SENATE SUBSTITUTE TO HB 385:

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to change certain provisions relating to instruction permits, graduated licensing and related restrictions, and temporary licenses; to change certain provisions relating to expiration and renewal of motor vehicle drivers´ licenses and reexaminations; to change certain provisions relating to implied consent to chemical tests; to change certain provisions relating to suspension or revocation of license of habitually negligent or dangerous driver and the point system; to change certain provisions relating to chemical tests to determine whether a driver is under the influence of alcohol or drugs, implied consent notices, rights of motorists, and administrative procedures; to change certain provisions relating to possession of an open container of alcoholic beverage while operating vehicle; to change certain provisions relating to driving under the influence of alcohol, drugs, or other intoxicating substances; to change certain provisions relating to chemical tests for alcohol or drugs; to define the offense of aggressive driving and provide punishment for such offense; to change certain provisions relating to surrender of license plates of habitual violators; to change certain provisions relating to revocation of licenses of persons under age 21 for certain offenses and issuance of new licenses following revocations; to change certain provisions relating to periods of suspension and conditions to return of driver´s license; to change certain provisions relating to terms and conditions for suspension of driver´s license under subsection (c) of Code Section 40-5-67.1; to amend Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to ignition interlock devices as condition of probation, so as to change certain provisions relating to court ordered installation of ignition interlock devices, completion of alcohol and drug reduction program, notice to the Department of Public Safety, and fees for drivers´ licenses; to change certain provisions relating to proof of compliance required for reinstatement of certain drivers´ licenses and for obtaining probationary licenses and reporting requirements; to amend Code Section 43-13-10 of the Official Code of Georgia Annotated, relating to exceptions to operation of ″The Driver Training School License Act,″ so as to expressly authorize driver training courses to be

conducted by secondary schools; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-0.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended in Code Section 40-5-24, relating to instruction permits, graduated licensing and related restrictions, and temporary licenses, by striking "and" at the end of division (b)(1)(A)(iv), striking the period and inserting "; and" in lieu thereof at the end of subparagraph (b)(1)(B), and inserting a new subparagraph (b)(1)(C) to read as follows:

″(C) In all counties of this state having a population of 500,000 or more according to the United States decennial census of 2000 or any future such census, no Class D license holder less than 17 years of age shall drive a Class C motor vehicle upon the public roads, streets, or highways unless accompanied by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver.″

SECTION 1-0A.

Said title is further amended in Code Section 40-5-32, relating to expiration and renewal of motor vehicle drivers´ licenses and reexaminations, is amended by adding a new subsection (c) to read as follows:

″(c)(1) In addition to providing for renewal of drivers´ licenses for licensees making applications for renewals in person at facilities staffed by the department, the department shall initiate a pilot program which, not later than July 1, 2002, provides certain licensees the option of remote renewals of drivers´ licenses upon applications submitted to the department either by electronic means of computer Internet communications or by mail, subject to the requirements of this Code section.

(2) For purposes of this subsection, the department may provide for electronic or mail submission of results of eyesight examinations required by subsection (b) of this Code section and obtained by licensed physicians, ophthalmologists, and optometrists; provided, however, that any person conducting an eyesight examination solely for the purpose of a remote driver´s license renewal shall not charge any fee exceeding $10.00 for such examination and reporting of results.

(3) The department may impose, in addition to all other fees provided by law, a remote renewal surcharge of not more than $5.00 on any driver´s license renewed after July 1, 2002, by means of computer Internet communications or by mail.

(4) The department shall accept payment of all fees and surcharges for such remote renewals by means of valid credit cards, and the provisions of subsections (f) and (g) of Code Section 50-1-6 shall apply to such transactions; the remaining provisions of Code Section 50-1-6 shall not apply to such transactions.″

SECTION 1-1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended in Code Section 40-5-55, relating to implied consent to chemical tests, by striking subsection (a) and inserting in lieu thereof the following:

″(a) The State of Georgia considers that ~~the persons who are under the influence of alcohol or drugs while operating a motor vehicle or who have a blood alcohol concentration of 0.10 grams or more at any time within three hours after operating a motor vehicle from alcohol consumed before such driving or actual physical control ended or who have any amount of marijuana or any controlled substance without prescription present in their blood or urine, without regard to the presence of alcohol, while operating a motor vehicle constitute~~ <u>any person who drives or is in actual physical control of any moving vehicle in violation of any provision of Code Section 40-6-391 constitutes</u> a direct and immediate threat to the welfare and safety of the general public. Therefore, any person who operates a motor vehicle upon the highways or elsewhere throughout this state shall be deemed to have given consent, subject to Code Section 40-6-392, to a chemical test or tests of his or her blood, breath, urine, or other bodily substances for the purpose of determining the presence of alcohol or any other drug, if arrested for any offense arising out of acts alleged to have been committed in violation of Code Section 40-6-391 or if such person is involved in any traffic accident resulting in serious injuries or fatalities. The test or tests shall be administered at the request of a law enforcement officer having reasonable grounds to believe that the person has been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state in violation of Code Section 40-6-391. The test or tests shall be administered as soon as possible to any person who operates a motor vehicle upon the highways or elsewhere throughout this state who is involved in any traffic accident resulting in serious injuries or fatalities. Subject to Code Section 40-6-392, the requesting law enforcement officer shall designate which of the test or tests shall be administered, provided a blood test with drug screen may be administered to any person operating a motor vehicle involved in a traffic accident resulting in serious injuries or fatalities.″

SECTION 1-2.

Said title is further amended in Code Section 40-5-57, relating to suspension or revocation of license of habitually negligent or dangerous driver and the point system, by striking subparagraph (c)(1)(A) and inserting in lieu thereof the following:

″(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be assessed for each offense shall be as provided in the following schedule:

Aggressive driving	6 points
Reckless driving	4 points
Unlawful passing of a school bus	6 points
Improper passing on a hill or a curve	4 points
Exceeding the speed limit by more than 14 miles per hour but less than 19 miles per hour	2 points
Exceeding the speed limit by 19 miles per hour or more but less than 24 miles per hour	3 points
Exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour	4 points
Exceeding the speed limit by 34 miles per hour or more	6 points
Disobedience of any traffic-control device or traffic officer	3 points
Too fast for conditions	0 points
Possessing an open container of an alcoholic beverage while driving	2 points
Failure to adequately secure a load, except fresh farm produce, resulting in loss of such load onto the roadway which results in an accident	2 points
Violation of child safety restraint requirements, first offense	1 point
Violation of child safety restraint requirements, second or subsequent offense	2 points
All other moving traffic violations which are not speed limit violations	3 points″

SECTION 1-3.

