call or using additional technology.

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

18 (d) Exceptions. – The provisions of subsection (b) of this section shall not apply
19 to the following:

20 (1) The use of a mobile telephone for the sole purpose of communicating
21 with any of the following regarding an emergency situation: an
22 emergency response operator; a hospital, physician's office, or health
23 clinic; a public or privately owned ambulance company or service; a
24 fire department; or a law enforcement agency.

25 (2) Any of the following persons while in the performance of their official
26 duties: a law enforcement officer; a member of a fire department; or
27 the operator of a public or private ambulance.

28 (3) The use of a hands-free mobile telephone.

29 (e) School Bus Drivers. – A person shall not use a mobile telephone or other
30 electronic device, including those with hands-free accessories, while operating a moving
31 school bus that is carrying passengers; provided, however, this section shall not apply to
32 a school bus driver who places an emergency call to school officials or for the purposes
33 listed in subdivision (d)(1) of this section.

34 (f) Local Ordinances. – No local government may pass any ordinance regulating
35 the use of mobile telephones.

36 (g) A violation of this section shall be an infraction and shall be punishable by a
37 fine of one hundred dollars (\$100.00) and the cost of court. There shall be no points
38 assessed by the Division for a violation of this section."

39 **SECTION 2.** This act becomes effective December 1, 2007, and applies to
40 offenses committed on or after that date.