

House Bill 528

By: Representatives Smith of the 91<sup>st</sup>, Burkhalter of the 41<sup>st</sup>, Lewis of the 14<sup>th</sup>, Graves of the 125<sup>th</sup>, McCall of the 90<sup>th</sup> and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to motor  
2 vehicle drivers' licenses, so as to provide driver training requirements for certain license  
3 applicants; to change certain provisions relating to instruction permits, graduated licensing  
4 and related restrictions, and temporary licenses; to change certain provisions relating to  
5 examination of applicants; to change certain provisions relating to revocation of licenses of  
6 persons under age 21 for certain offenses and issuance of new licenses following revocations;  
7 to change certain provisions relating to licensing exemptions; to provide effective dates; to  
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 PART 1  
11 SECTION 1-1.

12 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle  
13 drivers' licenses, is amended by striking subsection (b) of Code Section 40-5-24, relating to  
14 instruction permits, graduated licensing and related restrictions, and temporary licenses, and  
15 inserting in lieu thereof the following:

16 "(b)(1) Any resident of this state who is at least 16 years of age and has completed driver  
17 education course approved by the department in a licensed driver training school and  
18 who, for a period of at least 12 months, had a valid instruction permit issued under  
19 subsection (a) of this Code section may apply to the department for a Class D driver's  
20 license to operate a noncommercial Class C vehicle if such resident has otherwise  
21 complied with all prerequisites for the issuance of such Class D driver's license as  
22 provided in subsection (a) of this Code section, provided that a resident at least 16 years  
23 of age who has at any age surrendered to the department a valid instruction permit or  
24 driver's license issued by another state or the District of Columbia or who has submitted  
25 to the department proof, to the satisfaction of the department, of a valid instruction permit

1 or driver's license issued by another state or the District of Columbia may apply his or  
 2 her driving record under such previously issued permit or driver's license toward meeting  
 3 the eligibility requirements for a Class D driver's license the same as if such previously  
 4 issued permit or driver's license were an instruction permit issued under subsection (a)  
 5 of this Code section. The commissioner shall by rule or regulation establish standards  
 6 for approval of any driver education course for purposes of this paragraph, provided that  
 7 such course shall be designed to educate young drivers about safe driving practices and  
 8 the traffic laws of this state and to train young drivers in the safe operation of motor  
 9 vehicles; and provided, further, that no such course shall be taught in any public school  
 10 during regular school hours while such school is in session.

11 (2) The department shall, after all applicable requirements have been met and the  
 12 applicant has successfully passed a behind the wheel road test, issue to the applicant a  
 13 Class D driver's license which shall entitle the applicant, while having such license in his  
 14 or her immediate possession, to drive a Class C vehicle upon the public highways of this  
 15 state under the following conditions:

16 (A) Any ~~The~~ Class D license holder shall not drive a Class C motor vehicle on the  
 17 public roads, streets, or highways of this state between the hours of ~~1:00 A.M.~~ 12:00  
 18 Midnight and ~~5:00~~ 6:00 A.M. eastern standard time or eastern daylight time, whichever  
 19 is applicable, ~~unless:~~

20 (i) ~~Going to or from a place of business where he or she is actually employed on a~~  
 21 ~~regularly scheduled basis;~~

22 (ii) ~~Going to or from an event or activity sponsored or sanctioned by a secondary or~~  
 23 ~~postsecondary school in which he or she is enrolled as a student;~~

24 (iii) ~~Going to or from an event or activity sponsored or sanctioned by a religious~~  
 25 ~~organization; or~~

26 (iv) ~~For the purpose of a medical, fire, or law enforcement related emergency; and~~

27 (B) Any ~~The~~ Class D license holder shall not drive a Class C motor vehicle upon the  
 28 public roads, streets, or highways of this state when more than ~~three other passengers~~  
 29 one other passenger in the vehicle who ~~are not members~~ is not a member of the driver's  
 30 immediate family ~~are~~ is less than ~~21~~ 18 years of age;

31 provided, however, that a Class D license holder shall not be charged with a violation of  
 32 this ~~subparagraph~~ paragraph alone but may be charged with violating this ~~subparagraph~~  
 33 paragraph in addition to any other traffic offense.

