

_____ offers the following
substitute to HB 673:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to provide for a short title; to prohibit actions which distract a driver while
3 operating a motor vehicle; to provide for the proper and safe use of wireless
4 telecommunications devices while driving; to provide for definitions; to provide for
5 violations; to provide for punishments; to provide for the assessment of points upon
6 conviction; to provide for additional fines to be collected by the Department of Driver
7 Services; to provide for applicability; to correct cross-references; to provide for related
8 matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 This Act shall be known and may be cited as the "Hands-Free Georgia Act."

12 SECTION 2.

13 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
14 amended by revising paragraph (1) of subsection (c) of Code Section 40-5-57, relating to
15 suspension or revocation of license of habitually negligent or dangerous driver and point
16 system, as follows:

17 "(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be
18 assessed for each offense shall be as provided in the following schedule:

- 19 (i) Aggressive driving. 6 points
- 20 (ii) Reckless driving. 4 points
- 21 (iii) Unlawful passing of a school bus. 6 points
- 22 (iv) Improper passing on a hill or a curve. 4 points

23	(v) Exceeding the speed limit by more than 14 miles per hour	
24	but less than 19 miles per hour.	2 points
25	(vi) Exceeding the speed limit by 19 miles per hour or more	
26	but less than 24 miles per hour.	3 points
27	(vii) Exceeding the speed limit by 24 miles per hour or more	
28	but less than 34 miles per hour.	4 points
29	(viii) Exceeding the speed limit by 34 miles per hour or more.	6 points
30	(ix) Disobedience of any traffic-control device or traffic officer.	3 points
31	(x) Too fast for conditions.	0 points
32	(xi) Possessing an open container of an alcoholic beverage	
33	while driving.	2 points
34	(xii) Failure to adequately secure a load, except fresh farm	
35	produce, resulting in loss of such load onto the roadway	
36	which results in an accident.	2 points
37	(xiii) Violation of child safety restraint requirements, first offense.	1 point
38	(xiv) Violation of child safety restraint requirements, second or	
39	subsequent offense.	2 points
40	(xv) Violation of usage of wireless telecommunications device	1 point
41	requirements.	<u>3 points</u>
42	(xvi) <u>Second or subsequent violation of usage of wireless</u>	
43	<u>telecommunications device requirements</u> Operating a vehicle	1 point
44	while text messaging.	<u>4 points</u>
45	(xvii) All other moving traffic violations which are not speed limit	
46	violations.	3 points

(B) The commissioner shall suspend the driver's license of any person who has accumulated a violation point count of 15 or more points in any consecutive 24 month period, as measured from the dates of previous arrests for which convictions were obtained to the date of the most current arrest for which a conviction is obtained. A second or subsequent plea of nolo contendere, within the preceding five years, as measured from the dates of previous arrests for which pleas of nolo contendere were accepted to the date of the most current arrest for which a plea of nolo contendere is accepted, to a charge of committing an offense listed in this subsection shall be considered a conviction for the purposes of this Code section. At the end of the period of suspension, the violation point count shall be reduced to zero points.

(C) A court may order a person to attend a defensive driving course approved by the commissioner pursuant to Code Section 40-5-83 for any violation for which points are

59 assessed against a driver's license under this subsection or may accept the attendance
 60 by a person at a driver improvement clinic approved by the commissioner pursuant to
 61 Code Section 40-5-83 after the issuance of a citation for such offense and prior to such
 62 person's appearance before the court, in which event the court shall reduce the fine
 63 assessed against such person by 20 percent, and no points shall be assessed by the
 64 department against such driver. The disposition and court order shall be reported to the
 65 department and shall be placed on the motor vehicle record with a zero point count.
 66 This plea may be accepted by the court once every five years as measured from date of
 67 arrest to date of arrest."

68 SECTION 3.

69 Said title is further amended in Code Section 40-6-165, relating to operation of school buses,
 70 by revising subsections (d) and (e) as follows:

71 "(d) The driver of a school bus shall not use or operate a ~~cellular telephone~~ wireless
 72 telecommunications device, as such term is defined in Code Section 40-6-241, or two-way
 73 radio while loading or unloading passengers.

