

The Senate Labor and Insurance Committee offered the following substitute to HB 1314:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to provide definitions; to provide for the suspension, cancellation, and
3 revocation of motor vehicle registration under certain circumstances; to provide that no
4 motor vehicle registration may be issued or renewed while such vehicle's registration is
5 under suspension, cancellation, or revocation and unless the owner provides sufficient proof
6 of minimum insurance coverage on such vehicle; to provide that the failure to register or
7 renew registration of a vehicle due to lack of proof of insurance shall not excuse or defer the
8 timely payment of ad valorem taxes; to provide for the suspension of the driver's license of
9 a person who operates a vehicle with suspended, canceled, or revoked registration; to provide
10 that insurers shall provide certain information to the department concerning insurance
11 coverage and termination; to provide that the Commissioner of Insurance shall provide
12 certain information to the department concerning the approval and termination of
13 self-insurance; to provide for the payment of certain fees under certain circumstances; to
14 authorize the commissioner to promulgate rules and regulations; to provide for the
15 confidentiality of the minimum liability insurance coverage records maintained by the
16 department and for exceptions thereto; to provide that it shall be illegal to operate a motor
17 vehicle while the registration of such vehicle is suspended, canceled, or revoked; to provide
18 for punishments; to extend suspension or revocation periods under certain circumstances; to
19 authorize municipal courts to impose such punishments; to provide for related matters; to
20 provide an effective date; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

22 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
23 amended by striking Code Section 40-2-1, relating to definitions, in its entirety and inserting
24 in lieu thereof a new Code Section 40-2-1 to read as follows:
25

1 "40-2-1.

2 As used in this chapter, the term:

3 (1) 'Cancellation of vehicle registration' means the annulment or termination by formal
 4 action of the department of a person's vehicle registration because of an error or defect
 5 in the registration or because the person is no longer entitled to such registration. The
 6 cancellation of registration is without prejudice and application for a new registration
 7 may be made at any time after such cancellation.

8 (2) 'Commissioner' means the commissioner of motor vehicle safety.

9 (2)(3) 'Department' means the Department of Motor Vehicle Safety.

10 (3)(4) 'Resident' means a person who has a permanent home or abode in Georgia to
 11 which, whenever he or she is absent, he or she has the intention of returning. For the
 12 purposes of this chapter, there is a rebuttable presumption that any person who, except
 13 for infrequent, brief absences, has been present in the state for 30 or more days is a
 14 resident.

15 (5) 'Revocation of vehicle registration' means the termination by formal action of the
 16 department of a vehicle registration, which registration shall not be subject to renewal or
 17 restoration, except that an application for a new registration may be presented and acted
 18 upon by the department after the expiration of the applicable period of time prescribed
 19 by law.

20 (6) 'Suspension of vehicle registration' means the temporary withdrawal by formal action
 21 of the department of a vehicle registration, which temporary withdrawal shall be for a
 22 period specifically designated by the department."

23 SECTION 2.

24 Said title is further amended by adding a new subsection (d) to Code Section 40-2-26,
 25 relating to form and contents of application for registration, to read as follows:

26 "(d) On and after February 1, 2003, no vehicle registration or renewal thereof shall be
 27 issued to any motor vehicle if the vehicle registration thereof has been revoked, suspended,
 28 or canceled and unless the owner of the motor vehicle provides satisfactory proof that the
 29 motor vehicle is subject to a policy of insurance that provides the minimum motor vehicle
 30 insurance coverage required by Chapter 34 of Title 33; provided, however, that the owner's
 31 inability to register or renew the registration of any motor vehicle due to lack of proof of
 32 insurance shall not excuse or defer the timely payment of ad valorem taxes due and payable
 33 upon said vehicle. The owner shall submit such proof in accordance with the requirements
 34 of Code Section 40-6-10."

SECTION 3.

Said title is further amended by adding a new Code Section 40-2-137 to read as follows:

"40-2-137.

