

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2009

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SENATE BILL 12

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

Sponsors: Senators Dannelly; Dorsett, Forrester, Garrou, Goss, Jones, Malone, and Purcell.

Referred to: Commerce.

January 29, 2009

A BILL TO BE ENTITLED AN ACT TO MAKE USING A MOBILE PHONE OR ACCESSING ADDITIONAL TECHNOLOGY UNLAWFUL WHILE OPERATING A MOTOR VEHICLE ON A PUBLIC STREET OR HIGHWAY OR PUBLIC VEHICULAR AREA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-137.4 reads as rewritten:

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

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

(1) Additional technology. – As defined in G.S. 20-137.3(a)(1).

(2) Emergency situation. – Circumstances such as medical concerns, unsafe road conditions, matters of public safety, or mechanical problems that create a risk of harm for the operator or passengers of a school bus.

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

(4) School bus. – As defined in G.S. 20-4.01(27)d4. The term also includes any school activity bus as defined in G.S. 20-4.01(27)d3. and any vehicle transporting public, private, or parochial school students for compensation.

(5) 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 school bus or motor vehicle on a public street or highway or public vehicular area while using a mobile telephone or any additional technology associated with a mobile telephone while the school bus or vehicle is in motion. This prohibition shall not apply to the use of a mobile telephone or additional technology associated with a mobile telephone in a stationary school bus or vehicle.

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

(d) Exceptions. – The provisions of subsection (b) of this section shall not apply to the use of a mobile telephone or additional technology associated with a mobile telephone for the sole purpose of communicating in an emergency situation 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.



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

4 (3) The use of a hands-free mobile telephone to make a call only and not for the
5 purpose of accessing additional technology.

6 (e) Local Ordinances. – No local government may pass any ordinance regulating the
7 use of mobile telephones or additional ~~technology associated with a mobile telephone by~~
8 ~~operators of school buses.~~technology.

9 (f) Penalty. – A violation of this section by a person driving a school bus shall be a
10 Class 2 misdemeanor and shall be punishable by a fine of not less than one hundred dollars
11 (\$100.00). A violation of this section by any other driver who is 18 years old or older and not
12 subject to the provisions of G.S. 20-137.3 shall be an infraction and shall be punishable by a
13 fine of one hundred dollars (\$100.00) and the cost of court. No drivers license points or
14 insurance 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 operator in any action for the recovery of damages arising out of the
17 operation, ownership, or maintenance of a ~~school bus.~~motor vehicle."

18 **SECTION 2.** This act becomes effective December 1, 2009, and applies to
19 offenses committed on or after that date.