

## GEORGIA PASSES NO TEXTING LAW

As [I wrote in September](#) studies have shown that texting while driving (TWD) is as dangerous and is considerably more dangerous than DUI. TWD was the focus of many major news media outlets this past year. The New York Times devoted an entire series on the subject



[Good Morning America's Meredith Vieira](#), tried her hand at a virtual driving while distracted unit. Even Oprah jumped on the TWD bandwagon.

### **Effective July 1, 2010 it will be illegal for any driver in Georgia to text while driving.**

A violation of texting while driving will carry 1 point and a fine of \$150, UNLESS the driver is involved in an accident, in which case the fine is \$300.

The driving law prohibits texting under the auspices of "careless driving." It specifically says:

The recent Georgia legislation states, "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 the proper use of a radio, citizens band radio, mobile telephone, amateur or ham radio shall not be a violation of this Code section."

In other words, speaking on a mobile telephone, properly using a radio, citizens band radio, amateur or ham radio while driving will remain legal.

The law bans texting on any cell phone, text messaging device, PDA, computer, or any other similar wireless device.

Interestingly, the law does not ban police officers from using their computers while driving.

While not specifically saying so the law seems to ban texting while operating a car, whether the car is moving or, say, is stopped at a traffic light. I am told that the intent of the law is to ban texting while operating a car completely; if you want to text, pull over into a parking lot and shut the engine off!

While the law seems clear as to what it forbids, the actual enforcement of the law will be interesting; I am certainly not tech savvy, so I am not sure what will be considered the "act" of texting. Especially for those involved in accidents, the actual definition of texting will be litigated I am sure.

The law has also changed to ban all cell phone use while driving by 16 and 17 year olds.

## OTHER NEW TRAFFIC LAWS IN GEORGIA



Georgia passed some other laws which affect drivers.

1. Effective May 13, 2010 a fee of \$150 is now required on any request for a hearing involving an administrative license suspension as a result of a DUI arrest. Under Georgia law your license can automatically be suspended if you are arrested for DUI and blow above the legal limit (30 day suspension) or refuse the State test (1 year suspension) BEFORE you ever get to court on the DUI charge. This DUI law apparently is being used to fund the entire administrative hearings office.
2. Seat belt: You must now wear a seat belt in a pickup truck.
3. Limited permit: 18-20 years olds will be eligible for a limited permit if their drivers license is suspended for speeding 24-34 over the speed limit, AND if the judge agrees to a limited permit. (Currently, the license is suspended for 6 months, no permit for work or school)
4. License suspension for failure to appear in court: Citations will now carry notices that tell you that if you don't go to court or resolve the case before the court date, your driver's license will be suspended, and the notice on the ticket is sufficient notice to prove that you knew your license was suspended for a subsequent driving on suspended license charge. (right now, the State must prove you received actual notice by certified mail).
5. Concealed weapons: If you have a permit you can carry your gun in public parks, recreation areas, and on public transportation, as long as you are not in a place where such activity is prohibited by federal law. (This is the gun law that raises the issue of whether folks can carry a gun to Hartsfield Airport)

## INDEPENDENCE DAY



As we near the 4<sup>th</sup> of July, I was going to remind everyone about the **Boating Under the Influence Laws** in Georgia; however, 2 recent US Supreme Court decisions changed my mind; for BUI info, go to my [summer newsletter of last year](#) .

In early June, the US Supreme Court narrowed our 5<sup>th</sup> Amendment rights by ruling that “A suspect who has received and understood the Miranda warnings, and has not invoked his Miranda rights, waives the right to remain silent by making an uncoerced statement to the police”.

In her dissent, Justice Sotomayor said the ruling turned the Miranda warning upside down. “A suspect who wishes to guard his right to remain silent,” she wrote, “must, counter intuitively, speak.” The 5<sup>th</sup> Amendment protects a person from being compelled to be a witness against himself in a criminal case.

Then this week, the Supremes limited our 1<sup>st</sup> Amendment right to free speech and assembly by upholding a law which bans not only giving money to “terrorist” groups, but also makes it a crime to “provide expert advice or assistance.” What does that mean to you? Well if you ever belong to a group that the government deems a terrorist group, and you are charged with a crime, then your lawyer could also be charged with the crime of providing expert advice to you.

I point out these two cases so that this 4<sup>th</sup> of July every one of us will take a minute to ponder whether this country is actually as free as we say it is. We all love Lee Greenwood’s song, “I’m proud to be an American, where at least I know I’m free”, but are we really a free country anymore? And if we are losing our essential liberties, what can we do about it?

According to Freedom House, a Washington based, government funder NGO, the US was the 30<sup>th</sup> freest country in the world in 2008. (For the full info go to [freedomhouse.org](#)) when taking into account economic freedom, civil liberties, religious and social freedom, and political rights.

The 10 Amendments to the US Constitution, which were not part of the original Constitution, are known as the Bill

of Rights. These rights were amended to the Constitution because of people’s fear of a tyrannical central government; fresh from living under brutal British central rule, our forefathers decided that the Constitution needed to provide some essential rights for the individual citizen.

Hence, the right to free speech, right to peaceably assemble, right to own a gun, right to be free from unreasonable police searches of your home and person, right to a speedy a fair trial and due process, right not to incriminate yourself in a criminal case, right to an attorney in a criminal case, and so forth, all deemed to be so important that our forefathers expressly provided for them stated them in writing, in these amendments.

Sadly through the years these rights have been limited, narrowed and weakened by the Courts. Most of the time, the reason given for weakening these rights is “security”, whether it is “national security”, or personal security.

But as Benjamin Franklin said, “They who can give up essential liberty to obtain a little temporary safety, deserve neither liberty nor safety.”

Something to think about this 4<sup>th</sup> of July.



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