Said title is further amended in Code Section 40-5-67.1, relating to chemical tests to determine whether a driver is under the influence of alcohol or drugs, implied consent notices, rights of motorists, and administrative procedures, by striking paragraphs (1) and (2) of subsection (b), subsection (c), and subparagraph (g)(2)(E) and inserting in lieu thereof the following:

″(1) Implied consent notice for suspects under age 21:

'Georgia law requires you to submit to state administered chemical tests of your blood, breath, urine, or other bodily substances for the purpose of determining if you are under

the influence of alcohol or drugs. If you refuse this testing, your Georgia driver´s license or privilege to drive on the highways of this state will be suspended for a minimum period of one year. Your refusal to submit to the required testing may be offered into evidence against you at trial. If you submit to testing and the results indicate an alcohol concentration of 0.02 grams or more, your Georgia driver´s license or privilege to drive on the highways of this state ~~will be suspended and, if you are convicted of having such an alcohol concentration, will be revoked~~ may be suspended for a minimum period of one year. After first submitting to the required state tests, you are entitled to additional chemical tests of your blood, breath, urine, or other bodily substances at your own expense and from qualified personnel of your own choosing. Will you submit to the state administered chemical tests of your (designate which tests) under the implied consent law?'

(2) Implied consent notice for suspects age 21 or over:

'Georgia law requires you to submit to state administered chemical tests of your blood, breath, urine, or other bodily substances for the purpose of determining if you are under the influence of alcohol or drugs. If you refuse this testing, your Georgia driver´s license or privilege to drive on the highways of this state will be suspended for a minimum period of one year. Your refusal to submit to the required testing may be offered into evidence against you at trial. If you submit to testing and the results indicate an alcohol concentration of ~~0.10~~ 0.08 grams or more, your Georgia driver´s license or privilege to drive on the highways of this state may be suspended for a minimum period of one year. After first submitting to the required state tests, you are entitled to additional chemical tests of your blood, breath, urine, or other bodily substances at your own expense and from qualified personnel of your own choosing. Will you submit to the state administered chemical tests of your (designate which tests) under the implied consent law?'"

"(c) If a person under arrest or a person who was involved in any traffic accident resulting in serious injuries or fatalities submits to a chemical test upon the request of a law enforcement officer and the test results indicate that a suspension or disqualification is required under this Code section, the results shall be reported to the department. Upon the receipt of a sworn report of the law enforcement officer that the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a moving motor vehicle upon the ~~highway~~ highways or elsewhere throughout this state in violation of Code Section 40-6-391 or that such person had been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state and was involved in a traffic accident involving serious injuries or fatalities and that the person submitted to a chemical test at the request of the law enforcement officer and

the test results indicate either an alcohol concentration of ~~0.10~~ 0.08 grams or more or, for a person under the age of 21, an alcohol concentration of 0.02 grams or more, the department shall suspend the person´s driver´s license, permit, or nonresident operating privilege pursuant to Code Section 40-5-67.2, subject to review as provided for in this chapter. Upon the receipt of a sworn report of the law enforcement officer that the arrested person had been operating or was in actual physical control of a moving commercial motor vehicle and the test results indicate an alcohol concentration of 0.04 grams or more, the department shall disqualify the person from operating a motor vehicle for a minimum period of one year.″

″(E) Whether a test or tests were administered and the results indicated an alcohol concentration of ~~0.10~~ 0.08 grams or more or, for a person under the age of 21, an alcohol concentration of 0.02 grams or more or, for a person operating or having actual physical control of a commercial motor vehicle, an alcohol concentration of 0.04 grams or more; and″

SECTION 1-4.

Said title is further amended by striking Code Section 40-6-253, relating to possession of open container of alcoholic beverage while operating vehicle, and inserting in lieu thereof the following:

″40-6-253.

(a) As used in this Code section, '~~open~~ the term:

(1) 'Alcoholic beverage' means:

(A) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(B) Wine of not less than one-half of 1 percent of alcohol by volume; or

(C) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(2) 'Open alcoholic beverage container' means any ~~container which is immediately capable of being consumed from or the seal of which has been broken~~ bottle, can, or other receptacle that:

(A) Contains any amount of alcoholic beverage; and

(B)(i) Is open or has a broken seal; or

(ii) The contents of which are partially removed.

(3) 'Passenger area' means the area designed to seat the driver and passengers while a

motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position; provided, however, that such term does not include any locked glove compartment or, in a passenger car not equipped with a trunk, any area behind the rearmost upright seat or not normally occupied by the driver or passengers.

(b)(1) ~~No person shall possess an open container of any alcoholic beverage while operating a vehicle in this state.~~ A person shall not:

(A) Consume any alcoholic beverage; or

(B) Possess any open alcoholic beverage container

in the passenger area of any motor vehicle which is on the roadway or shoulder of any public highway.

(2) The provisions of paragraph (1) of this subsection shall not apply to any passenger in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or house trailer.

(3) ~~For the purposes of this Code section, an open container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger and is not located in a locked glove compartment, locked trunk, or other locked nonpassenger area of the vehicle~~ Only a person who consumes an alcoholic beverage or possesses an open alcoholic beverage container in violation of this Code section shall be charged with such offense; provided, however, that an operator of a motor vehicle who is alone in the passenger area of such motor vehicle shall be deemed to be in possession of any open alcoholic beverage container in such passenger area.

(c) Any person who violates this Code section is subject to a fine not to exceed $200.00.

~~(d) A county or municipal corporation ordinance which imposes more stringent restrictions on the possession of alcoholic beverages in vehicles than those imposed by this Code section shall not be preempted by this Code section.~~″

SECTION 1-5.

