

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 183  
Committee Substitute Favorable 4/30/07

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

(Public)

Sponsors:

Referred to:

February 15, 2007

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. The term includes: (i) a device with which a user engages in a call using at least one hand, and (ii) a device 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.
- (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) Use. – Hold a mobile telephone to, or in the immediate proximity of, the user's ear or use a hands-free mobile telephone device to engage in a call.
- (4) Engage in a call. – Talking into or listening on a mobile telephone but shall not include holding a mobile telephone to activate, deactivate, or initiate a function of such telephone.

1           (5) Immediate proximity. – That distance as permits the user of a mobile  
2           telephone to hear telecommunications transmitted over such mobile  
3           telephone but shall not require physical contact with such user's ear.

4           (6) Emergency situation. – A situation in which medical concerns, unsafe  
5           road conditions, public safety concerns, or mechanical failures create a  
6           risk of harm for the operator or passengers of a public or private school  
7           bus or a school activity bus or a vehicle providing contracted  
8           transportation services for a public or private school.

9           (b) Offense. – Except as otherwise provided in this section, no person shall use a  
10          mobile telephone to engage in a call while operating a public or private school bus or a  
11          school activity bus or while providing contracted transportation services for a public or  
12          private school in any vehicle. An operator of a public or private school bus or school  
13          activity bus or other contracted vehicle who holds a mobile telephone to, or in the  
14          immediate proximity of, his or her ear while such vehicle is being operated is presumed  
15          to be engaging in a call within the meaning of this section. The presumption established  
16          by this subsection is rebuttable by evidence tending to show that the operator was not  
17          engaged in a call.

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

20          (d) Exceptions. – The provisions of subsection (b) of this section shall not apply  
21          to the use of a mobile telephone for the sole purpose of communicating in an emergency  
22          situation.

23          (e) Local Ordinances. – No local government may pass any ordinance regulating  
24          the use of mobile telephones by operators of the vehicles specified in subsection (b) of  
25          this section.

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

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