(a) As used in this Code section, the term:

(1) 'Commercial vehicle policy' means a policy of motor vehicle liability insurance insuring a motor vehicle that is rated or insured as a business use or commercial use vehicle or is licensed by the state as a commercial vehicle, except that such term shall not include any policy issued to a named insured who is a natural person.

(2) 'Minimum motor vehicle insurance coverage' means minimum coverage as specified in Chapter 34 of Title 33.

(3) 'Proof of minimum insurance coverage' means the receipt from an insurer by the department of notice of such insurance coverage by electronic transmission or other means approved by the department.

(4) 'Terminate' or 'termination' means actual cessation of insurance coverage after the date upon which coverage will not be restored for any reason, including without limitation cancellation, nonrenewal, and nonpayment of premium and without regard to whether such cessation was preceded by any extension or grace period allowed by the insurer.

(b)(1) After receipt of notification of coverage termination, if the department does not, on or before the effective date of such termination, receive notice from an insurer that new minimum motor vehicle insurance coverage for such motor vehicle has been issued, the department shall send a notice to the owner of the motor vehicle stating that the department has been informed of the fact of the coverage termination and informing the owner of the penalties provided by law. The department shall send such notice to the address of the owner of the motor vehicle shown on the records of the department. The mailing of such notice by the department to the address of the owner of the motor vehicle as shown on the records of the department shall be deemed conclusively to be notice to such owner of such owner's duty to maintain the required minimum insurance coverage and the possible penalties and consequences for failing to do so and shall be deemed to satisfy all notice requirements of law and no further notice to the owner shall be required for the suspensions and revocations provided for in this Code section.

(2) It shall be the duty of the owner of such motor vehicle to obtain minimum motor vehicle insurance coverage and it shall be the duty of the owner's insurer to provide proof of such coverage to the department within 30 days of the date of such notice, pursuant to the requirements of subparagraph (b)(1)(A) of Code Section 40-5-71.

1 (c)(1) When proof of minimum motor vehicle insurance coverage is provided within the
2 time period specified in this Code section, but there has been a lapse of coverage, the
3 owner shall remit a \$25.00 lapse fee to the department. Failure to remit the lapse fee to
4 the department within 30 days of the date on which the notification was mailed by the
5 department will result in the suspension of the owner's motor vehicle registration by
6 operation of law as if the proof had not been provided in a timely manner as provided in
7 paragraph (2) of this subsection.

8 (2) If proof is not provided within the time period specified in this Code section that
9 minimum motor vehicle insurance coverage is in effect, the owner's motor vehicle
10 registration shall be suspended immediately by operation of law by the department.
11 When such proof is provided and the owner pays a lapse fee of \$25.00 and pays a
12 restoration fee of \$60.00, or \$50.00 when processed by mail, the suspension shall
13 terminate; provided, however, that the commissioner may waive the lapse fee and
14 restoration fee for any owner whose vehicle registration has been suspended pursuant to
15 this paragraph who provides proof of continuous minimum motor vehicle insurance
16 coverage.

17 (3) In the event of a second suspension of the owner's registration under this Code
18 section after February 1, 2003, during any five-year period, the department by operation
19 of law shall suspend the motor vehicle registration for a period of 90 days. After the 90
20 day suspension period and when proof is provided that minimum motor vehicle insurance
21 coverage is in effect and the owner pays a lapse fee of \$25.00 and pays a restoration fee
22 of \$60.00, or \$50.00 when processed by mail, the suspension shall terminate.

23 (4) In the event of a third or subsequent suspension of the owner's registration under this
24 Code section after February 1, 2003, during any five-year period, the department by
25 operation of law shall revoke the motor vehicle registration and no new application for
26 registration shall be accepted for a period of six months after such revocation. After six
27 months from the date of revocation and when proof is provided that minimum motor
28 vehicle insurance coverage is in effect and the owner pays a lapse fee of \$25.00 and pays
29 a restoration fee of \$160.00, or \$150.00 when processed by mail, the owner may apply
30 for registration of the motor vehicle.