Said title is further amended in Code Section 40-6-391, relating to driving under the influence of alcohol, drugs, or other intoxicating substances, by striking paragraph (5) of subsection (a), paragraphs (2) and (3) of subsection (c), and paragraph (4) of subsection (k) and inserting in lieu thereof the following:

″(5) The person´s alcohol concentration is ~~0.10~~ 0.08 grams or more at any time within three hours after such driving or being in actual physical control from alcohol consumed before such driving or being in actual physical control ended; or″

″(2) For the second conviction within a five-year period of time, as measured from the

dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted:

(A) A fine of not less than $600.00 nor more than $1,000.00, which fine shall not, except as provided in subsection (g) of this Code section, be subject to suspension, stay, or probation;

(B) A period of imprisonment of not less than 90 days nor more than 12 months. ~~At the sole discretion and under such terms and conditions as the judge shall impose, the judge may suspend, stay, or probate all but 48 hours of any term of imprisonment imposed under this subparagraph~~ The judge shall probate at least a portion of such term of imprisonment, in accordance with subparagraph (F) of this paragraph, thereby subjecting the offender to the provisions of Article 7 of Chapter 8 of Title 42 and to such other terms and conditions as the judge may impose; provided, however, that the offender shall be required to serve not less than five days of actual incarceration;

(C) Not less than 80 hours of community service, except that for a second conviction for violation of subsection (k) of this Code section where the person´s alcohol concentration at the time of the offense was less than 0.08 grams, the period of community service shall be not less than 40 hours;

(D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources. The sponsor of any such program shall provide written notice of such approval to the person upon enrollment in the program;

(E) Undergoing a clinical evaluation as defined in Code Section 40-5-1 and, if indicated by such evaluation, completion of a substance abuse treatment program as defined in Code Section 40-5-1; and

(F) ~~If the defendant is sentenced to a period of imprisonment for less than 12 months, a~~ A period of probation of 12 months less any days during which the defendant is actually incarcerated; or

(3) For the third or subsequent conviction within a five-year period of time, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted:

(A) A fine of not less than $1,000.00 and not more than $5,000.00, which fine shall not, except as provided in subsection (g) of this Code section, be subject to suspension, stay, or probation;

(B) A mandatory period of imprisonment of not less than 120 days nor more than 12 months. ~~At the sole discretion and under such terms and conditions as the judge shall impose, the judge may suspend, stay, or probate all but ten days of any term of~~

~~imprisonment imposed under this subparagraph~~ The judge shall probate at least a portion of such term of imprisonment, in accordance with subparagraph (F) of this paragraph, thereby subjecting the offender to the provisions of Article 7 of Chapter 8 of Title 42 and to such other terms and conditions as the judge may impose; provided, however, that the offender shall be required to serve not less than ten days of actual incarceration;

(C) Not less than 20 days of community service, except that for a third or subsequent conviction for violation of subsection (k) of this Code section where the person´s alcohol concentration at the time of the offense was less than 0.08 grams, the period of community service shall be not less than 40 hours;

(D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources. The sponsor of any such program shall provide written notice of such approval to the person upon enrollment in the program;

(E) Undergoing a clinical evaluation as defined in Code Section 40-5-1 and, if indicated by such evaluation, completion of a substance abuse treatment program as defined in Code Section 40-5-1; and

(F) ~~If the defendant is sentenced to a period of imprisonment for less than 12 months, a~~ A period of probation of 12 months less any days during which the defendant is actually incarcerated.″

″~~(4) The driver´s license of any person convicted of violating this subsection shall be revoked as provided by Code Section 40-5-57.1.~~″

SECTION 1-6.

Said title is further amended in Code Section 40-6-392, relating to chemical tests for alcohol or drugs, by striking subsections (b), (c), and (e) and inserting in lieu thereof the following:

″(b) Except as provided in subsection (c) of this Code section, upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person in violation of Code Section 40-6-391, the amount of alcohol in the person´s blood at the time alleged, as shown by chemical analysis of the person´s blood, urine, breath, or other bodily substance, ~~shall~~ may give rise to ~~the following presumptions~~ inferences as follows:

(1) If there was at that time an alcohol concentration of 0.05 grams or less, ~~it shall be presumed~~ the trier of fact in its discretion may infer therefrom that the person was not under the influence of alcohol, as prohibited by paragraphs (1)~~, (2),~~ and (4) of subsection (a) of Code Section 40-6-391; or

(2) If there was at that time an alcohol concentration in excess of 0.05 grams but less than 0.08 grams, such fact shall not give rise to any ~~presumption~~ inference that the person

was or was not under the influence of alcohol, as prohibited by paragraphs (1)~~, (2),~~ and (4) of subsection (a) of Code Section 40-6-391, but such fact may be considered by the trier of fact with other competent evidence in determining whether the person was under the influence of alcohol, as prohibited by paragraphs (1)~~, (2),~~ and (4) of subsection (a) of Code Section 40-6-391~~;~~.

~~(3) If there was at that time an alcohol concentration of 0.08 grams or more, it shall be presumed that the person was under the influence of alcohol, as prohibited by paragraphs (1), (2), and (4) of subsection (a) of Code Section 40-6-391; and~~

~~(4)~~(c)(.1) In any civil or criminal action or proceeding arising out of acts alleged to have been committed in violation of paragraph (5) of subsection (a) of Code Section 40-6-391, if ~~If~~ there was at that time or within three hours after driving or being in actual physical control of a moving vehicle from alcohol consumed before such driving or being in actual physical control ended an alcohol concentration of ~~0.10~~ 0.08 or more grams in the person´s blood, breath, or urine, the person shall be in violation of paragraph (5) of subsection (a) of Code Section 40-6-391.

~~(c)~~(1) In any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person in violation of subsection (i) of Code Section 40-6-391, if there was at that time or within three hours after driving or being in actual physical control of a moving vehicle from alcohol consumed before such driving or being in actual physical control ended an alcohol concentration of 0.04 grams or more in the person´s blood, breath, or urine, the person shall be in violation of subsection (i) of Code Section 40-6-391.

(2) In any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person in violation of subsection (k) of Code Section 40-6-391, if there was at that time or within three hours after driving or being in actual physical control of a moving vehicle from alcohol consumed before such driving or being in actual physical control ended an alcohol concentration of 0.02 grams or more in the person´s blood, breath, or urine, the person shall be in violation of subsection (k) of Code Section 40-6-391.″

″(e)(1) A certification by the office of the Secretary of State or by the Department of Human Resources that a person who drew blood was a licensed or certified physician, physician´s assistant, registered nurse, practical nurse, medical technologist, medical laboratory technician, or phlebotomist at the time the blood was drawn;

(2) Testimony, under oath, of the blood drawer; or

(3) Testimony, under oath, of the blood drawer´s supervisor or medical records custodian that the blood drawer was properly trained and authorized to draw blood as an employee of the medical facility or employer

shall be admissible into evidence for the purpose of establishing that such person was qualified to draw blood as required by this Code section.″

SECTION 1-7.

Said title is further amended by adding a new Code Section 40-6-397 to read as follows:

″40-6-397.