34 ~~(2)~~(3) A person who has been issued a Class D driver's license under this subsection and  
 35 has never been issued a Class C driver's license under this chapter will become eligible  
 36 for a Class C driver's license under this chapter only if such person has a valid Class D  
 37 driver's license which is not under suspension, has completed a continuing driver

1 education course approved by the department in a licensed driver training school, and,  
 2 for a period of not less than 12 consecutive months prior to making application for a  
 3 Class C driver's license, has not been convicted of a violation of Code Section 40-6-391,  
 4 hit and run or leaving the scene of an accident in violation of Code Section 40-6-270,  
 5 racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an  
 6 officer, reckless driving, or convicted of any offense for which ~~four~~ two or more points  
 7 are assessable under subsection (c) of Code Section 40-5-57 and is at least 18 years of  
 8 age. The commissioner shall by rule or regulation establish standards for approval of any  
 9 continuing driver education for purposes of this paragraph, provided that such course  
 10 shall consist of six classroom instruction hours, ten hours of behind the wheel on-road  
 11 instruction including four hours at night, and ten hours of on-road instruction while riding  
 12 as a passenger with the instructor including fours hours at night; and provided, further,  
 13 that no such course shall be taught at any public school during regular school hours while  
 14 such school is in session.

#### 15 SECTION 1-2.

16 Said chapter is further amended by striking subsection (a) of Code Section 40-5-27, relating  
 17 to examination of applicants, and inserting in lieu thereof the following:

18 "(a) The department shall examine every applicant for a driver's license. Such examination  
 19 shall include a test of the applicant's eyesight, his or her ability to understand official  
 20 traffic-control devices, and his or her knowledge of safe driving practices and the traffic  
 21 laws of this state and ~~may~~ shall also include ~~an actual demonstration of a comprehensive~~  
 22 on-the-road driving test during which the applicant shall be required to fully demonstrate  
 23 his or her ability to exercise ordinary and reasonable control in the operation of a motor  
 24 vehicle of the type or general class of vehicles he or she desires a license to drive.  
 25 Applicants 18 years of age and older with valid and current licenses issued by another state  
 26 of the United States or the District of Columbia who surrender their previous licenses to  
 27 obtain a Georgia license shall be exempt from taking such tests other than tests of eyesight.  
 28 The examination may also include such further physical and mental examination as the  
 29 department finds necessary to determine the applicant's fitness to operate a motor vehicle  
 30 safely upon the highways. The commissioner may establish by rules and regulations the  
 31 type of tests or demonstrations to be made by applicants for any class of license."

#### 32 SECTION 1-3.

33 Said chapter is further amended by striking subsections (a) and (b) of Code Section  
 34 40-5-57.1, relating to revocation of licenses of persons under age 21 for certain offenses and  
 35 issuance of new licenses following revocations, and inserting in lieu thereof the following:

1 "(a) Notwithstanding any other provision of this chapter, the driver's license of any person  
 2 under 21 years of age convicted of hit and run or leaving the scene of an accident in  
 3 violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle  
 4 in fleeing or attempting to elude an officer, reckless driving, any offense for which four or  
 5 more points are assessable under subsection (c) of Code Section 40-5-57, purchasing an  
 6 alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23,  
 7 violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23, or violation of  
 8 Code Section 40-6-391 shall be revoked by the department as provided by this Code  
 9 section, ~~and a;~~ and the driver's license of any person who was under 18 years of age at the  
 10 time of committing any maximum speed limit violation for which two or more points are  
 11 assessable under subsection (c) of Code Section 40-5-57 or at the time of committing any  
 12 second moving traffic violation which arose out of a different course of conduct than that  
 13 which gave rise to the first such conviction and who was convicted of such second offense  
 14 shall also be revoked by the department as provided by this Code section. Any driver's  
 15 license revoked under this subsection shall not be reinstated. A plea of nolo contendere  
 16 shall be considered a conviction for purposes of this subsection. Notice of revocation shall  
 17 be given by certified mail or statutory overnight delivery, return receipt requested; or, in  
 18 lieu thereof, notice may be given by personal service upon such person. Such license shall  
 19 be surrendered within ten days of notification of such revocation. Notice given by certified  
 20 mail or statutory overnight delivery, return receipt requested, mailed to the person's last  
 21 known address shall be prima-facie evidence that such person received the required notice.  
 22 (b) A person whose driver's license has been revoked under subsection (a) of this Code  
 23 section shall:

24 (1) Except as otherwise provided by paragraph (2) of this subsection:

25 (A) Upon a first such revocation, be eligible to apply for and, subject to the  
 26 examination requirements of Code Section 40-5-27 and payment of required fees, be  
 27 issued a new driver's license six months from the date on which the revoked license  
 28 was surrendered to and received by the department; and

29 (B) Upon a second or subsequent such revocation, be eligible to apply for and, subject  
 30 to the examination requirements of Code Section 40-5-27 and payment of required fees,  
 31 be issued a new driver's license 12 months from the date on which the revoked license  
 32 was surrendered to and received by the department; or

33 (2)(A) If the driver's license was revoked upon conviction for violation of Code  
 34 Section 40-6-391 and the driver's alcohol concentration at the time of the offense was  
 35 0.08 grams or more, be eligible to apply for and, subject to the examination  
 36 requirements of Code Section 40-5-27 and payment of required fees, be issued a new

1 driver's license 12 months from the date on which the revoked license was surrendered  
2 to and received by the department.

