

House Bill 421

By: Representative Hammontree of the 4<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated,  
2 relating to cancellation, suspension, and revocation of drivers' licenses, so as to change the  
3 provisions relating to mandatory suspension of drivers' licenses; to provide for suspensions  
4 with respect to habitual violators; to provide for penalties; to provide for other matters  
5 relative to the foregoing; to provide for effective dates; to repeal conflicting laws; and for  
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 PART 1  
9 SECTION 1-1.

10 Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to  
11 cancellation, suspension, and revocation of drivers' licenses, is amended by striking in its  
12 entirety subsection (a) of Code Section 40-5-54, relating to mandatory suspension of license,  
13 and inserting in lieu thereof the following:

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

- 18 (1) Homicide by vehicle, as defined by Code Section 40-6-393;  
19 (2) Any felony in the commission of which a motor vehicle is used;  
20 (3) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270;  
21 (4) Racing on highways and streets;  
22 (5) Using a motor vehicle in fleeing or attempting to elude an officer; ~~or~~  
23 (6) Fraudulent or fictitious use of or application for a license as provided in Code Section  
24 40-5-120 or 40-5-125; or

1 (7) Driving while license suspended or revoked in violation of Code Section 40-5-121  
 2 except where the suspension resulted from a failure to respond under Code Section  
 3 40-5-56, an insurance cancellation, or for noncompliance with a child support order as  
 4 provided in Code Section 40-5-54.1."

## 5 SECTION 1-2.

6 Said article is further amended by striking in its entirety Code Section 40-5-58, relating to  
 7 habitual violators, and inserting in lieu thereof the following:

8 "40-5-58.

9 (a) As used in this Code section, 'habitual violator' means any person who has been  
 10 arrested and convicted within the United States three or more times within a five-year  
 11 period of time, as measured from the dates of previous arrests for which convictions were  
 12 obtained to the date of the most recent arrest for which a conviction was obtained, of:

13 (1) Committing any offense covered under Code Section 40-5-54 or Code Sections  
 14 40-6-391 through 40-6-395 or violating a federal law or regulation or the law of any state  
 15 or a valid municipal or county ordinance substantially conforming to any offense covered  
 16 under Code Section 40-5-54 or Code Sections 40-6-391 through 40-6-395; or

17 (2) Singularly or in combination, any of the offenses described in paragraph (1) of this  
 18 subsection.

19 (b) When the records of the department disclose that any person has been arrested and  
 20 convicted of a violation of Chapter 6 of this title, or of a valid local ordinance adopted  
 21 pursuant thereto, of an offense occurring on or after January 1, 1976, which record of arrest  
 22 and conviction, when taken with and added to previous arrests and convictions of such  
 23 person as contained in the files of the department, reveals that such person is a habitual  
 24 violator as defined in subsection (a) of this Code section, the department shall forthwith  
 25 notify such person that upon the date of notification such person has been declared by the  
 26 department to be a habitual violator, and that henceforth it shall be unlawful for such  
 27 habitual violator to operate a motor vehicle in this state unless otherwise provided in this  
 28 Code section. Notice shall be given by certified mail or statutory overnight delivery, with  
 29 return receipt requested; or, in lieu thereof, notice may be given by personal service upon  
 30 such person. In the event that at the time of determination the habitual violator had been  
 31 issued a driver's license, such license shall be revoked by such notice and shall be  
 32 surrendered to the department within ten days of notification of such determination. For  
 33 the purposes of this chapter, notice given by certified mail or statutory overnight delivery  
 34 with return receipt requested mailed to the person's last known address shall be prima-facie  
 35 evidence that such person received the required notice. In addition to the procedure set  
 36 forth in this subsection, the sentencing judge or prosecutor in a conviction which

1 conviction classifies the defendant as a habitual violator may, at the time of sentencing,  
 2 declare such defendant to be a habitual violator. The judge or prosecutor shall, when  
 3 declaring a defendant to be a habitual violator, then give personal notice to such defendant  
 4 on forms provided by the ~~Department of Public Safety~~ department that henceforth it shall  
 5 be unlawful for such habitual violator to operate a motor vehicle in this state unless  
 6 otherwise provided in this Code section. The judge or prosecutor, as the case may be, shall  
 7 within three days forward to the ~~Department of Public Safety~~ department the order  
 8 declaring that the defendant is a habitual violator, the notice of service, with the  
 9 defendant's driver's license or a sworn affidavit of the defendant declaring that the driver's  
 10 license has been lost, and the ~~Department of Public Safety's~~ department's copy of the  
 11 uniform citation or the official notice of conviction attached thereto.

