

Senate Bill 121

By: Senators Walker of the 22nd and Starr of the 44th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 40-6-391 of the Official Code of Georgia Annotated, relating to
2 driving under the influence of alcohol, drugs, or other intoxicating substances, so as to
3 prohibit driving while certain substances are present in a person's blood or urine; to provide
4 that authorized use of certain substances is not a defense to a charge of violating said Code
5 section; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 40-6-391 of the Official Code of Georgia Annotated, relating to driving under
9 the influence of alcohol, drugs, or other intoxicating substances, is amended by striking
10 subsections (a) and (b) and inserting in lieu thereof the following:

11 "(a) A person shall not drive or be in actual physical control of any moving vehicle while:
12 (1) Under the influence of alcohol to the extent that it is less safe for the person to drive;
13 (2) Under the influence of any drug to the extent that it is less safe for the person to
14 drive;
15 (3) Under the intentional influence of any glue, aerosol, or other toxic vapor to the extent
16 that it is less safe for the person to drive;
17 (4) Under the combined influence of any two or more of the substances specified in
18 paragraphs (1) through (3) of this subsection to the extent that it is less safe for the person
19 to drive;
20 (5) The person's alcohol concentration is 0.10 grams or more at any time within three
21 hours after such driving or being in actual physical control from alcohol consumed before
22 such driving or being in actual physical control ended; or
23 ~~(6) Subject to the provisions of subsection (b) of this Code section, there is any amount~~
24 ~~of marijuana or a controlled substance, as defined in Code Section 16-13-21, present in~~
25 ~~the person's blood or urine, or both, including the metabolites and derivatives of each or~~

1 both without regard to whether or not any alcohol is present in the person's breath or
2 blood:

3 ~~(b) The fact that any person charged with violating this Code section is or has been legally~~
4 ~~entitled to use a drug shall not constitute a defense against any charge of violating this~~
5 ~~Code section; provided, however, that such person shall not be in violation of this Code~~
6 ~~section unless such person is rendered incapable of driving safely as a result of using a drug~~
7 ~~other than alcohol which such person is legally entitled to use.~~

8 (6) There is any amount of any Schedule I controlled substance listed in Code Section
9 16-13-25, marijuana, cocaine, or any metabolite or derivative of any of them, present in
10 the person's blood, urine, or both, without regard to whether or not any alcohol is present
11 in the person's breath or blood.

12 (b) The fact that any person charged with violating this Code section is or has been legally
13 entitled to use a drug, including without limitation authorization for marijuana use under
14 Article 5 of Chapter 34 of Title 43, shall not constitute a defense against any charge of
15 violating this Code section."

16 **SECTION 2.**

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