

House Bill 421

By: Representative Hammontree of the 4th

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.