12 (c)(1)(A) Except as provided in paragraph (2) of this subsection or in subsection (e) of  
 13 this Code section, it shall be unlawful for any person to operate any motor vehicle in  
 14 this state after such person has received notice that his or her driver's license has been  
 15 revoked as provided in subsection (b) of this Code section, if such person has not  
 16 thereafter obtained a valid driver's license.

17 (B) Except as provided in subsections (g) and (h) of this Code section, any Any person  
 18 declared to be a habitual violator and whose driver's license has been revoked under  
 19 this Code section and who is thereafter convicted of operating a motor vehicle before  
 20 the ~~Department of Public Safety~~ department has issued such person a driver's license  
 21 or before the expiration of five years from such revocation, whichever occurs first, shall  
 22 be punished by a fine of not less than \$750.00 or by imprisonment in the penitentiary  
 23 for not less than one nor more than five years, or both.

24 (C) Except as provided in subsections (g) and (h) of this Code section, any Any person  
 25 declared to be a habitual violator and whose driver's license has been revoked and who  
 26 is convicted of operating a motor vehicle after the expiration of five years from such  
 27 revocation ~~but before the Department of Public Safety has issued such person a driver's~~  
 28 ~~license shall be guilty of a misdemeanor~~ and who operates a motor vehicle without  
 29 having a driver's license as required by this chapter shall be punished by a fine not to  
 30 exceed \$1,000.00 or by imprisonment for not less than one nor more than three years,  
 31 or both fined and imprisoned.

32 (2) Any person declared to be a habitual violator as a result of three or more convictions  
 33 of violations of Code Section 40-6-391 within a five-year period of time, as measured  
 34 from the dates of previous arrests for which convictions were obtained to the date of the  
 35 most recent arrest for which a conviction was obtained, and who is thereafter convicted  
 36 of operating a motor vehicle during such period of revocation, prior to the issuance of a  
 37 probationary license under subsection (e) of this Code section or before the expiration of

1 five years, shall be guilty of the felony of habitual impaired driving and shall be punished  
 2 by a fine of not less than \$1,000.00 or by imprisonment in the penitentiary for not less  
 3 than one nor more than five years, or both.

4 (d) Notwithstanding any contrary provisions of Code Section 17-7-95, for the purposes of  
 5 this Code section, any plea of nolo contendere entered and accepted after January 1, 1976,  
 6 shall be considered a conviction.

7 (e)(1) Except as provided in subsection (g) of this Code section, ~~Notwithstanding any~~  
 8 ~~contrary provisions of this Code section or any other Code section of this chapter,~~ any  
 9 person who has been declared a habitual violator and who has had his or her driver's  
 10 license revoked under subsection (b) of this Code section for a period of five years and  
 11 two years have expired since the date on which such person's license was surrendered or  
 12 an affidavit was accepted as provided in subsection (e) of Code Section 40-5-61, such  
 13 person may be issued a probationary driver's license for a period of time not to exceed  
 14 three years upon compliance with the following conditions:

15 (A) Such person has not been convicted, or pleaded nolo contendere to a charge, of  
 16 violating any provision of this chapter or any local ordinance relating to the movement  
 17 of vehicles for a period of two years immediately preceding the application for a  
 18 probationary driver's license;

19 (B) Such person has not been convicted, or pleaded nolo contendere to a charge, of a  
 20 violation of any provision of this chapter which resulted in the death or injury of any  
 21 individual;

22 (C) Such person has successfully completed, prior to the issuance of the probationary  
 23 driver's license, a defensive driving course or a DUI Alcohol or Drug Use Risk  
 24 Reduction Program as designated by the ~~Department of Public Safety~~ department;

25 (D) Such person has not been convicted, or pleaded nolo contendere to a charge, of  
 26 violating any provision of Title 3, relating to alcoholic beverages, or of violating any  
 27 provision of Chapter 13 of Title 16, relating to controlled substances;