(a) A person commits the offense of aggressive driving when he or she operates any motor vehicle with the intent to annoy, harass, molest, intimidate, injure, or obstruct another person, including without limitation violating Code Section 40-6-42, 40-6-48, 40-6-49, 40-6-123, 40-6-184, 40-6-312, or 40-6-390 with such intent.

(b) Any person convicted of aggressive driving shall be guilty of a misdemeanor of a high and aggravated nature.″

SECTION 1-8.

Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to ignition interlock devices as condition of probation, is amended by striking Code Section 42-8-111, relating to court ordered installation of ignition interlock devices, completion of alcohol and drug reduction program, notice to the Department of Public Safety, and fees for drivers´ licenses, and inserting in lieu thereof the following:

″42-8-111.

(a) In addition to any other provision of probation, upon a second or subsequent conviction of a resident of this state for violating Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, for which such person is granted probation, the court shall order as ~~a condition~~ conditions of probation that:

(1) Such ~~such~~ person shall have installed and shall maintain in ~~a~~ each motor vehicle registered in such person´s name throughout the applicable six-month period prescribed by subsection (b) of Code Section 42-8-112 a functioning, certified ignition interlock device, unless the court exempts the person from the requirements of this paragraph based upon the court´s determination that such requirements would subject the person to undue financial hardship; and ~~that such~~

(2) Such person shall have installed and shall maintain in any other motor vehicle to be driven by such person during the applicable six-month period prescribed by subsection (b) of Code Section 42-8-112 a functioning, certified ignition interlock device, and such person shall not during such six-month period drive any motor vehicle whatsoever that is not so equipped~~;~~

~~provided, however, that if a person subject to the provisions of this subsection is authorized~~

~~under Code Section 40-5-63 to apply for reinstatement of his or her driver´s license during the period of license suspension provided by said Code section, the court may in lieu of ordering such installation and use of an ignition interlock device order that such person shall not be eligible for any limited driving permit prior to license reinstatement.~~ For the purposes of this subsection, a plea of nolo contendere shall constitute a conviction; and a conviction of any offense under the law of another state or territory substantially conforming to any offense under Code Section 40-6-391 shall be deemed a conviction of violating said Code section.

(b) Any resident of this state who is ordered to ~~obtain and~~ use an ignition interlock device, as a condition of probation, shall complete the DUI Alcohol or Drug Use Risk Reduction Program and submit to the court or probation department a certificate of completion of the DUI Alcohol or Drug Use Risk Reduction Program and certification of installation of a certified ignition interlock device to the extent required by subsection (a) of this Code section.

(c)~~(1) If use of an ignition interlock device is ordered~~ In the case of any person subject to the provisions of subsection (a) of this Code section, the court shall include in the record of conviction or violation submitted to the Department of Public Safety or its successor agency notice of the requirement for, and the period of the requirement for, the use of a certified ignition interlock device. Such notice shall specify any exemption from the installation requirements of paragraph (1) of subsection (a) of this Code section and any vehicles subject to the installation requirements of paragraph (2) of said subsection. The records of the Department of Public Safety or its successor agency shall contain a record reflecting mandatory use of such device and the person´s driver´s license or limited driving permit shall contain a notation that the person may only operate a motor vehicle equipped with a functioning, certified ignition interlock device.

~~(2) In the case of any person subject to the provisions of subsection (a) of this Code section, unless and until the Department of Public Safety has received notice from the court that issuance of a limited driving permit prior to license reinstatement has been prohibited, the records of said department shall reflect that installation and use of an ignition interlock device has been required.~~

~~(3) If an order prohibiting issuance of a limited driving permit prior to license reinstatement is issued pursuant to subsection (a) of this Code section, the court shall include in the record of conviction or violation submitted to the Department of Public Safety notice of such prohibition. The records of the Department of Public Safety shall contain a record reflecting such prohibition.~~

(d) Except as provided in Code Section 42-8-112, no provision of this article shall be deemed to reduce any period of driver´s license suspension or revocation otherwise

imposed by law.

(e) The fee for issuance of any driver´s license indicating that use of an ignition interlock device is required shall be as prescribed for a regular driver´s license in Code Section 40-5-25, and the fee for issuance of any limited driving permit indicating that use of an ignition interlock device is required shall be as prescribed for a limited driving permit in Code Section 40-5-64; except that, for habitual violators required to use an ignition interlock device as a condition of a probationary license, the fee shall be as prescribed for a probationary license in Code Section 40-5-58.″

SECTION 1-9.

Said article is further amended by striking Code Section 42-8-112, relating to proof of compliance required for reinstatement of certain drivers´ licenses and for obtaining probationary licenses and reporting requirements, and inserting in lieu thereof the following:

″42-8-112.

(a) In any case where the court imposes the use of an ignition interlock device as a condition of probation on a resident of this state whose driving privilege is not suspended or revoked, the court shall require the person to surrender his or her driver´s license to the court immediately and provide proof of compliance with such order to the court or the probation officer and obtain an ignition interlock device restricted driving license within 30 days. Upon expiration of the period of time for which such person is required to use an ignition interlock device, the person may apply for and receive a regular driver´s license upon payment of the fee provided for in Code Section 40-5-25. If such person fails to provide proof of installation to the extent required by subsection (a) of Code Section 42-8-111 and receipt of the restricted driving license within such period, absent a finding by the court of good cause for that failure, which finding is entered in the court´s record, the court shall revoke or terminate the probation.

(b)(1) In any case where the court imposes the use of an ignition interlock device as a condition of probation on a resident of this state whose driving privilege is suspended or revoked, the court shall require the person to provide proof of compliance with such order to the court or the probation officer and the Department of Public Safety or its successor agency not later than the date on which such ~~suspension or revocation concludes~~ person first becomes eligible to apply for an ignition interlock device limited driving permit in accordance with paragraph (2) of this subsection or a habitual violator´s probationary license in accordance with paragraph (3) of this subsection, whichever is applicable. If such person fails to provide proof of installation to the extent required by subsection (a) of Code Section 42-8-111 within the period required by this subsection, ~~the department shall not reinstate such person´s driver´s license and,~~ absent a finding by the court of

good cause for that failure, which finding is entered on the court´s record, the court shall revoke or terminate the probation if such is still applicable.