31 (d) The commissioner may promulgate such rules and regulations as are necessary to
32 implement this Code section."

33 **SECTION 4.**

1 Said title is further amended by striking subsection (a) of Code Section 40-5-54, relating to
2 mandatory suspension of license, and inserting in lieu thereof a new subsection (a) to read
3 as follows:

4 "(a) The department shall forthwith suspend, as provided in Code Section 40-5-63, the
5 license of any driver upon receiving a record of such driver's conviction of the following
6 offenses, whether charged as a violation of state law or of a local ordinance adopted
7 pursuant to Article 14 of Chapter 6 of this title:

- 8 (1) Homicide by vehicle, as defined by Code Section 40-6-393;
- 9 (2) Any felony in the commission of which a motor vehicle is used;
- 10 (3) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270;
- 11 (4) Racing on highways and streets;
- 12 (5) Using a motor vehicle in fleeing or attempting to elude an officer; ~~or~~
- 13 (6) Fraudulent or fictitious use of or application for a license as provided in Code Section
14 40-5-120 or 40-5-125; or
- 15 (7) Operating a motor vehicle with a revoked, canceled, or suspended registration in
16 violation of Code Section 40-6-15."

17 SECTION 5.

18 Said title is further amended by striking Code Section 40-5-71, relating to notice of insurance
19 issuance, renewal, or termination, in its entirety and inserting in lieu thereof a new Code
20 Section 40-5-71 to read as follows:

21 "40-5-71.

22 (a) As used in this Code section, the term:

- 23 (1) 'Commercial vehicle policy' means a policy of motor vehicle liability insurance
24 insuring a motor vehicle that is rated or insured as a business use or commercial use
25 vehicle or is licensed by the state as a commercial vehicle, except that such term shall not
26 include any policy issued to a named insured who is a natural person.
- 27 (2) 'Terminate' or 'termination' means actual cessation of insurance coverage for any
28 reason, including without limitation cancellation, nonrenewal, or nonpayment of
29 premium, and without regard to whether such cessation was preceded by any extension
30 or grace period allowed by the insurer.

31 ~~(a.1)~~(b)(1)(A) For purposes of aiding in the enforcement of the requirement of
32 minimum motor vehicle liability insurance, any insurer issuing or renewing in this state
33 any policy of motor vehicle liability insurance required by Chapter 34 of Title 33 shall
34 within 30 days after the date the insurance agent binds the coverage or on the date such
35 coverage was renewed, whichever is applicable, provide notice of such insurance

1 coverage by electronic transmission to the ~~Department of Motor Vehicle Safety~~
 2 department; except that once coverage data has been electronically transmitted to the
 3 ~~Department of Motor Vehicle Safety~~ department, there shall be no requirement to report
 4 on subsequent renewals of that coverage. Insurance coverage information included in
 5 such notice of issue or renewal shall be limited exclusively to vehicle identification
 6 number; the make and year of the insured motor vehicle; and policy effective date. The
 7 department shall not require the name of the insurer or the policy limits to be disclosed
 8 for purposes of this subparagraph. For the purposes of this Code section, the vehicle
 9 identification number shall be the vehicle identification number as that number is
 10 shown in the records of the department. For the purposes of this Code section, the
 11 Commissioner of Insurance shall furnish such notices to the department upon issuance
 12 of a certificate of self-insurance.

13 (B) In cases in which the minimum motor vehicle insurance coverage required by
 14 Chapter 34 of Title 33 terminates, the insurer shall by electronic transmission notify the
 15 department of such coverage termination on or before the date coverage ends or, if
 16 termination is at the request of the insured, then on the date such request is processed
 17 by the insurer. Insurance coverage termination information included in such notice
 18 shall include vehicle identification number and the date of coverage termination. For
 19 the purposes of this Code section, the Commissioner of Insurance shall furnish such
 20 notices to the department upon termination of a certificate of self-insurance.