28 (E) Such person shall submit a sworn affidavit that such person does not excessively  
 29 use alcoholic beverages and does not illegally use controlled substances or marijuana.  
 30 It shall be a misdemeanor to falsely swear on such affidavit and, upon conviction, the  
 31 probationary license shall be revoked. No probationary license shall be issued during  
 32 the remainder of the revocation period, and no driver's license shall be issued for the  
 33 remainder of the original revocation period or for a period of two years from the date  
 34 of conviction under this subparagraph;

35 (F) Such person submits proof of financial responsibility as provided in Chapter 9 of  
 36 this title; and

1 (G) Refusal to issue a probationary driver's license would cause extreme hardship to  
2 the applicant. For the purposes of this subsection, the term 'extreme hardship' means  
3 that the applicant cannot reasonably obtain other transportation, and, therefore, the  
4 applicant would be prohibited from:

5 (i) Going to his or her place of employment or performing the normal duties of his  
6 or her occupation;

7 (ii) Receiving scheduled medical care or obtaining prescription drugs;

8 (iii) Attending a college or school at which he or she is regularly enrolled as a  
9 student;

10 (iv) Attending regularly scheduled sessions or meetings of support organizations for  
11 persons who have addiction or abuse problems related to alcohol or other drugs,  
12 which organizations are recognized by the commissioner; or

13 (v) Attending under court order any driver education or improvement school or  
14 alcohol or drug treatment program or course approved by the court which entered the  
15 judgment of conviction resulting in revocation of his or her driver's license or by the  
16 commissioner.

17 (2) Application for a probationary driver's license shall be made upon such forms as the  
18 commissioner may prescribe. Such forms shall require such information as is necessary  
19 for the department to determine the need for such license. All applications shall be signed  
20 by the applicant before a person authorized to administer oaths.

21 (3) Upon compliance with the above conditions and the payment of a fee of \$210.00 or  
22 \$200.00 when processed by mail, such person may be issued a probationary driver's  
23 license by the department. Upon payment of a fee in an amount the same as that provided  
24 by Code Section 40-5-25 for issuance of a Class C driver's license, a person may be  
25 issued a replacement for a lost or destroyed probationary driver's license issued to him  
26 or her.

27 (4) A probationary driver's license shall be endorsed with such conditions as the  
28 commissioner deems necessary to ensure that such license will be used by the licensee  
29 only to avoid the conditions of extreme hardship. Such conditions may include the  
30 following restrictions:

31 (A) Specific places between which the licensee may be allowed to operate a motor  
32 vehicle;

33 (B) Routes to be followed by the licensee;

34 (C) Times of travel;

35 (D) The specific vehicles which the licensee may operate; and

36 (E) Such other restrictions as the department may require.

1 (5) A probationary driver's license issued pursuant to this Code section shall become  
2 invalid upon the expiration of the period of the suspension or revocation of the driver's  
3 license of such person.

4 (6)(A)(i) Any probationary licensee violating the provisions of paragraph (4) of this  
5 subsection or operating a vehicle in violation of any conditions specified in this  
6 subsection shall be guilty of a misdemeanor.

7 (ii) Except as provided in division (iii) of this subparagraph, any probationary  
8 licensee violating any state law or local ordinance involving an offense listed in Code  
9 Section 40-5-54 or Code Section 40-6-391 shall be guilty of a felony and shall be  
10 punished by a fine of not less than \$1,000.00 or by imprisonment in the penitentiary  
11 for not less than one nor more than five years, or both.

12 (iii) Any probationary licensee violating any state law or local ordinance involving  
13 a felony offense listed in Code Section 40-5-54 shall be guilty of a felony and shall  
14 be punished as is provided for conviction of such felony.

15 (B) Any probationary licensee who is convicted of violating, or who pleads nolo  
16 contendere to a charge of violating, any state law or local ordinance involving an  
17 offense listed in Code Section 40-5-54 or Code Section 40-6-391 or any probationary  
18 licensee who is convicted of violating, or who pleads nolo contendere to a charge of  
19 violating, the conditions endorsed on his or her license, shall have his or her license  
20 revoked by the department. Any court in which such conviction is had or in which said  
21 nolo contendere plea is accepted shall require the licensee to surrender the license to the  
22 court. The court shall forward the license to the department within ten days after the  
23 conviction or acceptance of the plea, with a copy of the conviction. Any person whose  
24 probationary license is revoked for committing an offense listed in Code Section  
25 40-5-54 or Code Section 40-6-391 shall not be eligible to apply for a regular driver's  
26 license until the expiration of the original five-year revocation period during which the  
27 probationary license was originally issued or for a period of two years following the  
28 conviction, whichever is greater.

