

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 113:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
2 uniform rules of the road, so as to prohibit the use of a stand-alone electronic device or
3 wireless telecommunications device by persons under 18 years of age while operating a
4 motor vehicle; to provide for penalties; to remove a process for being found not guilty of a
5 violation in certain instances; to provide for related matters; to provide for an effective date
6 and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to uniform rules
10 of the road, is amended by revising Code Section 40-6-241, relating to distracted driving,
11 restrictions on operation of wireless telecommunications devices and stand-alone electronic
12 devices, penalty, and exceptions, as follows:

13 "40-6-241.

14 (a) As used in this Code section, the term:

15 (1) 'Stand-alone electronic device' means a device other than a wireless
16 telecommunications device which stores audio or video data files to be retrieved on
17 demand by a user.

18 (2) 'Utility services' means and includes electric, natural gas, water, ~~waste-water~~ waste
19 water, cable, telephone, or telecommunications services or the repair, location, relocation,
20 improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers,
21 cables, easements, rights of way, or associated infrastructure.

22 (3) 'Wireless telecommunications device' means a cellular telephone, a portable
23 telephone, a text-messaging device, a personal digital assistant, a stand-alone computer,
24 a global positioning system receiver, or substantially similar portable wireless device that
25 is used to initiate or receive communication, information, or data. Such term shall not
26 include a radio, citizens band radio, citizens band radio hybrid, commercial two-way

27 radio communication device or its functional equivalent, subscription based emergency
 28 communication device, prescribed medical device, amateur or ham radio device, or
 29 in-vehicle security, navigation, or remote diagnostics system.

30 (b) A driver shall exercise due care in operating a motor vehicle on the highways of this
 31 state and shall not engage in any actions which shall distract such driver from the safe
 32 operation of such vehicle.

33 (c) No individual under 18 years of age shall operate a motor vehicle on any highway of
 34 this state while using a stand-alone electronic device or wireless telecommunications
 35 device unless such use is to report a traffic accident, medical emergency, fire, an actual or
 36 potential criminal or delinquent act, or road condition which causes an immediate and
 37 serious traffic or safety hazard.

38 (d) While operating a motor vehicle on any highway of this state, no individual 18 years
 39 of age or older shall:

40 (1) Physically hold or support, with any part of his or her body a:

41 (A) Wireless telecommunications device, provided that such exclusion shall not
 42 prohibit the use of an earpiece, headphone device, or device worn on a wrist to conduct
 43 a voice based communication; or

44 (B) Stand-alone electronic device;

45 (2) Write, send, or read any text based communication, including but not limited to a text
 46 message, instant message, e-mail, or Internet data on a wireless telecommunications
 47 device or stand-alone electronic device; provided, however, that such prohibition shall
 48 not apply to:

49 (A) A voice based communication which is automatically converted by such device to
 50 be sent as a message in a written form; or

51 (B) The use of such device for navigation of such vehicle or for global positioning
 52 system purposes;

53 (3) Watch a video or movie on a wireless telecommunications device or stand-alone
 54 electronic device other than watching data related to the navigation of such vehicle; or

55 (4) Record or broadcast a video on a wireless telecommunications device or stand-alone
 56 electronic device; provided that such prohibition shall not apply to electronic devices
 57 used for the sole purpose of continuously recording or broadcasting video within or
 58 outside of the motor vehicle.

59 ~~(d)~~(e) While operating a commercial motor vehicle on any highway of this state, no
 60 individual shall:

61 (1) Use more than a single button on a wireless telecommunications device to initiate or
 62 terminate a voice communication; or

63 (2) Reach for a wireless telecommunications device or stand-alone electronic device in
64 such a manner that requires the driver to no longer be:

65 (A) In a seated driving position; or

66 (B) Properly restrained by a safety belt.

67 ~~(e)(f)~~ Each violation of this Code section shall constitute a separate offense.

68 ~~(f)(1)(g)~~ Any Except as provided for in paragraph (2) of this subsection, any person
69 convicted of violating this Code section shall be guilty of a misdemeanor which shall be
70 punished by a fine of not less than \$25.00 but not greater than \$100.00 as follows:

71 ~~(A) For a first conviction with no conviction of and no plea of nolo contendere~~
72 ~~accepted to a charge of violating this Code section within the previous 24 month period~~
73 ~~of time, as measured from the dates any previous convictions were obtained or pleas~~
74 ~~of nolo contendere were accepted to the date the current conviction is obtained or plea~~
75 ~~of nolo contendere is accepted, a fine of not more than \$50.00, but the provisions of~~
76 ~~Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding,~~
77 ~~the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or~~
78 ~~surcharge to a fine for such offense be assessed against a person for conviction thereof;.~~

79 ~~(B) For a second conviction within a 24 month period of time, as measured from the~~
80 ~~dates any previous convictions were obtained or pleas of nolo contendere were accepted~~
81 ~~to the date the current conviction is obtained or plea of nolo contendere is accepted, a~~
82 ~~fine of not more than \$100.00, but the provisions of Chapter 11 of Title 17 and any~~
83 ~~other provision of law to the contrary notwithstanding, the costs of such prosecution~~
84 ~~shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such~~
85 ~~offense be assessed against a person for conviction thereof; or~~

86 ~~(C) For a third or subsequent conviction within a 24 month period of time, as measured~~
87 ~~from the dates any previous convictions were obtained or pleas of nolo contendere were~~
88 ~~accepted to the date the current conviction is obtained or plea of nolo contendere is~~
89 ~~accepted, a fine of not more than \$150.00, but the provisions of Chapter 11 of Title 17~~
90 ~~and any other provision of law to the contrary notwithstanding, the costs of such~~
91 ~~prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a~~
92 ~~fine for such offense be assessed against a person for conviction thereof.~~

93 ~~(2) Any person appearing before a court for a first charge of violating paragraph (1) of~~
94 ~~subsection (c) of this Code section who produces in court a device or proof of purchase~~
95 ~~of such device that would allow such person to comply with such paragraph in the future~~
96 ~~shall not be guilty of such offense. The court shall require the person to affirm that they~~
97 ~~have not previously utilized the privilege under this paragraph.~~

98 ~~(g)(h)~~ Subsections ~~(c)~~ and ~~(d)~~ and ~~(e)~~ of this Code section shall not apply when the
99 prohibited conduct occurred:

- 100 (1) While reporting a traffic accident, medical emergency, fire, an actual or potential
101 criminal or delinquent act, or road condition which causes an immediate and serious
102 traffic or safety hazard;
- 103 (2) By an employee or contractor of a utility services provider acting within the scope
104 of his or her employment while responding to a utility emergency;
- 105 (3) By a law enforcement officer, firefighter, emergency medical services personnel,
106 ambulance driver, or other similarly employed public safety first responder during the
107 performance of his or her official duties; or
- 108 (4) While in a motor vehicle which is lawfully parked."

109 **SECTION 2.**

110 This Act shall become effective on July 1, 2020, and shall apply to all offenses committed
111 on and after such date.

112 **SECTION 3.**

113 All laws and parts of laws in conflict with this Act are repealed.