

§ 20-137.4. Unlawful use of a mobile phone.

(a) Definitions. – For purposes of this section, the following terms shall mean:

- (1) Additional technology. – As defined in G.S. 20-137.3(a)(1).
- (2) Emergency situation. – Circumstances such as medical concerns, unsafe road conditions, matters of public safety, or mechanical problems that create a risk of harm for the operator or passengers of a school bus.
- (3) Mobile telephone. – As defined in G.S. 20-137.3(a)(2).
- (4) School bus. – As defined in G.S. 20-4.01(27)d4. The term also includes any school activity bus as defined in G.S. 20-4.01(27)d3. and any vehicle transporting public, private, or parochial school students for compensation.

(b) Offense. – Except as otherwise provided in this section, no person shall operate a school bus on a public street or highway or public vehicular area while using a mobile telephone or any additional technology associated with a mobile telephone while the school bus is in motion. This prohibition shall not apply to the use of a mobile telephone or additional technology associated with a mobile telephone in a stationary school bus.

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

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

(e) Local Ordinances. – No local government may pass any ordinance regulating the use of mobile telephones or additional technology associated with a mobile telephone by operators of school buses.

(f) Penalty. – A violation of this section shall be a Class 2 misdemeanor and shall be punishable by a fine of not less than one hundred dollars (\$100.00). No drivers license points or insurance surcharge shall be assessed as a result of a violation of this section. Failure to comply with the provisions of this section shall not constitute negligence per se or contributory negligence by the operator in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a school bus. (2007-261, s. 1.)

§ 20-137.3. Unlawful use of a mobile phone by persons under 18 years of age.

(a) Definitions. – The following definitions apply in this section:

- (1) Additional technology. – Any technology that provides access to digital media such as a 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 the 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 the 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.

(b) Offense. – Except as otherwise provided in this section, no person under the age of 18 years shall operate a motor vehicle on a public street or highway or public vehicular area while using a mobile telephone or any additional technology associated with a mobile telephone while the vehicle is in motion. This prohibition shall not apply to the use of a mobile telephone or additional technology in a stationary vehicle.

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

(d) Exceptions. – The provisions of subsection (b) of this section shall not apply if the use of a mobile telephone is for the sole purpose of communicating with:

- (1) Any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office, or health clinic; a public or privately owned ambulance company or service; a fire department; or a law enforcement agency.
- (2) The motor vehicle operator's parent, legal guardian or spouse.

(e) Penalty. – Any person violating this section shall have committed an infraction and shall pay a fine of twenty-five dollars (\$25.00). This offense is an offense for which a defendant may waive the right to a hearing or trial and admit responsibility for the infraction pursuant to G.S. 7A-148. No drivers license points, insurance surcharge, or court costs shall be assessed as a result of a violation of this section. (2006-177, s. 1.)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-135
HOUSE BILL 9

AN ACT TO MAKE IT UNLAWFUL TO USE A MOBILE TELEPHONE FOR E-MAIL OR TEXT MESSAGING WHILE OPERATING A VEHICLE ON A PUBLIC STREET OR HIGHWAY OR PUBLIC VEHICULAR AREA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-137.3(a)(1) reads as rewritten:

"(1) Additional technology. – Any technology that provides access to digital media ~~such as~~ including, but not limited to, a camera, ~~electronic mail~~, music, the Internet, or games. The term does not include electronic mail or text messaging."

SECTION 2. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-137.4A. Unlawful use of mobile telephone for text messaging or electronic mail.

(a) Offense. – It shall be unlawful for any person to operate a vehicle on a public street or highway or public vehicular area while using a mobile telephone to:

- (1) Manually enter multiple letters or text in the device as a means of communicating with another person; or
- (2) Read any electronic mail or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored in the device nor to any caller identification information.

(b) Exceptions. – The provisions of this section shall not apply to:

- (1) The operator of a vehicle that is lawfully parked or stopped.
- (2) Any of the following while in the performance of their official duties: a law enforcement officer; a member of a fire department; or the operator of a public or private ambulance.
- (3) The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system.
- (4) The use of voice operated technology.

(c) Penalty. – A violation of this section while operating a school bus, as defined in G.S. 20-137.4(a)(4), shall be a Class 2 misdemeanor and shall be punishable by a fine of not less than one hundred dollars (\$100.00). Any other violation of this section shall be an infraction and shall be punishable by a fine of one hundred dollars (\$100.00) and the costs of court.

No drivers license points or insurance surcharge shall be assessed as a result of a violation of this section. Failure to comply with the provisions of this section shall not constitute negligence per se or contributory negligence per se by the operator in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a vehicle."

SECTION 3. The Joint Legislative Transportation Oversight Committee shall identify and study the leading causes of driver inattention or distraction, the risks posed by driver inattention or distraction, and any methods that might be used to manage those driver distractions and promote highway safety. The Committee shall report its findings and recommendations, including any proposed legislation, to the General Assembly by April 15, 2010.