29 (C) If the commissioner has reason to believe or makes a preliminary finding that the  
30 requirements of the public safety or welfare outweigh the individual needs of a person  
31 for a probationary license, the commissioner, in his or her discretion, after affording the  
32 person notice and an opportunity to be heard, may refuse to issue the license under this  
33 subsection.

34 (D) Any person whose probationary driver's license has been revoked shall not be  
35 eligible to apply for a subsequent probationary license under this Code section for a  
36 period of five years.

1 (7) Any person whose probationary license has been revoked or who has been refused  
2 a probationary license by the department may make a request in writing for a hearing to  
3 be provided by the department. Such hearing shall be provided by the department within  
4 30 days after the receipt of such request and shall follow the procedures required by  
5 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Appeal from such  
6 hearing shall be in accordance with Chapter 13 of Title 50.

7 (f) If a person's license was revoked for a violation of Code Section 40-6-391 resulting  
8 from a motor vehicle collision in which any person lost his life, the person whose license  
9 was revoked shall not be entitled to a probationary license as set forth in this Code section.

10 (g)(1) If, after having been declared a habitual violator pursuant to this Code section, a  
11 person commits an offense on or after January 1, 2002, which results in such person  
12 being again declared a habitual violator as provided in this Code section, any driver's  
13 license issued to such person pursuant to this chapter and such person's privilege to  
14 operate a motor vehicle in this state shall be revoked for a period of not less than ten  
15 years.

16 (2) Such person may apply for a probationary driver's license as provided in subsection  
17 (e) of this Code section after five years have expired since the date on which such  
18 person's license was surrendered or an affidavit was accepted as provided in subsection  
19 (e) of Code Section 40-5-61. A probationary driver's license may be issued to such  
20 person for a period of time not to exceed five years upon such person's compliance with  
21 the conditions set forth in paragraphs (1), (2), and (3) of subsection (e) of this Code  
22 section.

23 (3) A probationary driver's license issued pursuant to this subsection shall be subject to  
24 such conditions as the commissioner deems necessary to ensure that such license will be  
25 used by the licensee only to avoid the conditions of extreme hardship. Such conditions  
26 shall be in writing and provided to such person together with the probationary driver's  
27 license. Such conditions shall include, but not be limited to, the following:

28 (A) Specific places between which the licensee may be allowed to operate a motor  
29 vehicle;

30 (B) Routes to be followed by the licensee;

31 (C) Times of travel;

32 (D) The specific vehicles which the licensee may operate; and

33 (E) Such other restrictions as the commissioner may require.

34 (4) Any person issued a probationary driver's license pursuant to this subsection shall  
35 have in his or her immediate possession at all times when such person operates a motor  
36 vehicle a copy of the conditions imposed pursuant to paragraph (3) of this subsection.  
37 Such person shall display said copy upon request of any law enforcement officer. Any

1 deviation from said conditions without just cause based on a bona fide emergency shall,  
 2 in addition to any other penalty imposed by law, result in the immediate revocation of the  
 3 probationary driver's license.

4 (5) A probationary driver's license issued pursuant to this Code section shall become  
 5 invalid upon the expiration of the period of the suspension or revocation of the driver's  
 6 license of such person.

7 (6) Any person who operates a motor vehicle in violation of this subsection shall upon  
 8 conviction be punished by a fine not to exceed \$10,000.00 or by imprisonment for not  
 9 less than five nor more than ten years, or both fined and imprisoned.

10 (h) Notwithstanding any other provision of law, if a person, after having been declared a  
 11 habitual violator pursuant to this Code section three or more times, commits an offense on  
 12 or after January 1, 2002, which results in such person being again declared a habitual  
 13 violator as provided in this Code section, such person shall not be eligible to receive a  
 14 driver's license in this state and shall not thereafter be permitted to operate a motor vehicle  
 15 upon a highway in this state. Any person who operates a motor vehicle in violation of this  
 16 subsection shall upon conviction be punished by a fine not to exceed \$20,000.00 or  
 17 imprisonment for not less than five nor more than ten years, or both fined and imprisoned."