(2) If the person subject to court ordered ~~installation and~~ use of an ignition interlock device as a condition of probation is authorized under Code Section 40-5-63 or 40-5-67.2 to apply for reinstatement of his or her driver´s license during the period of suspension, such person shall, prior to applying for reinstatement of the license, have an ignition interlock device installed and shall maintain such ignition interlock device in a motor vehicle or vehicles to the extent required by subsection (a) of Code Section 42-8-111 for a period of six months running concurrently with that of an ignition interlock device limited driving permit, which permit shall not be issued until such person submits to the department proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program, proof of having undergone any clinical evaluation and of having enrolled in any substance abuse treatment program required by Code Section 40-5-63.1, and proof of installation of an ignition interlock device on ~~his or her~~ a vehicle or vehicles to the extent required by subsection (a) of Code Section 42-8-111. Such a person may apply for and be issued an ignition interlock device limited driving permit at the end of ~~120 days~~ 12 months after the suspension of the driver´s license. At the expiration of such six-month ignition interlock device limited driving permit, the driver may, if otherwise qualified, apply for reinstatement of a regular driver´s license upon payment of the fee provided in Code Section 40-5-25.

(3) If the person subject to court ordered ~~installation and~~ use of an ignition interlock device as a condition of probation is authorized under Code Section 40-5-58 or under Code Section 40-5-67.2 to obtain a habitual violator´s probationary license, such person shall, if such person is a habitual violator as a result of two or more convictions for driving under the influence of alcohol or drugs, have an ignition interlock device installed~~, shall maintain such device~~ and maintained in a motor vehicle or vehicles to the extent required by subsection (a) of Code Section 42-8-111 for a period of six months following issuance of the probationary license, and such person shall not during such six-month period drive any motor vehicle that is not so equipped, all as conditions of such probationary license. Following expiration of such six-month period with no violation of the conditions of the probationary license, the person may apply for a habitual violator probationary license without such ignition interlock device condition.

(4) In any case where ~~use~~ installation of an ignition interlock device is required, failure to show proof of such device shall be grounds for refusal of reinstatement of such license or issuance of such habitual violator´s probationary license or the immediate suspension or revocation of such license.

(c) Each resident of this state who is required to ~~use~~ have an ignition interlock device

installed pursuant to this article shall report to the provider center every 30 days for the purpose of monitoring the operation of each ~~interlocking~~ required ignition interlock device ~~in the person´s vehicle or vehicles~~. If at any time it is determined that a person has tampered with the device, the probation officer or the court ordering use of such device or, in the case of a driver who is not on probation, the Department of Public Safety or its successor agency shall be given written notice within five days. If an ignition interlock device is found to be malfunctioning, it shall be replaced or repaired, as ordered by the court or the Department of Public Safety or its successor agency, at the expense of the provider.″

SECTION 1-10.

Code Section 43-13-10 of the Official Code of Georgia Annotated, relating to exceptions to operation of ″The Driver Training School License Act,″ is amended by striking subsection (b) and inserting in lieu thereof the following:

″(b) ~~The~~ Any public or private secondary school may conduct driver training courses, subject to the requirement that the provisions of this chapter other than paragraph (2) of Code Section 43-13-4 shall apply to secondary schools conducting driver training courses and to instructors therefor.″

PART II

SECTION 2-1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by striking Code Section 40-2-136, relating to surrender of license plates of habitual violators, and inserting in lieu thereof the following:

″40-2-136.

(a) ~~If a person is convicted of violating Code Section 40-6-391 and the person´s driver´s license is suspended or revoked pursuant to Code Section 40-5-58, the court shall issue an order requiring that the license plate of the motor vehicle which such person was operating at the time of violating Code Section 40-6-391 be surrendered to the court, provided that such motor vehicle is registered in such person´s name. In the event a person was operating a motor vehicle not registered in such person´s name at the time of violating Code Section 40-6-391~~ Upon any person´s second or subsequent conviction of violating Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the court shall issue an order requiring that the license ~~plate of any motor vehicle~~ plates of all motor vehicles registered in such person´s name be surrendered to the

court. The court shall notify the commissioner of public safety and the commissioner of revenue within ten days after issuing any such order, and the commissioner of revenue shall revoke each such license plate upon receiving such notice. The court shall issue a receipt for the surrendered license plate or plates. The court shall forward the surrendered license plate or plates to the local tag agent immediately upon receipt. For purposes of this subsection, a plea of nolo contendere shall constitute a conviction.

(b) Except as provided in subsection (c) of this Code section, no new license plate or plates may be issued to a person subject to a court order issued pursuant to subsection (a) of this Code section until such person has been issued a limited driving permit or probationary driver´s license in accordance with Code Section 42-8-112 or the driver´s license of such person has been reissued or reinstated, whichever first occurs; and, except as provided in this subsection or subsection (c) of this Code section, it shall be a misdemeanor for such person to obtain a new license plate or plates.

(c)(1) A person who is subject to a court order issued pursuant to subsection (a) of this Code section may apply to the commissioner of public safety for authorization to obtain a new license plate or plates bearing a special series of numbers and letters so as to be identifiable by law enforcement officers. Such license plate shall not, in and of itself, constitute probable cause to authorize a traffic stop, search of a motor vehicle, or seizure. The commissioner of public safety shall ~~determine whether the applicant has a valid limited driving permit or probationary license or whether~~ authorize the issuance of such a special license plate only if he or she determines that there is another member of such person´s household who possesses a valid driver´s license and that a co-owner of the vehicle or a member of the offender´s family, other than the offender, is completely dependent upon the motor vehicle for the necessities of life and would be subjected to undue hardship without such special license plate;~~, and~~ in no event shall such ~~determination~~ decision take more than five business days. A local tag agent shall not issue any plates except on written approval of the commissioner of public safety, payment of a $20.00 fee for each vehicle for which a special plate is issued, and compliance by the applicant with all applicable state laws. The written authorization from the commissioner of public safety shall specify the maximum number of license plates a person may obtain.

(2) A motor vehicle owned or leased by a person subject to a court order issued pursuant to subsection (a) of this Code section or for which a license plate has been issued subject to paragraph (1) of this subsection may not be sold or conveyed unless the commissioner of revenue determines, upon receipt of proper application, that the proposed sale or conveyance is in good faith, that the person subject to such court order will be deprived of custody or control of the motor vehicle, and that the sale or conveyance is not for the purpose of circumventing the provisions of this Code section. Upon making such

determination, the commissioner of revenue shall transfer the certificate of title to such vehicle and issue a new certificate of registration and license plate.

