

House Bill 44

By: Representative Franklin of the 39th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 40-6-393 of the Official Code of Georgia Annotated, relating to
2 homicide by vehicle, so as to provide that homicide by vehicle which occurs as a result of
3 driving under the influence shall be punishable by life imprisonment or death; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

6 Code Section 40-6-393 of the Official Code of Georgia Annotated, relating to homicide by
7 vehicle, is amended by striking said Code section in its entirety and inserting in lieu thereof
8 the following:
9

10 “40-6-393.

11 (a) Any person who, without malice aforethought, causes the death of another person
12 through the violation of subsection (a) of Code Section 40-6-163 or subsection (b) of Code
13 Section 40-6-270 or Code Section 40-6-390 or 40-6-391 or subsection (a) of Code Section
14 40-6-395 commits the offense of homicide by vehicle in the first degree and, upon
15 conviction thereof, shall be punished by imprisonment for not less than three years nor
16 more than 15 years; provided, however, that where the death is caused through a violation
17 of Code Section 40-6-391 and the offender's alcohol concentration at the time of the
18 offense was greater than 0.16 grams, said offense shall be punished by imprisonment for
19 not less than 25 years, by imprisonment for life, by imprisonment for life without parole,
20 or by death. For purposes of the jury considering aggravating circumstances required for
21 imposition of the sentence of death, said offense shall be considered murder, and an
22 additional available aggravating circumstance relative to said offense shall be that the
23 defendant knowingly and intentionally violated Code Section 40-6-391.

24 (b) Any person who causes the death of another person, without an intention to do so, by

1 violating any provision of this title other than subsection (a) of Code Section 40-6-163 or
 2 subsection (b) of Code Section 40-6-270 or Code Section 40-6-390 or 40-6-391 or
 3 subsection (a) of Code Section 40-6-395 commits the offense of homicide by vehicle in the
 4 second degree when such violation is the cause of said death and, upon conviction thereof,
 5 shall be punished as provided in Code Section 17-10-3.

6 (c) Any person who, after being declared a habitual violator as determined under Code
 7 Section 40-5-58 and while such person's license is in revocation, causes the death of
 8 another person, without malice aforethought, by operation of a motor vehicle, commits the
 9 offense of homicide by vehicle in the first degree and, upon conviction thereof, shall be
 10 punished by imprisonment for not less than five years nor more than 20 years, ~~and~~
 11 ~~adjudication;~~ provided, however, that where the death is caused through a violation of
 12 Code Section 40-6-391 and the offender's alcohol concentration at the time of the offense
 13 was greater than 0.16 grams, said offense shall be punished by imprisonment for not less
 14 than 25 years, by imprisonment for life, by imprisonment for life without parole, or by
 15 death. For purposes of the jury considering aggravating circumstances required for
 16 imposition of the sentence of death, said offense shall be considered murder, and an
 17 additional available aggravating circumstance relative to said offense shall be that the
 18 defendant knowingly and intentionally violated Code Section 40-6-391. Adjudication of
 19 guilt or imposition of such sentence for a person so convicted and sentenced to a term of
 20 years or life may be suspended, probated, deferred, or withheld but only after such person
 21 shall have served at least one year in the penitentiary.

22 (d) A person sentenced to life without parole for homicide by vehicle in the first degree
 23 shall not be eligible for any form of parole or early release administered by the State Board
 24 of Pardons and Paroles unless the State Board of Pardons and Paroles or a court of this state
 25 shall, after notice and public hearing, determine that such person is innocent of the offense
 26 for which the sentence was imposed; and the term of imprisonment shall not be reduced
 27 by any earned time, early release, work release, leave, or other sentence-reducing measures
 28 under programs administered by the Department of Corrections.”

29 SECTION 2.

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