18 PART 2

19 SECTION 2-1.

20 Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to  
 21 cancellation, suspension, and revocation of drivers' licenses, is amended by striking in its  
 22 entirety subsection (a) of Code Section 40-5-54, relating to mandatory suspension of license,  
 23 and inserting in lieu thereof the following:

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

- 28 (1) Homicide by vehicle, as defined by Code Section 40-6-393;  
 29 (2) Any felony in the commission of which a motor vehicle is used;  
 30 (3) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270;  
 31 (4) Racing on highways and streets;  
 32 (5) Using a motor vehicle in fleeing or attempting to elude an officer; ~~or~~  
 33 (6) Fraudulent or fictitious use of or application for a license as provided in Code Section  
 34 40-5-120 or 40-5-125; or

1 (7) Driving while license suspended or revoked in violation of Code Section 40-5-121  
 2 except where the suspension resulted from a failure to respond under Code Section  
 3 40-5-56, an insurance cancellation, or for noncompliance with a child support order as  
 4 provided in Code Section 40-5-54.1."

5 **SECTION 2-2.**

6 Said article is further amended by striking in its entirety Code Section 40-5-58, relating to  
 7 habitual violators, and inserting in lieu thereof the following:

8 "40-5-58.

9 (a) As used in this Code section, 'habitual violator' means any person who has been  
 10 arrested and convicted within the United States three or more times within a five-year  
 11 period of time, as measured from the dates of previous arrests for which convictions were  
 12 obtained to the date of the most recent arrest for which a conviction was obtained, of:

13 (1) Committing any offense covered under Code Section 40-5-54 or Code Sections  
 14 40-6-391 through 40-6-395 or violating a federal law or regulation or the law of any state  
 15 or a valid municipal or county ordinance substantially conforming to any offense covered  
 16 under Code Section 40-5-54 or Code Sections 40-6-391 through 40-6-395; or

17 (2) Singularly or in combination, any of the offenses described in paragraph (1) of this  
 18 subsection.

19 (b) When the records of the department disclose that any person has been arrested and  
 20 convicted of a violation of Chapter 6 of this title, or of a valid local ordinance adopted  
 21 pursuant thereto, of an offense occurring on or after January 1, 1976, which record of arrest  
 22 and conviction, when taken with and added to previous arrests and convictions of such  
 23 person as contained in the files of the department, reveals that such person is a habitual  
 24 violator as defined in subsection (a) of this Code section, the department shall forthwith  
 25 notify such person that upon the date of notification such person has been declared by the  
 26 department to be a habitual violator, and that henceforth it shall be unlawful for such  
 27 habitual violator to operate a motor vehicle in this state unless otherwise provided in this  
 28 Code section. Notice shall be given by certified mail or statutory overnight delivery, with  
 29 return receipt requested; or, in lieu thereof, notice may be given by personal service upon  
 30 such person. In the event that at the time of determination the habitual violator had been  
 31 issued a driver's license, such license shall be revoked by such notice and shall be  
 32 surrendered to the department within ten days of notification of such determination. For  
 33 the purposes of this chapter, notice given by certified mail or statutory overnight delivery  
 34 with return receipt requested mailed to the person's last known address shall be prima-facie  
 35 evidence that such person received the required notice. In addition to the procedure set  
 36 forth in this subsection, the sentencing judge or prosecutor in a conviction which

1 conviction classifies the defendant as a habitual violator may, at the time of sentencing,  
 2 declare such defendant to be a habitual violator. The judge or prosecutor shall, when  
 3 declaring a defendant to be a habitual violator, then give personal notice to such defendant  
 4 on forms provided by the department that henceforth it shall be unlawful for such habitual  
 5 violator to operate a motor vehicle in this state unless otherwise provided in this Code  
 6 section. The judge or prosecutor, as the case may be, shall within three days forward to the  
 7 department the order declaring that the defendant is a habitual violator, the notice of  
 8 service, with the defendant's driver's license or a sworn affidavit of the defendant declaring  
 9 that the driver's license has been lost, and the department's copy of the uniform citation or  
 10 the official notice of conviction attached thereto.