(3) If the title to a motor vehicle owned by a person subject to a court order issued pursuant to subsection (a) of this Code section or for which a license plate has been issued pursuant to paragraph (1) of this subsection is transferred by the foreclosure, cancellation of a conditional sales contract, sale upon execution, or order of a court of competent jurisdiction, the commissioner of revenue shall transfer the certificate of title as provided in Code Section 40-3-34 and issue a new license plate to the new registered owner.

(4) Upon full restoration of the driving privileges of a person subject to a court order under subsection (a) of this Code section, the commissioner of public safety shall authorize the person to apply for a regular issue license plate. The fee for a regular issue license plate shall be as provided by Code Section 48-10-2. As a condition of obtaining any regular issue license plate, the person shall surrender his or her special issue license plate to the local tag agent.

(5) Nothing in this Code section shall be deemed to waive any lawful requirement for the issuance of a license plate including, but not limited to, proof of financial responsibility.

(6) Display of a license plate issued pursuant to paragraph (1) of this subsection shall not constitute probable cause for stopping or detaining a vehicle.

(7) Any person aggrieved by a decision of the commissioner of public safety pursuant to paragraph (1) of this subsection may make a request in writing to the Office of State Administrative Hearings for a hearing. Such hearing shall follow the procedures required by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'″

SECTION 2-2.

Said title is further amended by striking Code Section 40-5-57.1, relating to revocation of licenses of persons under age 21 for certain offenses and issuance of new licenses following revocations, and inserting in lieu thereof the following:

″40-5-57.1.

(a) Notwithstanding any other provision of this chapter, the driver´s license of any person under 21 years of age convicted of hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57, purchasing an alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23, or violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23, or violation of Code Section 40-6-391 shall be ~~revoked~~ suspended by the department as provided by

this Code section~~, and a driver´s license revoked under this subsection shall not be reinstated~~. A plea of nolo contendere shall be considered a conviction for purposes of this subsection. Notice of ~~revocation~~ suspension shall be given by certified mail or statutory overnight delivery, return receipt requested; or, in lieu thereof, notice may be given by personal service upon such person. Such license shall be surrendered within ten days of notification of such ~~revocation~~ suspension. Notice given by certified mail or statutory overnight delivery, return receipt requested, mailed to the person´s last known address shall be prima-facie evidence that such person received the required notice.

(b) A person whose driver´s license has been ~~revoked~~ suspended under subsection (a) of this Code section shall:

(1) ~~Except~~ Subject to the requirements of subsection (c) of this Code section and except as otherwise provided by paragraph (2) of this subsection:

(A) Upon a first such ~~revocation~~ suspension, be eligible to apply for license reinstatement and, subject to successful recompletion of the examination requirements of Code Section 40-5-27 and payment of required fees, ~~be issued a new driver´s license~~ have his or her driver´s license reinstated six months from the date on which the ~~revoked~~ suspended license was surrendered to and received by the department; and

(B) Upon a second or subsequent such ~~revocation~~ suspension, be eligible to apply for license reinstatement and, subject to successful recompletion of the examination requirements of Code Section 40-5-27 and payment of required fees, ~~be issued a new driver´s license~~ have his or her driver´s license reinstated 12 months from the date on which the ~~revoked~~ suspended license was surrendered to and received by the department; or

(2) If the driver´s license was ~~revoked~~ suspended upon conviction for violation of Code Section 40-6-391, be subject to the provisions of Code Section 40-5-63; except that if such driver was convicted of driving under the influence of alcohol or of having an unlawful alcohol concentration and is otherwise subject to the provisions of paragraph (1) of subsection (a) of Code Section 40-5-63, then such person shall not be eligible for a limited driving permit under Code Section 40-5-64, and:

(A) If the driver´s alcohol concentration at the time of the offense was less than 0.08 grams, he or she shall not be eligible for license reinstatement until the end of six months; or

(B) If ~~and~~ the driver´s alcohol concentration at the time of the offense was 0.08 grams or more, he or she shall not be eligible for license reinstatement until the end of 12 months.

Any driver subject to the provisions of this paragraph shall, as an additional prerequisite for license reinstatement, be required to successfully recomplete ~~be eligible to apply for~~

~~and, subject to~~ the examination requirements of Code Section 40-5-27 ~~and payment of required fees, be issued a new driver´s license 12 months from the date on which the revoked license was surrendered to and received by the department~~.

(b.1) In any case where a person´s driver´s license was administratively suspended as a result of the offense for which the person´s driver´s license has been ~~revoked~~ suspended pursuant to this Code section, the administrative license suspension period and the license ~~revocation~~ suspension period provided by this Code section may run concurrently, and any completed portion of such administrative license suspension period shall apply toward completion of the license ~~revocation~~ suspension period provided by this Code section.

~~(c) Any person whose driver´s license is revoked under subsection (a) of this Code section for violation of Code Section 40-6-391 shall not be issued a new driver´s license without submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and payment of a fee equivalent to that required for restoration of a suspended driver´s license under paragraph (1) of subsection (a) of Code Section 40-5-67.2; provided, however, that such fee shall not be required for the issuance of a new driver´s license under this subsection if such person´s driver´s license was administratively suspended as a result of the offense for which the person´s driver´s license has been revoked pursuant to this Code section and the restoration fee was paid for such suspended driver´s license.~~

~~(d)~~(c) Any ~~person whose~~ driver´s license ~~is revoked~~ suspended under subsection (a) of this Code section for commission of any offense other than violation of Code Section 40-6-391 shall not ~~be issued a new driver´s license without submitting~~ become valid and shall remain suspended until such person submits proof of completion of a defensive driving program approved by the Department of Public Safety and ~~payment of~~ pays a fee equivalent to that required for restoration of a suspended driver´s license under paragraph (1) of subsection (a) of Code Section 40-5-63; provided, however, that such fee shall not be required ~~for the issuance of a new driver´s license~~ under this subsection if such person´s driver´s license was administratively suspended as a result of the offense for which the person´s driver´s license has been ~~revoked~~ suspended pursuant to this Code section and the restoration fee was paid for such administratively suspended driver´s license.″

SECTION 2-3.

Said title is further amended in Code Section 40-5-63, relating to periods of suspension and conditions to return of license, by striking paragraph (2) of subsection (a) and inserting in lieu thereof the following:

″(2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the

current arrest for which a conviction is obtained, the period of suspension shall be for three years. At the end of 120 days, the person may apply to the Department of Public Safety for reinstatement of said driver´s license; except that if such license was suspended as a result of a second conviction of a violation of Code Section 40-6-391 within five years, the person shall not be eligible to apply for license reinstatement until the end of ~~ten~~ 18 months. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays a restoration fee of $210.00 or $200.00 when processed by mail, provided that, if such license was suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated if such person submits proof of completion of either a defensive driving program approved by the Department of Public Safety or a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays the prescribed restoration fee. A driver´s license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays the prescribed restoration fee. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period of time shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere to a charge of violating Code Section 40-6-391 and all prior accepted pleas of nolo contendere within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions; or″

SECTION 2-4.

