

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 186

Short Title: Ban Mobile Phone Use By School Bus Drivers. (Public)

Sponsors: Representatives Pierce, Hall (Primary Sponsors); Alexander, Bell, Coleman, Fisher, Folwell, Frye, Luebke, Martin, McGee, McLawhorn, Moore, Rapp, Ray, Starnes, Underhill, Wainwright, and Weiss.

Referred to: Education, if favorable, Judiciary I.

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, A PUBLIC ACTIVITY BUS, OR A PRIVATE PASSENGER VEHICLE OWNED BY A PRIVATE SCHOOL OR DAY CARE CENTER AND USED PRIMARILY TO TRANSPORT CHILDREN TO AND FROM A SCHOOL OR DAY CARE CENTER 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

1 or not the use of either hand is necessary to activate, deactivate, or
2 initiate a function of such telephone.

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

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

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

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

22 (d) Exceptions. – The provisions of subsection (b) of this section shall not apply
23 to the use of a mobile telephone for the sole purpose of communicating with any of the
24 following regarding an emergency situation: an emergency response operator; a
25 hospital, physician's office, or health clinic; a public or privately owned ambulance
26 company or service; a fire department; or a law enforcement agency.

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

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

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