The House Committee on Judiciary Non-Civil offers the following substitute to HB 673:

A BILL TO BE ENTITLED
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to prohibit actions which distract a driver while operating a motor vehicle; to provide for the proper and safe use of wireless telecommunications devices and stand-alone electronic devices while driving; to provide for definitions; to provide for violations; to provide for punishment; to provide for the assessment of points upon conviction; to repeal Code Sections 40-6-241.1 and 40-61-241.2, relating to definitions, prohibition on certain persons operating a motor vehicle while engaging in wireless communications, exceptions, and penalties and prohibition on persons operating a motor vehicle while writing, sending, or reading text based communications, prohibited uses of wireless telecommunication devices by drivers of commercial vehicles, exceptions, and penalties for violation, respectively; to correct cross-references; to provide for a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

SECTION 2.

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

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

(i) Aggressive driving . . . . . 6 points

(ii) Reckless driving . . . . . 4 points

(iii) Unlawful passing of a school bus . . . . . 6 points
(iv) Improper passing on a hill or a curve . . . . . 4 points
(v) Exceeding the speed limit by more than 14 miles per hour but less than 19 miles per hour . . . . . 2 points
(vi) Exceeding the speed limit by 19 miles per hour or more but less than 24 miles per hour . . . . . 3 points
(vii) Exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour . . . . . 4 points
(viii) Exceeding the speed limit by 34 miles per hour or more . . . . . 6 points
(ix) Disobedience of any traffic-control device or traffic officer . . . . . 3 points
(x) Too fast for conditions . . . . . 0 points
(xi) Possessing an open container of an alcoholic beverage while driving . . . . . 2 points
(xii) Failure to adequately secure a load, except fresh farm produce, resulting in loss of such load onto the roadway which results in an accident . . . . . 2 points
(xiii) Violation of child safety restraint requirements, first offense . . . . 1 point
(xiv) Violation of child safety restraint requirements, second or subsequent offense . . . . . 2 points
(xv) First violation of subsection (c) of Code Section 40-6-241 ~~Violation of usage of wireless telecommunications device requirements~~ . . . . . ~~1 point~~ 2 points
(xvi) Second violation of subsection (c) of Code Section 40-6-241 ~~Operating a vehicle while text messaging~~ . . . . . ~~1 point~~ 3 points
(xvii) Third violation of subsection (c) of Code Section 40-6-241 . . . . . 4 points
(xviii) Fourth or subsequent violation of subsection (c) of Code Section 40-6-241 . . . . . 6 points
(xix) All other moving traffic violations which are not speed limit violations . . . . . 3 points ″

SECTION 3.

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

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

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

SECTION 4.

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

"40-6-241.

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

(1) 'Stand-alone electronic device' means a device other than a wireless telecommunications device which stores audio or video data files to be retrieved on demand by a user.

(2) 'Utility services' means and includes electric, natural gas, water, waste-water, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights of way, or associated infrastructure.

(3) 'Wireless telecommunications device' means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. Such term shall not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, or remote diagnostics system.

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

(c) While operating a motor vehicle on any highway of this state, no individual shall:

(1) Physically hold or support, with any part of his or her body, a wireless telecommunications device or stand-alone electronic device;

(2) Reach for a wireless telecommunications device or stand-alone electronic device in such a manner that requires the driver to no longer be:

(A) In a seated driving position; or

(B) Properly restrained by a safety belt;

(3) Write, send, or read any text based communication, including but not limited to a text message, instant message, e-mail, or Internet data on a wireless telecommunications device or stand-alone electronic device; provided, however, that such prohibition shall not apply to:

(A) A voice based communication which is automatically converted by such device to be sent as a message in a written form; or

(B) The use of such device for navigation of such vehicle or for global positioning system purposes;

(4) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than watching data related to the navigation of such vehicle; or

(5) Record a video on a wireless telecommunications device or stand-alone electronic device.

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

(e) Any person convicted of violating this Code section shall be guilty of a misdemeanor which shall be punishable with a fine of not less than $300.00.

(f) Subsection (c) of this Code section shall not apply when the prohibited conduct occurred:

(1) While reporting a traffic accident, medical emergency, fire, an actual or potential criminal or delinquent act, or road condition which causes an immediate and serious traffic or safety hazard;

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

(3) By a law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder during the performance of his or her official duties; or

(4) While in a motor vehicle which is lawfully parked.″

SECTION 5.

Said title is further amended by repealing in its entirety Code Section 40-6-241.1, relating to definitions, prohibition on certain persons operating a motor vehicle while engaging in wireless communications, exceptions, and penalties.

SECTION 6.

Said title is further amended by repealing in its entirety Code Section 40-6-241.2, relating to prohibition on persons operating a motor vehicle while writing, sending, or reading text

based communications, prohibited uses of wireless telecommunication devices by drivers of commercial vehicles, exceptions, and penalties for violation.

SECTION 7.

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

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

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

SECTION 8.

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