



# HANDS FREE GEORGIA LAW



Code Sections 40-6-241.1 and 40-6-241.2 are GONE, effective July 1, 2018 (upon Gov. Signature)

Any distraction driving violation needs to be written under 40-6-241.

## Definitions:

- “Stand-alone electronic device” – 40-6-241 (a)(1)
  - What it is: - a device that stores audio or video data files to be retrieved on demand by a user. (Ex. – iPod.)
- “Wireless Telecommunications Device” - 40-6-241 (a) (3)
  - What it is:
    - Cell phones
    - Portable telephones or text-messaging devices
    - Personal digital assistant
    - Stand-alone computer
    - GPS receiver
    - Any similar portable wireless device used to send/receive communications or data
  - What it is NOT:
    - Radio
    - CB Radio OR CB Radio hybrid
    - Commercial two-way radio (or functional equivalent)
    - Subscription based emergency communications device
    - Proscribed medical device
    - Amateur or ham radio device
    - **In-vehicle** security, navigation, or remote diagnostics system.

## What is prohibited?

- School Bus Operations (40-6-165):
  - A school bus driver may not use a wireless telecommunications device or two-way radio while loading or unloading passengers. (40-6-165 (d))
  - A school bus driver may not use a wireless telecommunications device while the bus is in motion, unless it is used in a manner similar to a two-way radio to allow communication with school or public safety officials. (40-6-165 (e))
- Motor Vehicle Operations (40-6-241):
  - A driver may not **physically hold or support** a wireless telecommunications device or stand-alone computer with any part of their body. (40-6-241 (c)(1))
    - Exceptions – Earpiece, headphone, smart watch
  - May not **Write, send, or read any text-based communication** (40-6-241 (c)(2))
    - Exceptions – Voice based communication automatically converted to written message
    - Navigation / GPS
  - May not **watch a video** (40-6-241 (c)(3))
    - Exception – Navigation
  - May not **record a video** (40-6-241 (c)(4))
    - Exception – Continuous recording / broadcasting (dash cams)

- For commercial motor vehicle operators **ONLY:** (40-6-241 (d))
  - May not use more than a single button to initiate a voice conversation
  - May not reach for a wireless telecommunications device in such a manner that they are:
    - No longer in a seated driving position
    - Or properly restrained by a seat belt
  - (Note – CMV provisions remain unchanged from previous law (former 4-6-241.2 (b)(2)) – avoids conflict with FMCSA regulations)
- Exceptions for everybody (40-6-241 (g)):
  - Reporting a traffic accident, medical emergency, fire, crime, or hazardous road condition;
  - Employee / contractor of utility service provider **acting within the scope of their employment while responding to a utility emergency**
  - By a first responder (police, fire, EMS) during the performance of their official duties;
  - When in a lawfully parked vehicle.

### **What are the Penalties?**

- First offense within a 24 months period (measured from date of last conviction):
  - 1 point (40-5-57(c)(1)(A)(xv))
  - Fine of not more than \$50, with no additional costs / penalties, etc. (40-6-241 (f)(1)(A))
  - Driver in court for a **first violation** of 40-6-241 (c)(1) (supporting / holding device) who produces **in court** a device or proof of purchase of a device that would allow them to comply in the future shall not be guilty. (40-6-241 (f)(2))
    - Driver must affirm they have not previously used this before (one time only, but no statewide verification.)
    - Court shall have to determine what constitutes proof of a device.
  - Second offense within a 24 month period (measured from date of last conviction):
    - 2 points (40-5-57 (c)(1)(A)(xvi))
    - Fine of not more than \$100, with no additional costs / penalties, etc. (40-6-241 (f)(1)(B))
  - Third or subsequent violation within 24 month period (measured from date of last conviction)
    - 3 points (40-5-57(c)(1)(A)(xvii))
    - Fine of not more than \$150 (40-6-241 (f)(1)(C))

**Possible myths about HB 673:** (Things that were considered / in earlier versions of bill that were **NOT** in the final bill that passed.)

- Effective date – There is no effective date in the text of the bill, therefore, it becomes effective on 7/1 should it be signed. (OCGA 1-3-4 (a)(1))
- Predicate offense – Distracted driving is **not** a predicate offense for 1<sup>st</sup> Degree Vehicular Homicide.
- Primary offense – there is no requirement that an officer observe another violation or write any other citation to enforce this code section.
- Record of dismissals – DDS will not receive notice of citations that are nolle prosequi'd.

**SPECIAL THANKS TO THE PROSECUTING ATTORNEY'S COUNCIL OF GEORGIA FOR THIS BREAKDOWN!**