

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 183
Committee Substitute Favorable 4/30/07
Committee Substitute #2 Favorable 5/15/07

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 IT UNLAWFUL TO USE ADDITIONAL TECHNOLOGY OR A MOBILE TELEPHONE TO ENGAGE IN A CALL WHILE OPERATING A PUBLIC OR PRIVATE SCHOOL BUS, WHILE OPERATING A SCHOOL ACTIVITY BUS, OR WHILE PROVIDING CONTRACTED TRANSPORTATION SERVICES FOR A PUBLIC OR PRIVATE SCHOOL IN ANY VEHICLE.

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) Additional technology. – Any technology that provides access to digital media such as a handheld camera, electronic mail, music, the Internet, or games.

(2) 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.

(3) 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.

1 (4) Use. – Hold a mobile telephone to, or in the immediate proximity of,
2 the user's ear or use a hands-free mobile telephone device to engage in
3 a call.

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

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

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

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

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

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

30 (e) Local Ordinances. – No local government may pass any ordinance regulating
31 the use of mobile telephones or additional technology by operators of the vehicles
32 specified in subsection (b) of this section.

33 (f) A violation of this section shall be a Class 2 misdemeanor and shall be
34 punishable by a fine of not less than one hundred dollars (\$100.00)."

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