SECTION 4. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10th day of June, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 11:48 a.m. this 19th day of June, 2009

Cellphone laws

January 2010

A jurisdiction-wide ban on driving while talking on a hand-held cellphone is in place in 7 states (California, Connecticut, New Jersey, New York, Oregon, Utah, and Washington) and the District of Columbia. Utah has named the offense careless driving. Under the Utah law, no one commits an offense when speaking on a cellphone unless they are also committing some other moving violation other than speeding.

Local jurisdictions may or may not need specific state statutory authority to ban cellphones. Localities that have enacted restrictions on cellphone use include: Oahu, HI; Chicago, IL; Brookline, MA; Detroit, MI; Santa Fe, NM; Brooklyn, North Olmstead, and Walton Hills, OH; Conshohocken, Lebanon, and West Conshohocken, PA; Waupaca County, WI; and Cheyenne, WY.

Localities are prohibited from banning cellphone use in 8 states (Florida, Kentucky, Louisiana, Mississippi, Nevada, Oklahoma, Oregon, and Utah).

The use of all cellphones while driving a school bus is prohibited in 17 states and the District of Columbia.

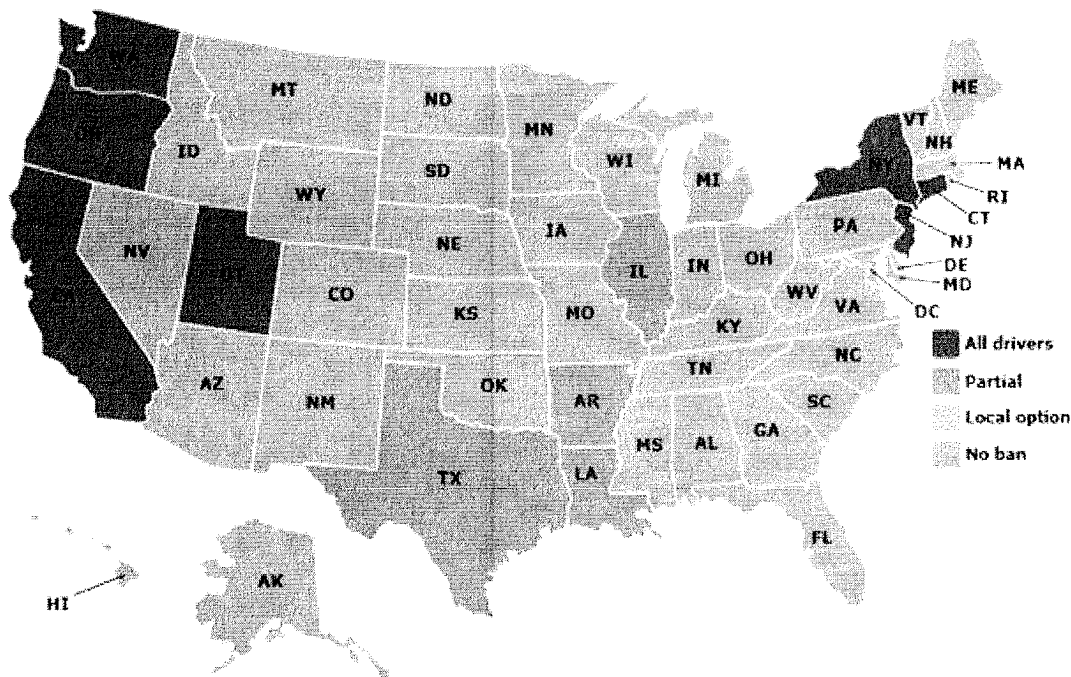
The use of all cellphones by novice drivers is restricted in 21 states and the District of Columbia.

Text messaging is banned for all drivers in 19 states and the District of Columbia. In addition, novice drivers are banned from texting in 9 states (Delaware, Indiana, Kansas, Maine, Mississippi, Missouri, Nebraska, Texas, and West Virginia) and school bus drivers are banned from text messaging in 1 state (Texas).

The table below shows the states that have cellphone laws, whether they specifically ban text messaging, and whether they are enforced as primary or secondary laws. Under secondary laws, an officer must have some other reason to stop a vehicle before citing a driver for using a cellphone. Laws without this restriction are called primary.

Table Map: hand-held bans Map: young driver bans Map: bus driver bans Map: texting bans

Map of hand-held cellphone bans
(hover over the map for more detail)



¹As of July 1, 2008, all learner's permit holders, irrespective of age, and all intermediate license holders were prohibited from driving while using a hand-held cellphone and all drivers younger than 18 were prohibited from using any cellphone. Effective April 1, 2010 all drivers, irrespective of age, issued a first driver's license will be prohibited from using a cellphone for one year.

²As of July 1, 2008, all learner's permit holders, irrespective of age, and all intermediate license holders were prohibited from driving while using a hand-held cellphone and all drivers younger than 18 were prohibited from using any cellphone. Effective April 1, 2010 all drivers, irrespective of age, issued a first driver's license will be prohibited from using a cellphone for one year.

³Utah's law defines careless driving as committing a moving violation (other than speeding) while distracted by use of a hand-held cellphone or other activities not related to driving.

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