

Senate Bill 1

By: Senators Hill of the 4th, Gingrey of the 37th, Starr of the 44th, Walker of the 22nd and Hecht of the 34th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle drivers' licenses, so as to change certain provisions relating to persons not to be licensed, minimum ages for licensees, and school attendance requirements; to provide driver training requirements for certain license applicants; to change certain provisions relating to instruction permits, graduated licensing and related restrictions, and temporary licenses; to change certain provisions relating to examination of applicants; 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 licensing exemptions; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART 1

SECTION 1-1.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle drivers' licenses, is amended by adding to Code Section 40-5-22, relating to persons not to be licensed, minimum ages for licensees, and school attendance requirements, a new subsection (a.2) to read as follows:

"(a.2)(1) On and after January 1, 2002, the department shall not issue any initial Class D driver's license or, in the case of a person who has never been issued a Class D driver's license by the department or the equivalent thereof by any other jurisdiction, any initial Class C driver's license unless such person:

(A) Has completed an approved driver education course in a licensed private or public driver training school and in addition a cumulative total of at least 20 hours of other supervised driving experience including at least six hours at night, all of which is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age; or

(B) Has completed a cumulative total of at least 40 hours of supervised driving experience including at least six hours at night, and the same is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age.

(2) The commissioner shall by rule or regulation establish standards for approval of any driver education course for purposes of subparagraph (A) of paragraph (1) of this subsection, provided that such course shall be designed to educate young drivers about safe driving practices and the traffic laws of this state and to train young drivers in the safe operation of motor vehicles.

(3) For purposes of supervised driving experience under paragraph (1) of this subsection, supervision shall be provided 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 1-2.

Said chapter is further amended by striking subsection (b) of Code Section 40-5-24, relating to instruction permits, graduated licensing and related restrictions, and temporary licenses, and inserting in lieu thereof the following:

"(b)(1) Any resident of this state who is at least 16 years of age and who, for a period of at least 12 months, had a valid instruction permit issued under subsection (a) of this Code section may apply to the department for a Class D driver's license to operate a noncommercial Class C vehicle if such resident has otherwise complied with all prerequisites for the issuance of such Class D driver's license as provided in subsection (a) of this Code section, provided that a resident at least 16 years of age who has at any age surrendered to the department a valid instruction permit or driver's license issued by another state or the District of Columbia or who has submitted to the department proof, to the satisfaction of the department, of a valid instruction permit or driver's license issued by another state or the District of Columbia may apply his or her driving record under such previously issued permit or driver's license toward meeting the eligibility requirements for a Class D driver's license the same as if such previously issued permit or driver's license were an instruction permit issued under subsection (a) of this Code section.

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

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

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

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

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

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

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

(ii) During the six-month period immediately following issuance of such license, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when any other passenger in the vehicle is not a member of the driver's immediate family;

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

~~(2)~~(3) A person who has been issued a Class D driver's license under this subsection and has never been issued a Class C driver's license under this chapter will become eligible for a Class C driver's license under this chapter only if such person has a valid Class D driver's license which is not under suspension and, for a period of not less than 12 consecutive months prior to making application for a Class C driver's license, has not been convicted of a violation of Code Section 40-6-391, 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, or convicted of any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57 and is at least 18 years of age."

SECTION 1-3.

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

"(a) The department shall examine every applicant for a driver's license. Such examination shall include a test of the applicant's eyesight, his or her ability to understand official traffic-control devices, and his or her knowledge of safe driving practices and the traffic laws of this state and ~~may~~ shall also include an actual demonstration of a comprehensive on-the-road driving test during which the applicant shall be required to fully demonstrate his or her ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type or general class of vehicles he or she desires a license to drive; provided, however, that the on-the-road driving test requirement shall not apply to any applicant for a Class C driver's license who holds a Class D driver's license issued on or after the effective date of such requirement. Applicants 18 years of age and older with valid and current licenses issued by another state of the United States or the District of Columbia who surrender their previous licenses to obtain a Georgia license shall be exempt from taking such tests other than tests of eyesight. The examination may also include such further physical and mental examination as the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways. The commissioner may establish by rules and regulations the type of tests or demonstrations to be made by applicants for any class of license."

PART 2**SECTION 2-1.**

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 of Public Safety 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 Public 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."

