

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1399
Judiciary II (Criminal) Committee Substitute Adopted 5/23/07

Short Title: Ban Mobile Phone Use While Driving.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO MAKE USING A MOBILE PHONE UNLAWFUL WHILE
OPERATING 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:

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

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

(1) Handheld mobile telephone. – As defined in G.S. 20-137.3(a)(2)(i).

(2) Hands-free mobile telephone. – As defined in G.S. 20-137.3(a)(2)(ii).

(3) Mobile telephone. – As defined in G.S. 20-137.3(a)(2).

(4) Wireless telephone service. – As defined in G.S. 20-137.3(a)(3).

(b) Offense. – Except as otherwise provided in this section, no person shall
operate a motor vehicle upon a public street or highway or public vehicular area while
using a mobile telephone while the vehicle is in motion. This prohibition shall not apply
to the use of a mobile telephone in a stationary vehicle.

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

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

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

(2) The use of a mobile telephone by any of the following persons while in
the performance of their official duties: a law enforcement officer; a
member of a fire department; or the operator of a public or private
ambulance.

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

2 (4) A violation of G.S. 20-137.3 by a person under the age of 18 years.

3 (e) School Bus Drivers. – A person shall not use a mobile telephone or other
4 electronic device, including those with hands-free accessories, while operating a moving
5 school bus that is carrying passengers. This subsection shall not apply to a school bus
6 driver who places an emergency call to school officials or for the purposes listed in
7 subdivision (d)(1) of this section.

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

10 (g) Penalty. – Any person violating this section shall have committed an
11 infraction and shall pay a fine of twenty-five dollars (\$25.00). This offense is an offense
12 for which a defendant may waive the right to a hearing or trial and admit responsibility
13 for the infraction pursuant to G.S. 7A-148. No drivers license points or insurance
14 surcharge shall be assessed as a result of a violation of this section. Failure to comply
15 with the provisions of this section shall not constitute negligence per se or contributory
16 negligence by the driver in any action for the recovery of damages arising out of the
17 operation, ownership, or maintenance of a motor vehicle."

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