Said title is further amended in Code Section 40-5-67.2, relating to terms and conditions for suspension of license under subsection (c) of Code Section 40-5-67.1, by striking paragraph (2) of subsection (a) and inserting in lieu thereof the following:

″(2) Upon the second suspension pursuant to subsection (c) of Code Section 40-5-67.1 within five years, as measured from the dates of previous arrests for which suspensions were obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for three years. ~~Not sooner than 120 days following the effective date of suspension, the person may apply to the Department of Public Safety for reinstatement of the person´s driver´s license; except that if such license was suspended as a result of a second arrest for violation of Code Section 40-6-391 within five years, the~~

The person shall be eligible to apply to the department for license reinstatement not sooner than ~~ten~~ 18 months following the effective date of suspension. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays a restoration fee of $210.00 or $200.00 when processed by mail. A driver´s license suspended pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays the prescribed restoration fee.″

PART III

SECTION 3-1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by striking Code Section 40-2-136, relating to surrender of license plates of habitual violators, and inserting in lieu thereof the following:

″40-2-136.

(a) ~~If a person is convicted of violating Code Section 40-6-391 and the person´s driver´s license is suspended or revoked pursuant to Code Section 40-5-58, the court shall issue an order requiring that the license plate of the motor vehicle which such person was operating at the time of violating Code Section 40-6-391 be surrendered to the court, provided that such motor vehicle is registered in such person´s name. In the event a person was operating a motor vehicle not registered in such person´s name at the time of violating Code Section 40-6-391~~ Upon any person´s second or subsequent conviction of violating Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the court shall issue an order requiring that the license ~~plate of any motor vehicle~~ plates of all motor vehicles registered in such person´s name be surrendered to the court. The court shall notify the commissioner within ten days after issuing any such order, and the commissioner shall revoke each such license plate upon receiving such notice. The court shall issue a receipt for the surrendered license plate or plates. The court shall forward the surrendered license plate or plates to the local tag agent immediately upon receipt. For purposes of this subsection, a plea of nolo contendere shall constitute a conviction.

(b) Except as provided in subsection (c) of this Code section, no new license plate or plates may be issued to a person subject to a court order issued pursuant to subsection (a) of this Code section until such person has been issued a limited driving permit or probationary

driver´s license in accordance with Code Section 42-8-112 or the driver´s license of such person has been reissued or reinstated, whichever first occurs; and, except as provided in this subsection or subsection (c) of this Code section, it shall be a misdemeanor for such person to obtain a new license plate or plates.

(c)(1) A person who is subject to a court order issued pursuant to subsection (a) of this Code section may apply to the commissioner for authorization to obtain a new license plate or plates bearing a special series of numbers and letters so as to be identifiable by law enforcement officers. Such license plate shall not, in and of itself, constitute probable cause to authorize a traffic stop, search of a motor vehicle, or seizure. The commissioner shall ~~determine whether the applicant has a valid limited driving permit or probationary license or whether~~ authorize the issuance of such a special license plate only if he or she determines that there is another member of such person´s household who possesses a valid driver´s license and that a co-owner of the vehicle or a member of the offender´s family, other than the offender, is completely dependent upon the motor vehicle for the necessities of life and would be subjected to undue hardship without such special license plate;~~, and~~ in no event shall such ~~determination~~ decision take more than five business days. A local tag agent shall not issue any plates except on written approval of the commissioner, payment of a $20.00 fee for each vehicle for which a special plate is issued, and compliance by the applicant with all applicable state laws. The written authorization from the commissioner shall specify the maximum number of license plates a person may obtain.

(2) A motor vehicle owned or leased by a person subject to a court order issued pursuant to subsection (a) of this Code section or for which a license plate has been issued subject to paragraph (1) of this subsection may not be sold or conveyed unless the commissioner determines, upon receipt of proper application, that the proposed sale or conveyance is in good faith, that the person subject to such court order will be deprived of custody or control of the motor vehicle, and that the sale or conveyance is not for the purpose of circumventing the provisions of this Code section. Upon making such determination, the commissioner shall transfer the certificate of title to such vehicle and issue a new certificate of registration and license plate.

(3) If the title to a motor vehicle owned by a person subject to a court order issued pursuant to subsection (a) of this Code section or for which a license plate has been issued pursuant to paragraph (1) of this subsection is transferred by the foreclosure, cancellation of a conditional sales contract, sale upon execution, or order of a court of competent jurisdiction, the commissioner shall transfer the certificate of title as provided in Code Section 40-3-34 and issue a new license plate to the new registered owner.

(4) Upon full restoration of the driving privileges of a person subject to a court order

under subsection (a) of this Code section, the commissioner shall authorize the person to apply for a regular issue license plate. The fee for a regular issue license plate shall be as provided by Code Section 48-10-2. As a condition of obtaining any regular issue license plate, the person shall surrender his or her special issue license plate to the local tag agent.

(5) Nothing in this Code section shall be deemed to waive any lawful requirement for the issuance of a license plate including, but not limited to, proof of financial responsibility.

(6) Display of a license plate issued pursuant to paragraph (1) of this subsection shall not constitute probable cause for stopping or detaining a vehicle.

(7) Any person aggrieved by a decision of the commissioner pursuant to paragraph (1) of this subsection may make a request in writing to the Office of State Administrative Hearings for a hearing. Such hearing shall follow the procedures required by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'″

SECTION 3-2.

Said title is further amended by striking Code Section 40-5-57.1, relating to revocation of licenses of persons under age 21 for certain offenses and issuance of new licenses following revocations, and inserting in lieu thereof the following:

″40-5-57.1.

(a) Notwithstanding any other provision of this chapter, the driver´s license of any person under 21 years of age convicted of hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57, purchasing an alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23, violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23, or violation of Code Section 40-6-391 shall be ~~revoked~~ suspended by the department as provided by this Code section~~, and a driver´s license revoked under this subsection shall not be reinstated~~. A plea of nolo contendere shall be considered a conviction for purposes of this subsection. Notice of ~~revocation~~ suspension shall be given by certified mail or statutory overnight delivery, return receipt requested; or, in lieu thereof, notice may be given by personal service upon such person. Such license shall be surrendered within ten days of notification of such ~~revocation~~ suspension. Notice given by certified mail or statutory overnight delivery, return receipt requested, mailed to the person´s last known address shall be prima-facie evidence that such person received the required notice.

