

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

H

D

HOUSE DRH60045-MA-126 (2/13)

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

---

Sponsors: Representative Pierce.

---

Referred to:

---

A BILL TO BE ENTITLED

1 AN ACT TO MAKE USING A MOBILE PHONE UNLAWFUL WHILE  
2 OPERATING A PUBLIC OR PRIVATE SCHOOL BUS, A PUBLIC ACTIVITY  
3 BUS, OR A PRIVATE PASSENGER VEHICLE OWNED BY A PRIVATE  
4 SCHOOL OR DAY CARE CENTER AND USED PRIMARILY TO TRANSPORT  
5 CHILDREN TO AND FROM A SCHOOL OR DAY CARE CENTER ON A  
6 PUBLIC STREET OR HIGHWAY.  
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Chapter 20 of the General Statutes is amended by adding a  
10 new section to read:

11 **"§ 20-140.6. Unlawful use of a mobile phone.**

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

13 (1) Mobile telephone. – A device used by subscribers and other users of  
14 wireless telephone service to access such service.

15 (2) Wireless telephone service. – A service that is a two-way real-time  
16 voice telecommunications service that is interconnected to a public  
17 switched telephone network and is provided by a commercial mobile  
18 radio service, as such term is defined by 47 C.F.R. § 20.3.

19 (3) Using. – Holding a mobile telephone to, or in the immediate proximity  
20 of, the user's ear.

21 (4) Handheld mobile telephone. – A mobile telephone with which a user  
22 engages in a call using at least one hand.

23 (5) Hands-free mobile telephone. – A mobile telephone that has an  
24 internal feature or function, or that is equipped with an attachment or  
25 addition, whether or not permanently part of such mobile telephone, by  
26 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.