74 (e) The driver of a school bus shall not use or operate a ~~cellular telephone~~ wireless
 75 telecommunications device, as such term is defined in Code Section 40-6-241, while the
 76 bus is in motion, unless it is being used in a similar manner as a two-way radio to allow
 77 live communication between the driver and school officials or public safety officials ~~and~~
 78 ~~in accordance with the provisions of paragraph (2) of subsection (b) and of subsection (c)~~
 79 ~~of Code Section 40-6-241.2."~~

80 SECTION 4.

81 Said title is further amended by revising Code Section 40-6-241, relating to driver to exercise
 82 due care and proper use of radios and mobile telephones allowed, as follows:

83 "40-6-241.

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

85 (1) 'Department' means the Department of Driver Services.

86 (2) 'Hands-free accessory' means an attachment or feature on a wireless
 87 telecommunications device that allows the driver of a motor vehicle to engage in wireless
 88 communication without such individual holding such wireless telecommunications device
 89 in his or her hands or supporting such wireless telecommunications device with his or her
 90 head and shoulder.

91 (3) 'Utility services' means and includes electric, natural gas, water, waste-water, cable,
 92 telephone, or telecommunication services or the repair, location, relocation, improvement,

93 or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables,
 94 easements, rights of way, and associated infrastructure.

95 (4) 'Wireless communication' means any of the following actions performed using a
 96 wireless telecommunications device:

97 (A) Writing or reading a text based communication;

98 (B) Initiating the exchange of data; or

99 (C) Talking.

100 (5) 'Wireless telecommunications device' means a cellular telephone, a text-messaging
 101 device, a personal digital assistant, a stand-alone computer, a global positioning system
 102 receiver, a wearable device, or any other substantially similar wireless device that is used
 103 to initiate or receive communication or information. A wireless telecommunications
 104 device does not include a radio, citizens band radio, citizens band radio hybrid,
 105 commercial two-way radio communication devices, subscription based emergency
 106 communications, prescribed medical devices, amateur or ham radio devices, or in-vehicle
 107 security, navigation, and remote diagnostics systems.

108 (b) A driver shall exercise due care in operating a motor vehicle on the highways of this
 109 state and shall not engage in any actions which shall distract such driver from the safe
 110 operation of such vehicle, provided that, except as prohibited by Code Sections 40-6-241.1
 111 and 40-6-241.2, the proper use of a radio, citizens band radio, mobile telephone, or amateur
 112 or ham radio shall not be a violation of this Code section.

113 (c)(1) No individual shall operate a motor vehicle on any highway of this state while:

114 (A) Conducting wireless communication without a hands-free accessory engaged;

115 (B) Using more than a single touch or swipe of a finger on a wireless
 116 telecommunications device to initiate or terminate wireless communication; or

117 (C) Reaching for a wireless telecommunications device in such a manner that requires
 118 the driver to maneuver in such a way that he or she is no longer in a seated driving
 119 position properly restrained by a safety belt.

120 (2) No individual shall operate a motor vehicle on any highway of this state while
 121 watching motion upon the screen of a wireless telecommunications device other than
 122 those related to the functioning or navigation of the vehicle.

123 (d) Each violation of this Code section shall constitute a separate offense.

124 (e) Any person convicted of violating this Code section shall be guilty of a misdemeanor
 125 which shall be punishable with a fine of not less than \$150.00 and upon the second and any
 126 subsequent conviction shall also be required to complete a defensive driving course
 127 approved by the commissioner pursuant to Code Section 40-5-83 within 120 days
 128 following his or her conviction; provided, however, that if the defendant is incarcerated and

129 such course cannot be completed within 120 days, such course shall be completed within
130 90 days of his or her release from custody.

131 (f)(1) In addition to any other fines or penalties imposed by any local jurisdiction or the
132 department, the department shall administer and collect a fee from any driver who is
133 convicted of a violation of subsection (c) of this Code section. Such additional fine shall
134 be set by the judge and included in the notice of conviction to the department. Upon the
135 first conviction of such offense, the additional fine shall be not less than \$150.00 nor
136 more than \$300.00. Upon the second conviction of such offense, the additional fine shall
137 be not less than \$250.00 nor more than \$500.00. Upon the third or subsequent conviction
138 of such offense, the additional fine shall be not less than \$500.00 nor more than \$750.00.