21 (C) The commissioner ~~of motor vehicle safety~~ shall notify the Commissioner of
 22 Insurance quarterly of any and all violations of the notice requirements of this
 23 paragraph by any insurer, and the Commissioner of Insurance may take appropriate
 24 action against such insurer the same as is authorized by Code Section 33-2-24 for
 25 violations of Title 33; provided, however, that there shall be no private cause of action
 26 against an insurer or the department for civil damages for providing information, failing
 27 to provide information, or erroneously providing information pursuant to this Code
 28 section. No insurer shall utilize the costs of any audit or examination conducted by the
 29 Insurance Department pursuant to this paragraph as a cost of business in the insurer's
 30 rate base.

31 (2) The ~~Department of Motor Vehicle Safety~~ department shall prescribe the form and
 32 manner of electronic transmission for the purposes of insurers sending the notices
 33 required by this Code section which shall in no way be construed as modifying the
 34 provisions of Code Section 33-24-45.

1 (3) Notwithstanding the provisions of paragraph (1) of this subsection, any irregularities
2 in the notice to the ~~Department of Motor Vehicle Safety~~ department required by
3 paragraph (1) of this subsection shall not invalidate an otherwise valid cancellation.

4 (4) The provisions of this subsection shall not apply to any commercial vehicle policy
5 as defined in this Code section.

6 (5) The minimum liability insurance records which the department is required to
7 maintain under this Code section or any other provision are exempt from the provisions
8 of any law of this state requiring that such records be open for public inspection;
9 provided, however, that the records of any particular motor vehicle may be available for
10 inspection by any law enforcement officer for official law enforcement investigations and
11 the owner of the vehicle.

12 ~~(b)(1) After receipt of notification of coverage termination, if the department does not~~
13 ~~on or before the effective date of such termination receive notice from an insurer that new~~
14 ~~minimum insurance coverage for such motor vehicle has been issued, the department~~
15 ~~shall send a notice to the owner of the motor vehicle stating that the department has been~~
16 ~~informed of the fact of the coverage termination and informing such owner of the~~
17 ~~penalties outlined in this Code section.~~

18 ~~(2) Upon receipt of the department's notice, it shall be the duty of the owner of such~~
19 ~~motor vehicle to respond on the form provided by the department and to provide proof~~
20 ~~that minimum insurance coverage has been obtained or is no longer required and to~~
21 ~~provide any other information relating to such insurance coverage requested by the~~
22 ~~department.~~

23 ~~(3) The owner shall furnish such information to the department within 30 days of the~~
24 ~~date on which the notification was mailed by the department.~~

25 ~~(c)(1) If the owner responds within the specified time period and indicates that minimum~~
26 ~~insurance coverage is in effect, but there has been a lapse of coverage, the owner shall~~
27 ~~remit a \$25.00 lapse fee to the department with the form providing proof of minimum~~
28 ~~insurance coverage. Supplying the form in this case without the lapse fee will result in~~
29 ~~suspension of the driver's license as if the form had not been returned in a timely manner~~
30 ~~as provided in paragraph (3) of this subsection.~~

31 ~~(2) If the owner responds within the specified time period and does not indicate that~~
32 ~~minimum insurance coverage is in effect or is no longer required, the owner's driver's~~
33 ~~license shall be suspended immediately by the department. Upon demand of the~~
34 ~~department, the owner shall forward the driver's license to the department. When the~~
35 ~~owner provides proof of having minimum insurance coverage, pays a lapse fee of \$25.00,~~
36 ~~and pays a restoration fee of \$60.00 or \$50.00 when processed by mail, the suspension~~

1 shall terminate, and the department shall return the driver's license to the owner of the
2 motor vehicle.

3 (3) If the owner does not respond within the specified time period, the department shall
4 suspend the owner's driver's license. Upon demand of the department, the owner shall
5 forward the driver's license to the department. When the owner provides proof of having
6 prepaid a six-month minimum insurance policy, pays a lapse fee of \$25.00, and pays a
7 restoration fee of \$60.00 or \$50.00 when processed by mail, the suspension period shall
8 terminate and the department shall return the driver's license to the owner of the motor
9 vehicle; provided, however, that for any owner whose driver's license has been
10 suspended pursuant to this paragraph who provides satisfactory proof of continuous
11 minimum insurance coverage, the commissioner may waive the lapse fee and the
12 restoration fee, and the owner shall not be deemed to have violated Code Section
13 40-5-121.