11 (c)(1)(A) Except as provided in paragraph (2) of this subsection or in subsection (e) of  
 12 this Code section, it shall be unlawful for any person to operate any motor vehicle in  
 13 this state after such person has received notice that his or her driver's license has been  
 14 revoked as provided in subsection (b) of this Code section, if such person has not  
 15 thereafter obtained a valid driver's license.

16 (B) Except as provided in subsections (g) and (h) of this Code section, any Any person  
 17 declared to be a habitual violator and whose driver's license has been revoked under  
 18 this Code section and who is thereafter convicted of operating a motor vehicle before  
 19 the department has issued such person a driver's license or before the expiration of five  
 20 years from such revocation, whichever occurs first, shall be punished by a fine of not  
 21 less than \$750.00 or by imprisonment in the penitentiary for not less than one nor more  
 22 than five years, or both.

23 (C) Except as provided in subsections (g) and (h) of this Code section, any Any person  
 24 declared to be a habitual violator and whose driver's license has been revoked and who  
 25 is convicted of operating a motor vehicle after the expiration of five years from such  
 26 revocation ~~but before the department has issued such person a driver's license shall be~~  
 27 ~~guilty of a misdemeanor~~ and who operates a motor vehicle without having a driver's  
 28 license as required by this chapter shall be punished by a fine not to exceed \$1,000.00  
 29 or by imprisonment for not less than one nor more than three years, or both fined and  
 30 imprisoned.

31 (2) Any person declared to be a habitual violator as a result of three or more convictions  
 32 of violations of Code Section 40-6-391 within a five-year period of time, as measured  
 33 from the dates of previous arrests for which convictions were obtained to the date of the  
 34 most recent arrest for which a conviction was obtained, and who is thereafter convicted  
 35 of operating a motor vehicle during such period of revocation, prior to the issuance of a  
 36 probationary license under subsection (e) of this Code section or before the expiration of  
 37 five years, shall be guilty of the felony of habitual impaired driving and shall be punished

1 by a fine of not less than \$1,000.00 or by imprisonment in the penitentiary for not less  
2 than one nor more than five years, or both.

3 (d) Notwithstanding any contrary provisions of Code Section 17-7-95, for the purposes of  
4 this Code section, any plea of nolo contendere entered and accepted after January 1, 1976,  
5 shall be considered a conviction.

6 (e)(1) ~~Except as provided in subsection (g) of this Code section. Notwithstanding any~~  
7 ~~contrary provisions of this Code section or any other Code section of this chapter,~~ any  
8 person who has been declared a habitual violator and who has had his or her driver's  
9 license revoked under subsection (b) of this Code section for a period of five years and  
10 two years have expired since the date on which such person's license was surrendered or  
11 an affidavit was accepted as provided in subsection (e) of Code Section 40-5-61, such  
12 person may be issued a probationary driver's license for a period of time not to exceed  
13 three years upon compliance with the following conditions:

14 (A) Such person has not been convicted, or pleaded nolo contendere to a charge, of  
15 violating any provision of this chapter or any local ordinance relating to the movement  
16 of vehicles for a period of two years immediately preceding the application for a  
17 probationary driver's license;

18 (B) Such person has not been convicted, or pleaded nolo contendere to a charge, of a  
19 violation of any provision of this chapter which resulted in the death or injury of any  
20 individual;

21 (C) Such person has successfully completed, prior to the issuance of the probationary  
22 driver's license, a defensive driving course or a DUI Alcohol or Drug Use Risk  
23 Reduction Program as designated by the department;

24 (D) Such person has not been convicted, or pleaded nolo contendere to a charge, of  
25 violating any provision of Title 3, relating to alcoholic beverages, or of violating any  
26 provision of Chapter 13 of Title 16, relating to controlled substances;

27 (E) Such person shall submit a sworn affidavit that such person does not excessively  
28 use alcoholic beverages and does not illegally use controlled substances or marijuana.  
29 It shall be a misdemeanor to falsely swear on such affidavit and, upon conviction, the  
30 probationary license shall be revoked. No probationary license shall be issued during  
31 the remainder of the revocation period, and no driver's license shall be issued for the  
32 remainder of the original revocation period or for a period of two years from the date  
33 of conviction under this subparagraph;

34 (F) Such person submits proof of financial responsibility as provided in Chapter 9 of  
35 this title; and