139 (2) The department shall notify offenders of the imposition of a fee under this subsection
140 within 30 days after receipt of a qualifying ticket and notice of conviction. Failure to pay
141 the fee imposed by this subsection within 90 days after receipt of the notice shall result
142 in the suspension of the driver's license or driving privileges of the offender, and, in
143 addition to the existing fees and penalties, an additional fee of \$50.00 shall be assessed,
144 payable upon the application for reinstatement of the driver's license or driving privileges.

145 Notice shall be provided by the department to the offender by first-class mail to the
146 address shown on the records of the department. Such mailed notice shall be adequate
147 notification of the fee imposed by this subsection and of the offender's ability to avoid a
148 driver's license suspension by paying such fee prior to the effective date of the
149 suspension. No other notice shall be required to make the driver's license suspension
150 effective.

151 (3) The department shall be authorized to promulgate rules and regulations to implement
152 the provisions of this subsection.

153 (4) All fees collected under the provisions of this subsection shall be deposited in the
154 general fund of this state with the intent that these moneys be used to fund a trauma care
155 system in Georgia and the direct and indirect costs associated with the administration of
156 this subsection. The Office of the State Treasurer shall separately account for all of the
157 moneys received under the provisions of this subsection.

158 (g) The provisions of subsection (c) of this Code section shall not apply when the
159 prohibited conduct was engaged in:

160 (1) While reporting a traffic accident, medical emergency, fire, criminal act or potential
161 criminal act, or serious road hazard;

162 (2) By an employee or contractor of a utility services provider acting within the scope
163 of his or her employment while responding to a utility emergency;

- 164 (3) By a law enforcement officer, firefighter, emergency medical services personnel,
 165 ambulance driver, or other similarly employed public safety first responder during the
 166 performance of his or her official duties;
 167 (4) By a driver of a school bus when the wireless telecommunications device is being
 168 used in a similar manner as a two-way radio to allow live communication between the
 169 driver and school officials or public safety officials; or
 170 (5) While in a motor vehicle which is lawfully parked."

171 **SECTION 5.**

172 Said title is further amended by revising Code Section 40-6-241.1, relating to definitions,
 173 prohibition on certain persons operating a motor vehicle while engaging in wireless
 174 communications, exceptions, and penalties, as follows:

175 "40-6-241.1.

176 ~~(a) As used in the Code section, the term:~~

177 ~~(1) 'Engage in a wireless communication' means talking, writing, sending, or reading a~~
 178 ~~text-based communication, or listening on a wireless telecommunications device.~~

179 ~~(2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging~~
 180 ~~device, a personal digital assistant, a stand-alone computer, or any other substantially~~
 181 ~~similar wireless device that is used to initiate or receive a wireless communication with~~
 182 ~~another person. It does not include citizens band radios, citizens band radio hybrids,~~
 183 ~~commercial two-way radio communication devices, subscription-based emergency~~
 184 ~~communications, in-vehicle security, navigation, and remote diagnostics systems or~~
 185 ~~amateur or ham radio devices.~~

186 ~~(b) Except in a driver emergency and as provided in subsection (c) of this Code section,~~
 187 ~~no person who has an instruction permit or a Class D license and is under 18 years of age~~
 188 ~~shall operate a motor vehicle on any public road or highway of this state while engaging~~
 189 ~~in a wireless communication using a wireless telecommunications device.~~

190 ~~(c) The provisions of this Code section shall not apply to a person who has an instruction~~
 191 ~~permit or a Class D license and is under 18 years of age who engages in a wireless~~
 192 ~~communication using a wireless telecommunications device to do any of the following:~~

193 ~~(1) Report a traffic accident, medical emergency, or serious road hazard;~~

194 ~~(2) Report a situation in which the person believes his or her personal safety is in~~
 195 ~~jeopardy;~~

196 ~~(3) Report or avert the perpetration or potential perpetration of a criminal act against the~~
 197 ~~driver or another person; or~~

198 ~~(4) Engage in a wireless communication while the motor vehicle is lawfully parked.~~