3 (B) If the driver's license was revoked upon conviction for committing while under age  
4 18 any second moving traffic violation which arose out of a different course of conduct  
5 than that which gave rise to the first such conviction, such person shall be eligible to  
6 apply for and, subject to the examination requirements of Code Section 40-5-27 and  
7 payment of required fees, be issued a new driver's license on or after such person's  
8 eighteenth birthday."

9 PART 2

10 SECTION 2-1.

11 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle  
12 drivers' licenses, is amended by striking paragraph (11) of subsection (a) of Code Section  
13 40-5-21, relating to licensing exemptions, and inserting in lieu thereof the following:

14 "(11) Any resident who is 15 years of age or over while taking actual in-car training in  
15 a training vehicle other than a commercial motor vehicle under the direct personal  
16 supervision of a driving instructor when such driving instructor and training vehicle are  
17 licensed by the Department of Public Safety in accordance with the provisions of Chapter  
18 13 of Title 43, 'The Driver Training School License Act,' ~~or when such driving instructor~~  
19 ~~and vehicle are approved by the State Department of Education for a driver education~~  
20 ~~program offered by a public high school, provided that the course is open only to students~~  
21 ~~of such accredited school.~~ As used in the previous sentence, the term 'commercial motor  
22 vehicle' shall have the meaning specified in Code Section 40-5-142. All vehicles utilized  
23 for the in-car training authorized under this paragraph shall be equipped with dual  
24 controlled brakes and shall be marked with signs in accordance with the Department of  
25 Public Safety ~~or Department of Education~~ rules clearly identifying such vehicles as  
26 training cars belonging to a licensed driving school ~~or public high school~~. A driving  
27 instructor shall test the eyesight of any unlicensed person who will be receiving actual  
28 in-car training prior to commencement of such training, and no unlicensed driver shall  
29 receive in-car training unless such person has at least the visual acuity and horizontal  
30 field of vision as is required for issuance of a driver's license in subsection (c) of Code  
31 Section 40-5-27."

## PART 3

## SECTION 3-1.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle drivers' licenses, is amended by striking paragraph (11) of subsection (a) of Code Section 40-5-21, relating to licensing exemptions, and inserting in lieu thereof the following:

"(11) Any resident who is 15 years of age or over while taking actual in-car training in a training vehicle other than a commercial motor vehicle under the direct personal supervision of a driving instructor when such driving instructor and training vehicle are licensed by the department in accordance with the provisions of Chapter 13 of Title 43, 'The Driver Training School License Act,' ~~or when such driving instructor and vehicle are approved by the State Department of Education for a driver education program offered by a public high school, provided that the course is open only to students of such accredited school.~~ As used in the previous sentence, the term 'commercial motor vehicle' shall have the meaning specified in Code Section 40-5-142. All vehicles utilized for the in-car training authorized under this paragraph shall be equipped with dual controlled brakes and shall be marked with signs in accordance with the Department of Motor Vehicle Safety ~~or Department of Education~~ rules clearly identifying such vehicles as training cars belonging to a licensed driving school ~~or public high school~~. A driving instructor shall test the eyesight of any unlicensed person who will be receiving actual in-car training prior to commencement of such training, and no unlicensed driver shall receive in-car training unless such person has at least the visual acuity and horizontal field of vision as is required for issuance of a driver's license in subsection (c) of Code Section 40-5-27."

## PART 4

## SECTION 4-1.

(a) This Act shall become effective on January 1, 2002, except as otherwise provided by subsection (b) of this section.

(b) Each provision amended in Part 3 of this Act shall become effective and supersede that respective provision amended in Part 2 of this Act on January 1, 2002, or on such date thereafter as that same provision, as amended by an Act approved April 28, 2000 (Ga. L. 2000, p. 951), becomes fully effective pursuant to Section 13-1 of that 2000 Act, whichever is later.

1

**SECTION 4-2.**

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