36 (G) Refusal to issue a probationary driver's license would cause extreme hardship to  
37 the applicant. For the purposes of this subsection, the term 'extreme hardship' means

1 that the applicant cannot reasonably obtain other transportation, and, therefore, the  
2 applicant would be prohibited from:

3 (i) Going to his or her place of employment or performing the normal duties of his  
4 or her occupation;

5 (ii) Receiving scheduled medical care or obtaining prescription drugs;

6 (iii) Attending a college or school at which he or she is regularly enrolled as a  
7 student;

8 (iv) Attending regularly scheduled sessions or meetings of support organizations for  
9 persons who have addiction or abuse problems related to alcohol or other drugs,  
10 which organizations are recognized by the commissioner; or

11 (v) Attending under court order any driver education or improvement school or  
12 alcohol or drug treatment program or course approved by the court which entered the  
13 judgment of conviction resulting in revocation of his or her driver's license or by the  
14 commissioner.

15 (2) Application for a probationary driver's license shall be made upon such forms as the  
16 commissioner may prescribe. Such forms shall require such information as is necessary  
17 for the department to determine the need for such license. All applications shall be signed  
18 by the applicant before a person authorized to administer oaths.

19 (3) Upon compliance with the above conditions and the payment of a fee of \$210.00 or  
20 \$200.00 when processed by mail, such person may be issued a probationary driver's  
21 license by the department. Upon payment of a fee in an amount the same as that provided  
22 by Code Section 40-5-25 for issuance of a Class C driver's license, a person may be  
23 issued a replacement for a lost or destroyed probationary driver's license issued to him  
24 or her.

25 (4) A probationary driver's license shall be endorsed with such conditions as the  
26 commissioner deems necessary to ensure that such license will be used by the licensee  
27 only to avoid the conditions of extreme hardship. Such conditions may include the  
28 following restrictions:

29 (A) Specific places between which the licensee may be allowed to operate a motor  
30 vehicle;

31 (B) Routes to be followed by the licensee;

32 (C) Times of travel;

33 (D) The specific vehicles which the licensee may operate; and

34 (E) Such other restrictions as the department may require.

35 (5) A probationary driver's license issued pursuant to this Code section shall become  
36 invalid upon the expiration of the period of the suspension or revocation of the driver's  
37 license of such person.

1 (6)(A)(i) Any probationary licensee violating the provisions of paragraph (4) of this  
2 subsection or operating a vehicle in violation of any conditions specified in this  
3 subsection shall be guilty of a misdemeanor.

4 (ii) Except as provided in division (iii) of this subparagraph, any probationary  
5 licensee violating any state law or local ordinance involving an offense listed in Code  
6 Section 40-5-54 or Code Section 40-6-391 shall be guilty of a felony and shall be  
7 punished by a fine of not less than \$1,000.00 or by imprisonment in the penitentiary  
8 for not less than one nor more than five years, or both.

9 (iii) Any probationary licensee violating any state law or local ordinance involving  
10 a felony offense listed in Code Section 40-5-54 shall be guilty of a felony and shall  
11 be punished as is provided for conviction of such felony.

12 (B) Any probationary licensee who is convicted of violating, or who pleads nolo  
13 contendere to a charge of violating, any state law or local ordinance involving an  
14 offense listed in Code Section 40-5-54 or Code Section 40-6-391 or any probationary  
15 licensee who is convicted of violating, or who pleads nolo contendere to a charge of  
16 violating, the conditions endorsed on his or her license, shall have his or her license  
17 revoked by the department. Any court in which such conviction is had or in which said  
18 nolo contendere plea is accepted shall require the licensee to surrender the license to the  
19 court. The court shall forward the license to the department within ten days after the  
20 conviction or acceptance of the plea, with a copy of the conviction. Any person whose  
21 probationary license is revoked for committing an offense listed in Code Section  
22 40-5-54 or Code Section 40-6-391 shall not be eligible to apply for a regular driver's  
23 license until the expiration of the original five-year revocation period during which the  
24 probationary license was originally issued or for a period of two years following the  
25 conviction, whichever is greater.

26 (C) If the commissioner has reason to believe or makes a preliminary finding that the  
27 requirements of the public safety or welfare outweigh the individual needs of a person  
28 for a probationary license, the commissioner, in his or her discretion, after affording the  
29 person notice and an opportunity to be heard, may refuse to issue the license under this  
30 subsection.