14 (4) In the event of a second or subsequent offense under this Code section during any
15 five-year period, the department shall suspend the driver's license for a period of 90 days.
16 Upon demand of the department, the owner shall forward the driver's license to the
17 department. After the 90 day suspension period and when the owner provides proof of
18 having prepaid a six-month minimum insurance policy, pays a lapse fee of \$25.00, and
19 pays a restoration fee of \$60.00 or \$50.00 when processed by mail to the department, the
20 suspension shall terminate, and the department shall return the driver's license to the
21 owner of the motor vehicle.

22 (d) A person whose driver's license has been suspended pursuant to Code Section 40-5-70,
23 40-5-54.1, or this Code section or as a result of a conviction under Code Section 40-6-10
24 may apply to the department for a restricted driving permit as provided in this Code
25 section. A person whose driver's license was surrendered may apply to the department for
26 a restricted driving permit immediately following the conviction or suspension.

27 (e) Applications for restricted driving permits shall be made upon such forms as the
28 commissioner may prescribe. Such forms shall require such information as is necessary
29 for the department to determine the need for such permit. All applications shall be signed
30 by the applicant and the applicant's employer before a person authorized to administer
31 oaths.

32 (f)(1) The department shall issue a restricted driving permit if the application indicates
33 that refusal to issue such permit would result in the person's loss of employment or
34 extreme hardship to the applicant. For the purposes of this subsection, the term 'extreme
35 hardship' means that the applicant cannot reasonably obtain other transportation, and,
36 therefore, the applicant would be prohibited from:

1 ~~(A) Going to the applicant's place of employment or performing the normal duties of~~
2 ~~his or her occupation;~~

3 ~~(B) Receiving scheduled medical care or obtaining prescription drugs; or~~

4 ~~(C) Attending a college or school at which the applicant is regularly enrolled as a~~
5 ~~student.~~

6 ~~(2) A restricted driving permit shall be endorsed with such conditions as the~~
7 ~~commissioner deems necessary to ensure that such permit will be used by the permittee~~
8 ~~only to avoid the conditions of extreme hardship. Such conditions may include the~~
9 ~~following restrictions:~~

10 ~~(A) Specific places between which the permittee may be allowed to operate a motor~~
11 ~~vehicle;~~

12 ~~(B) Routes to be followed by the permittee;~~

13 ~~(C) Times of travel;~~

14 ~~(D) The specific vehicles which the permittee may operate;~~

15 ~~(E) There is in force a policy of liability insurance covering the driver of the vehicle;~~
16 ~~and~~

17 ~~(F) Such other conditions as the department may require.~~

18 ~~(g) A permit issued pursuant to this Code section shall be issued for a period of 90 days~~
19 ~~from the effective date of the suspension and shall be nonrenewable.~~

20 ~~(h) No official or employee of the department shall be criminally or civilly liable or~~
21 ~~subject to being held in contempt of court for issuing a restricted driving permit in reliance~~
22 ~~on the truth of the affidavits required by this Code section.~~

23 ~~(i) Any permittee who is convicted of violating any provision relating to the requirement~~
24 ~~of maintaining minimum motor vehicle insurance coverage or is convicted of any other~~
25 ~~traffic offense for which the department may suspend a driver's license or any permittee~~
26 ~~who is convicted of violating the conditions endorsed on his permit shall have his permit~~
27 ~~revoked by the department. Any court in which such conviction is had shall require the~~
28 ~~permittee to surrender the permit to the court, and the court shall forward it to the~~
29 ~~department within ten days after the conviction, with a copy of the conviction. Any person~~
30 ~~whose restricted driving permit has been revoked shall not be eligible to apply for a~~
31 ~~driver's license until six months from the date such permit was surrendered to the~~
32 ~~department. The department may impose an additional period of suspension for the~~
33 ~~conviction upon which revocation of the permit was based.~~

