

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 144
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10080-MW-37A

Short Title: Hands Free NC.

(Public)

Sponsors: Representatives Corbin, Torbett, Hardister, and Pierce (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT MAKING IT UNLAWFUL TO USE A WIRELESS COMMUNICATION DEVICE
3 WHILE OPERATING A MOTOR VEHICLE ON A PUBLIC STREET, HIGHWAY, OR
4 PUBLIC VEHICULAR AREA.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. This act shall be known as "The Hands Free NC Act."

7 SECTION 2. G.S. 20-137.3, 20-137.4, and 20-137.4A are repealed.

8 SECTION 3. Article 3 of Chapter 20 of the General Statutes is amended by adding
9 a new section to read:

10 "**§ 20-137.3A. Unlawful use of a wireless communication device.**

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

12 (1) Emergency situation. – Circumstances such as medical concerns, unsafe road
13 conditions, matters of public safety, or mechanical problems that create a risk
14 of harm for the operator or passengers of a motor vehicle.

15 (2) Motor vehicle. – Every vehicle which is self-propelled.

16 (3) Operate a motor vehicle. – Operating a motor vehicle on a public street,
17 highway, or public vehicular area. The term does not include situations where
18 the motor vehicle is off, or to the side of, a public street, highway, or public
19 vehicular area in a location where the motor vehicle can safely remain
20 stationary.

21 (4) Texting. – Entering text into, or reading text from, a wireless communication
22 device. The term includes short message services, e-mailing, instant
23 messaging, a command or request to access a Web page, pressing more than
24 a single button to initiate or terminate a call, or engaging in any other form of
25 electronic text retrieval or entry, for present or future communication.

26 (5) Wireless communication device. – Any of the following:

27 a. A cell phone, personal digital assistant, electronic device with mobile
28 data access, laptop computer, pager, smartwatch, broadband personal
29 communication device, two-way messaging device, electronic game,
30 and portable computing device.

31 b. A device through which personal wireless services as defined in 47
32 U.S.C. 332(c)(7)(C)(i) are transmitted.

33 (b) Prohibited Conduct. – No person shall operate a motor vehicle under any of the
34 following circumstances:

35 (1) With a wireless communication device in the person's hand.



- 1 (2) While physically holding or supporting a wireless communication device with
2 the person's body.
- 3 (3) While watching a video or movie or communicating by video on a wireless
4 communication device.
- 5 (4) While texting on a wireless communication device.
- 6 (c) Exceptions. – Subdivisions (1) and (2) of subsection (b) of this section shall not apply
7 to any of the following:

- 8 (1) The use of a wireless communication device affixed, mounted, or installed in
9 a motor vehicle to (i) initiate, answer, or terminate a call by touching a single
10 button, if the person is 18 years or older, or (ii) follow the route recommended
11 by an electronic navigation system so long as all address information is
12 entered before operating the vehicle.
- 13 (2) The use of a wireless communication device for the purpose of
14 communicating an emergency situation to any of the following:
- 15 a. An emergency response operator.
- 16 b. A publicly or privately owned ambulance company or service.
- 17 c. A hospital.
- 18 d. A fire department.
- 19 e. A law enforcement agency.
- 20 (3) The use of a wireless communication device by any of the following while in
21 the performance of official duties:
- 22 a. A law enforcement officer.
- 23 b. A member of a fire department.
- 24 c. The operator of a public or private ambulance.
- 25 d. A first responder responsible for the protection and preservation of
26 life, property, evidence, or the environment.

27 (d) Penalties. – Any person who commits a violation of subsection (b) of this section shall
28 be penalized as follows:

- 29 (1) First offense. – A person with no prior offense, or no offense in the prior 36
30 months, shall be guilty of an infraction, a fine of one hundred dollars
31 (\$100.00), and no insurance points.
- 32 (2) Second offense. – A person guilty of a first offense occurring within the
33 previous 36 months shall be guilty of an infraction, a fine of one hundred fifty
34 dollars (\$150.00), and insurance points as authorized by G.S. 58-36-75(i).
- 35 (3) Third and subsequent offenses. – A person guilty of two or more offenses
36 occurring within the previous 36 months shall be guilty of an infraction, a fine
37 of two hundred dollars (\$200.00), and insurance points as authorized by
38 G.S. 58-36-75(i).

39 (e) Seizure. – The provisions of this section shall not be construed as authorizing the
40 seizure or forfeiture of a wireless communication device.

41 (f) Local Ordinance. – No local government may pass an ordinance regulating the use of
42 a wireless communication device while operating a motor vehicle."

43 **SECTION 4.** G.S. 58-36-75 is amended by adding a new subsection to read:

44 "(i) Unlawful Use of a Wireless Communication Device. – The North Carolina Rate
45 Bureau shall assign one insurance point under the Safe Driver Incentive Plan for a person
46 convicted under G.S. 20-137.3A(d)(2) and two insurance points for a person convicted under
47 G.S. 20-137.3A(d)(3)."

48 **SECTION 5.** This act becomes effective January 1, 2020, and applies to offenses
49 committed on or after that date. For the six months immediately after the effective date of this
50 act, law enforcement shall only issue warning tickets for offenses committed. Prosecutions for
51 offenses committed under G.S. 20-137.3, 20-137.4, and 20-137.4A before the effective date of

1 this act are not abated or affected by this act, and the statutes that would be applicable but for
2 this act remain applicable to those prosecutions.