

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

D

HOUSE DRH70063-MA-112 (2/8)

Short Title: Ban Cell Phone Use by School Bus Drivers.

(Public)

Sponsors: Representative Rapp.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE USING A MOBILE PHONE UNLAWFUL WHILE
OPERATING A PUBLIC OR PRIVATE SCHOOL BUS OR A PUBLIC
ACTIVITY BUS 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) 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.

1 (6) Engage in a call. – Talking into or listening on a handheld mobile
2 telephone, but shall not include holding a mobile telephone to activate,
3 deactivate, or initiate a function of such telephone.

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

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

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

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

25 (g) A violation of this section shall be a Class 1 misdemeanor and shall be
26 punishable by a fine of not less than one hundred dollars (\$100.00)."

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