31 (D) Any person whose probationary driver's license has been revoked shall not be  
32 eligible to apply for a subsequent probationary license under this Code section for a  
33 period of five years.

34 (7) Any person whose probationary license has been revoked or who has been refused  
35 a probationary license by the department may make a request in writing for a hearing to  
36 be provided by the department. Such hearing shall be provided by the department within  
37 30 days after the receipt of such request and shall follow the procedures required by

1 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Appeal from such  
2 hearing shall be in accordance with Chapter 13 of Title 50.

3 (f) If a person's license was revoked for a violation of Code Section 40-6-391 resulting  
4 from a motor vehicle collision in which any person lost his life, the person whose license  
5 was revoked shall not be entitled to a probationary license as set forth in this Code section.

6 (g)(1) If, after having been declared a habitual violator pursuant to this Code section, a  
7 person commits an offense on or after January 1, 2002, which results in such person  
8 being again declared a habitual violator as provided in this Code section, any driver's  
9 license issued to such person pursuant to this chapter and such person's privilege to  
10 operate a motor vehicle in this state shall be revoked for a period of not less than ten  
11 years.

12 (2) Such person may apply for a probationary driver's license as provided in subsection  
13 (e) of this Code section after five years have expired since the date on which such  
14 person's license was surrendered or an affidavit was accepted as provided in subsection  
15 (e) of Code Section 40-5-61. A probationary driver's license may be issued to such  
16 person for a period of time not to exceed five years upon such person's compliance with  
17 the conditions set forth in paragraphs (1), (2), and (3) of subsection (e) of this Code  
18 section.

19 (3) A probationary driver's license issued pursuant to this subsection shall be subject to  
20 such conditions as the commissioner deems necessary to ensure that such license will be  
21 used by the licensee only to avoid the conditions of extreme hardship. Such conditions  
22 shall be in writing and provided to such person together with the probationary driver's  
23 license. Such conditions shall include, but not be limited to, the following:

24 (A) Specific places between which the licensee may be allowed to operate a motor  
25 vehicle;

26 (B) Routes to be followed by the licensee;

27 (C) Times of travel;

28 (D) The specific vehicles which the licensee may operate; and

29 (E) Such other restrictions as the commissioner may require.

30 (4) Any person issued a probationary driver's license pursuant to this subsection shall  
31 have in his or her immediate possession at all times when such person operates a motor  
32 vehicle a copy of the conditions imposed pursuant to paragraph (3) of this subsection.  
33 Such person shall display said copy upon request of any law enforcement officer. Any  
34 deviation from said conditions without just cause based on a bona fide emergency shall,  
35 in addition to any other penalty imposed by law, result in the immediate revocation of the  
36 probationary driver's license.

1 (5) A probationary driver's license issued pursuant to this Code section shall become  
2 invalid upon the expiration of the period of the suspension or revocation of the driver's  
3 license of such person.

4 (6) Any person who operates a motor vehicle in violation of this subsection shall upon  
5 conviction be punished by a fine not to exceed \$10,000.00 or by imprisonment for not  
6 less than five nor more than ten years, or both fined and imprisoned.

7 (h) Notwithstanding any other provision of law, if a person, after having been declared a  
8 habitual violator pursuant to this Code section three or more times, commits an offense on  
9 or after January 1, 2002, which results in such person being again declared an habitual  
10 violator as provided in this Code section, such person shall not be eligible to receive a  
11 driver's license in this state and shall not thereafter be permitted to operate a motor vehicle  
12 upon a highway in this state. Any person who operates a motor vehicle in violation of this  
13 subsection shall upon conviction be punished by a fine not to exceed \$20,000.00 or  
14 imprisonment for not less than five nor more than ten years, or both fined and imprisoned."

15 PART 3

16 SECTION 3-1.

17 (a) This Act shall become effective July 1, 2001, except as otherwise provided by subsection  
18 (b) of this section.

19 (b) Part 2 of this Act shall become effective and supersede Part 1 of this Act on July 1, 2001,  
20 or on such date thereafter as Act Number 737 of the 2000 regular session of the General  
21 Assembly becomes fully effective pursuant to Ga. L. 2000, p. 951, Section 13-1, paragraph  
22 (4), whichever last occurs.

23 SECTION 3-2.

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