34 ~~(j) Any person whose permit has been revoked, or who has been refused a permit by the~~
35 ~~department, may make a request in writing for a hearing to be provided by the department.~~
36 ~~Such hearing shall be provided by the department within 30 days after the receipt of such~~

1 ~~request and shall follow the procedures required by Chapter 13 of Title 50, the 'Georgia~~
 2 ~~Administrative Procedure Act.' Appeal from such hearing shall be in accordance with said~~
 3 ~~chapter.~~

4 ~~(k)(c)~~ (c) The commissioner may promulgate such rules and regulations as are necessary to
 5 implement this Code section.

6 (d)(1) The department shall monitor the reporting of the issuance of new and renewal
 7 policies and termination of coverage by insurers.

8 (2) A match is based upon the vehicle identification number as recorded on the
 9 department's motor vehicle records. When the vehicle identification number does not
 10 match with the department's motor vehicle records, the department shall notify the
 11 insurer and the insurer shall, within 30 days from receipt of the returned error, correct the
 12 vehicle identification number and resubmit the transaction. After receipt of the
 13 department's notice, if the insurer determines that the vehicle identification number
 14 which it submitted to the department is in fact the accurate number on the insured vehicle,
 15 then the insurer shall so notify the department and the owner of the vehicle, whereupon
 16 the owner shall, in accordance with department procedures, obtain a correction of such
 17 number at the appropriate county tag office."

18 SECTION 6.

19 Said title is further amended by adding a new Code Section 40-6-15 to read as follows:

20 "40-6-15.

21 (a) Any person who knowingly drives a motor vehicle on any public road or highway of
 22 this state at a time when the vehicle registration of such vehicle is suspended, canceled, or
 23 revoked shall be guilty of a misdemeanor.

24 (b) Upon a first conviction thereof or a plea of nolo contendere, such person shall be
 25 punished by imprisonment for not more than 12 months and there may be imposed in
 26 addition thereto a fine of not less than \$500.00 nor more than \$1,000.00, at the discretion
 27 of the court.

28 (c) For a second or subsequent conviction within five years as measured from the dates of
 29 previous arrests for which convictions were obtained or pleas of nolo contendere were
 30 accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo
 31 contendere accepted, such person shall be guilty of a high and aggravated misdemeanor
 32 and shall be punished by imprisonment for not less than ten days nor more than 12 months
 33 and there may be imposed in addition thereto a fine of not less than \$1,000.00 nor more
 34 than \$2,500.00.

1 (d) The department, upon receiving a record of the conviction of any person under this
2 Code section upon a charge of driving a vehicle while the registration of such vehicle was
3 suspended or revoked, shall extend the period of suspension or revocation for six months.
4 The department may reinstate the suspended or revoked vehicle registration following the
5 expiration of the original suspension or revocation period, the additional six month
6 suspension imposed pursuant to this subsection, and upon payment of a restoration fee of
7 \$210.00, or \$200.00 when such reinstatement is processed by mail.

8 (e) For all purposes under this Code section, a plea of nolo contendere shall be considered
9 as a conviction.

10 (f) Notwithstanding the limits set forth in Article 14 of this chapter and in any municipal
11 charter, any municipal court of any municipality in this state shall be authorized to impose
12 the punishment provided for in this Code section upon a conviction of violating this Code
13 section or upon conviction of violating any ordinance adopting the provisions of this Code
14 section."

15 **SECTION 7.**

16 This Act shall become effective November 1, 2002; provided, however, that the Act shall be
17 effective upon its approval by the Governor or upon its becoming law without such approval
18 for the purposes of the authority of the commissioner to adopt rules and regulations and to
19 employ staff and expend moneys within the limits of funds appropriated or otherwise made
20 available for such purpose.

21 **SECTION 8.**

22 All laws and parts of laws in conflict with this Act are repealed.