(b) A person whose driver´s license has been ~~revoked~~ suspended under subsection (a) of this Code section shall:

(1) ~~Except~~ Subject to the requirements of subsection (c) of this Code section and except as otherwise provided by paragraph (2) of this subsection:

(A) Upon a first such ~~revocation~~ suspension, be eligible to apply for license reinstatement and, subject to successful recompletion of the examination requirements of Code Section 40-5-27 and payment of required fees, ~~be issued a new driver´s license~~ have his or her driver´s license reinstated six months from the date on which the ~~revoked~~ suspended license was surrendered to and received by the department; and

(B) Upon a second or subsequent such ~~revocation~~ suspension, be eligible to apply for license reinstatement and, subject to successful recompletion of the examination requirements of Code Section 40-5-27 and payment of required fees, ~~be issued a new driver´s license~~ have his or her driver´s license reinstated 12 months from the date on which the ~~revoked~~ suspended license was surrendered to and received by the department; or

(2) If the driver´s license was ~~revoked~~ suspended upon conviction for violation of Code Section 40-6-391, be subject to the provisions of Code Section 40-5-63; except that if such driver was convicted of driving under the influence of alcohol or of having an unlawful alcohol concentration and is otherwise subject to the provisions of paragraph (1) of subsection (a) of Code Section 40-5-63, then such person shall not be eligible for a limited driving permit under Code Section 40-5-64, and:

(A) If the driver´s alcohol concentration at the time of the offense was less than 0.08 grams, he or she shall not be eligible for license reinstatement until the end of six months; or

(B) If ~~and~~ the driver´s alcohol concentration at the time of the offense was 0.08 grams or more, he or she shall not be eligible for license reinstatement until the end of 12 months.

Any driver subject to the provisions of this paragraph shall, as an additional prerequisite for license reinstatement, be required to successfully recomplete ~~be eligible to apply for and, subject to~~ the examination requirements of Code Section 40-5-27 ~~and payment of required fees, be issued a new driver´s license 12 months from the date on which the revoked license was surrendered to and received by the department~~.

(b.1) In any case where a person´s driver´s license was administratively suspended as a result of the offense for which the person´s driver´s license has been ~~revoked~~ suspended pursuant to this Code section, the administrative license suspension period and the license ~~revocation~~ suspension period provided by this Code section may run concurrently, and any completed portion of such administrative license suspension period shall apply toward completion of the license ~~revocation~~ suspension period provided by this Code section.

~~(c) Any person whose driver´s license is revoked under subsection (a) of this Code section~~

~~for violation of Code Section 40-6-391 shall not be issued a new driver´s license without submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and payment of a fee equivalent to that required for restoration of a suspended driver´s license under paragraph (1) of subsection (a) of Code Section 40-5-67.2; provided, however, that such fee shall not be required for the issuance of a new driver´s license under this subsection if such person´s driver´s license was administratively suspended as a result of the offense for which the person´s driver´s license has been revoked pursuant to this Code section and the restoration fee was paid for such suspended driver´s license.~~

~~(d)~~(c) Any ~~person whose~~ driver´s license ~~is revoked~~ suspended under subsection (a) of this Code section for commission of any offense other than violation of Code Section 40-6-391 shall not ~~be issued a new driver´s license without submitting~~ become valid and shall remain suspended until such person submits proof of completion of a defensive driving program approved by the department and ~~payment of~~ pays a fee equivalent to that required for restoration of a suspended driver´s license under paragraph (1) of subsection (a) of Code Section 40-5-63; provided, however, that such fee shall not be required ~~for the issuance of a new driver´s license~~ under this subsection if such person´s driver´s license was administratively suspended as a result of the offense for which the person´s driver´s license has been ~~revoked~~ suspended pursuant to this Code section and the restoration fee was paid for such administratively suspended driver´s license."

SECTION 3-3.

Said title is further amended in Code Section 40-5-63, relating to periods of suspension and conditions to return of license, by striking paragraph (2) of subsection (a) and inserting in lieu thereof the following:

"(2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years. At the end of 120 days, the person may apply to the department for reinstatement of said driver´s license; except that if such license was suspended as a result of a second conviction of a violation of Code Section 40-6-391 within five years, the person shall not be eligible to apply for license reinstatement until the end of ~~ten~~ 18 months. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays a restoration fee of $210.00 or $200.00 when processed by mail, provided that, if such license was suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated if such person submits

proof of completion of either a defensive driving program approved by the department or a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays the prescribed restoration fee. A driver´s license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays the prescribed restoration fee. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period of time shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere to a charge of violating Code Section 40-6-391 and all prior accepted pleas of nolo contendere within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions; or″

SECTION 3-4.

Said title is further amended in Code Section 40-5-67.2, relating to terms and conditions for suspension of license under subsection (c) of Code Section 40-5-67.1, by striking paragraph (2) of subsection (a) and inserting in lieu thereof the following:

″(2) Upon the second suspension pursuant to subsection (c) of Code Section 40-5-67.1 within five years, as measured from the dates of previous arrests for which suspensions were obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for three years. ~~Not sooner than 120 days following the effective date of suspension, the person may apply to the department for reinstatement of the person´s driver´s license; except that if such license was suspended as a result of a second arrest for violation of Code Section 40-6-391 within five years, the~~ The person shall be eligible to apply to the department for license reinstatement not sooner than ~~ten~~ 18 months following the effective date of suspension. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays a restoration fee of $210.00 or $200.00 when processed by mail. A driver´s license suspended pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources and pays the prescribed restoration fee.″

PART IV

SECTION 4-1.

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

(b)(1) Each provision amended in Part III of this Act shall become effective and supersede that respective provision amended in Part II of this Act on July 1, 2001, 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.

(2) Section 1-0 shall become effective July 1, 2002.

SECTION 4-1A.

The Department of Public Safety or the Department of Motor Vehicle Safety, whichever is applicable, shall report to the House Motor Vehicles Committee and the Senate Public Safety Committee during the 2002 regular session of the General Assembly but not later than January 31, 2002, regarding said department´s plans and progress regarding implementation of the provisions of Section 1-0A of this Act.

SECTION 4-2.

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