

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

1

SENATE BILL 1399

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

Sponsors: Senator Dannelly.

Referred to: Judiciary II (Criminal).

March 26, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE USING A MOBILE PHONE UNLAWFUL WHILE
3 OPERATING A MOTOR VEHICLE ON A PUBLIC STREET OR HIGHWAY.

4 The General Assembly of North Carolina enacts:

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

7 "**§ 20-140.6. Unlawful use of a mobile phone.**

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

- 9 (1) Mobile telephone. – A device used by subscribers and other users of
10 wireless telephone service to access such service.
- 11 (2) Wireless telephone service. – A service that is a two-way real-time
12 voice telecommunications service that is interconnected to a public
13 switched telephone network and is provided by a commercial mobile
14 radio service, as such term is defined by 47 C.F.R. § 20.3.
- 15 (3) Using. – Holding a mobile telephone to, or in the immediate proximity
16 of, the user's ear.
- 17 (4) Handheld mobile telephone. – A mobile telephone with which a user
18 engages in a call using at least one hand.
- 19 (5) Hands-free mobile telephone. – A mobile telephone that has an
20 internal feature or function, or that is equipped with an attachment or
21 addition, whether or not permanently part of such mobile telephone, by
22 which a user engages in a call without the use of either hand, whether
23 or not the use of either hand is necessary to activate, deactivate, or
24 initiate a function of such telephone.
- 25 (6) Engage in a call. – Talking into or listening on a handheld mobile
26 telephone, but shall not include holding a mobile telephone to activate,
27 deactivate, or initiate a function of such telephone.
- 28 (7) Immediate proximity. – That distance as permits the operator of a
29 mobile telephone to hear telecommunications transmitted over such

1 mobile telephone, but shall not require physical contact with such
2 operator's ear.

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

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

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

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

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

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

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

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

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

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