199 ~~(d)(1) Any conviction for a violation of the provisions of this Code section shall be~~
 200 ~~punishable by a fine of \$150.00. The provisions of Chapter 11 of Title 17 and any other~~
 201 ~~provision of law to the contrary notwithstanding, the costs of such prosecution shall not~~
 202 ~~be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be~~
 203 ~~assessed against a person for conviction thereof. The court imposing such fine shall~~
 204 ~~forward a record of the disposition of the case of unlawfully operating a motor vehicle~~
 205 ~~while using a wireless telecommunications device to the Department of Driver Services.~~
 206 ~~(2) If the operator of the moving motor vehicle is involved in an accident at the time of~~
 207 ~~a violation of this Code section, then the fine shall be equal to double the amount of the~~
 208 ~~fine imposed in paragraph (1) of this subsection. The law enforcement officer~~
 209 ~~investigating the accident shall indicate on the written accident form whether such~~
 210 ~~operator was engaging in a wireless communication at the time of the accident.~~
 211 ~~(e) Each violation of this Code section shall constitute a separate offense Reserved."~~

212 SECTION 6.

213 Said title is further amended by revising Code Section 40-6-241.2, relating to prohibition on
 214 persons operating a motor vehicle while writing, sending, or reading text based
 215 communications, prohibited uses of wireless telecommunication devices by drivers of
 216 commercial vehicles, exceptions, and penalties for violation, as follows:

217 "40-6-241.2.

218 ~~(a) As used in this Code section, the term 'wireless telecommunications device' means a~~
 219 ~~cellular telephone, a text messaging device, a personal digital assistant, a stand-alone~~
 220 ~~computer, or any other substantially similar wireless device that is used to initiate or~~
 221 ~~receive a wireless communication with another person. It does not include citizens band~~
 222 ~~radios, citizens band radio hybrids, commercial two-way radio communication devices,~~
 223 ~~subscription based emergency communications, in-vehicle security, navigation devices, and~~
 224 ~~remote diagnostics systems, or amateur or ham radio devices.~~

225 ~~(b)(1) No person who is 18 years of age or older or who has a Class C license shall~~
 226 ~~operate a motor vehicle on any public road or highway of this state while using a wireless~~
 227 ~~telecommunications device to write, send, or read any text based communication,~~
 228 ~~including but not limited to a text message, instant message, e-mail, or Internet data.~~

229 ~~(2) No person shall operate a commercial motor vehicle on any public road or highway~~
 230 ~~of this state while:~~

- 231 ~~(A) Holding a wireless telecommunications device to conduct a voice communication;~~
- 232 ~~(B) Using more than a single button on a wireless telecommunications device to~~
 233 ~~initiate or terminate a voice communication; or~~

234 ~~(C) Reaching for a wireless telecommunications device in such a manner that requires~~
 235 ~~the driver to maneuver so that he or she is no longer in a seated driving position~~
 236 ~~properly restrained by a safety belt.~~

237 ~~(e) The provisions of this Code section shall not apply to:~~

238 ~~(1) A person reporting a traffic accident, medical emergency, fire, serious road hazard,~~
 239 ~~or a situation in which the person reasonably believes a person's health or safety is in~~
 240 ~~immediate jeopardy;~~

241 ~~(2) A person reporting the perpetration or potential perpetration of a crime;~~

242 ~~(3) A public utility employee or contractor acting within the scope of his or her~~
 243 ~~employment when responding to a public utility emergency;~~

244 ~~(4) A law enforcement officer, firefighter, emergency medical services personnel,~~
 245 ~~ambulance driver, or other similarly employed public safety first responder during the~~
 246 ~~performance of his or her official duties; or~~

247 ~~(5) A person engaging in wireless communication while in a motor vehicle which is~~
 248 ~~lawfully parked.~~

249 ~~(d) Any conviction for a violation of the provisions of this Code section shall be a~~
 250 ~~misdemeanor punishable by a fine of \$150.00. The provisions of Chapter 11 of Title 17~~
 251 ~~and any other provision of law to the contrary notwithstanding, the costs of such~~
 252 ~~prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine~~
 253 ~~for such offense be assessed against a person for conviction thereof. The court imposing~~
 254 ~~such fine shall forward a record of the disposition to the Department of Driver Services.~~
 255 ~~Any violation of this Code section shall constitute a separate offense Reserved."~~

256 **SECTION 7.**

257 Said title is further amended by replacing "Code Section 40-6-241.2" with "Code
 258 Section 40-6-241" wherever the former occurs in:

259 (1) Code Section 40-5-142, relating to definitions relative to commercial drivers' licenses;
 260 and

261 (2) Code Section 40-5-159, relating to violations by commercial drivers' license holders.

262 **SECTION 8.**

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