SECTION 2-2.

Said chapter 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; and the driver's license of any person under 18 years of age who has accumulated a violation point count of four or more points under Code Section 40-5-57 in any consecutive 12 month period shall be suspended by the department as provided by this Code section.~~ 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~~

1 approved by the Department of Human Resources and payment of a fee equivalent to that
2 required for restoration of a suspended driver's license under paragraph (1) of
3 subsection (a) of Code Section 40-5-67.2; provided, however, that such fee shall not be
4 required for the issuance of a new driver's license under this subsection if such person's
5 driver's license was administratively suspended as a result of the offense for which the
6 person's driver's license has been revoked pursuant to this Code section and the restoration
7 fee was paid for such suspended driver's license.

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

19 PART 3

20 SECTION 3-1.

21 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle
22 drivers' licenses, is amended by striking paragraph (11) of subsection (a) of Code Section
23 40-5-21, relating to licensing exemptions, and inserting in lieu thereof the following:

24 "(11) Any resident who is 15 years of age or over while taking actual in-car training in
25 a training vehicle other than a commercial motor vehicle under the direct personal
26 supervision of a driving instructor when such driving instructor and training vehicle are
27 licensed by the department in accordance with the provisions of Chapter 13 of Title 43,
28 'The Driver Training School License Act,' ~~or when such driving instructor and vehicle are~~
29 ~~approved by the State Department of Education for a driver education program offered~~
30 ~~by a public high school, provided that the course is open only to students of such~~
31 ~~accredited school.~~ As used in the previous sentence, the term 'commercial motor vehicle'
32 shall have the meaning specified in Code Section 40-5-142. All vehicles utilized for the
33 in-car training authorized under this paragraph shall be equipped with dual controlled
34 brakes and shall be marked with signs in accordance with the Department of Motor
35 Vehicle Safety ~~or Department of Education~~ rules clearly identifying such vehicles as

1 training cars belonging to a licensed driving school ~~or public high school~~. A driving
 2 instructor shall test the eyesight of any unlicensed person who will be receiving actual
 3 in-car training prior to commencement of such training, and no unlicensed driver shall
 4 receive in-car training unless such person has at least the visual acuity and horizontal
 5 field of vision as is required for issuance of a driver's license in subsection (c) of Code
 6 Section 40-5-27."

7 SECTION 3-2.

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

11 "40-5-57.1.

12 (a) Notwithstanding any other provision of this chapter, the driver's license of any person
 13 under 21 years of age convicted of hit and run or leaving the scene of an accident in
 14 violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle
 15 in fleeing or attempting to elude an officer, reckless driving, any offense for which four or
 16 more points are assessable under subsection (c) of Code Section 40-5-57, purchasing an
 17 alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23,
 18 violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23, or violation of
 19 Code Section 40-6-391 shall be ~~revoked~~ suspended by the department as provided by this
 20 Code section; ~~and a driver's license revoked under this subsection shall not be reinstated;~~
 21 and the driver's license of any person under 18 years of age who has accumulated a
 22 violation point count of four or more points under Code Section 40-5-57 in any consecutive
 23 12 month period shall be suspended by the department as provided by this Code section.

24 A plea of nolo contendere shall be considered a conviction for purposes of this subsection.
 25 Notice of ~~revocation~~ suspension shall be given by certified mail or statutory overnight
 26 delivery, return receipt requested; or, in lieu thereof, notice may be given by personal
 27 service upon such person. Such license shall be surrendered within ten days of notification
 28 of such ~~revocation~~ suspension. Notice given by certified mail or statutory overnight
 29 delivery, return receipt requested, mailed to the person's last known address shall be
 30 prima-facie evidence that such person received the required notice.

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

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

35 (A) Upon a first such ~~revocation~~ suspension, be eligible to apply for license
 36 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~~

1 ~~subsection (a) of Code Section 40-5-67.2; provided, however, that such fee shall not be~~
2 ~~required for the issuance of a new driver's license under this subsection if such person's~~
3 ~~driver's license was administratively suspended as a result of the offense for which the~~
4 ~~person's driver's license has been revoked pursuant to this Code section and the restoration~~
5 ~~fee was paid for such suspended driver's license.~~

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

17 PART 4

18 SECTION 4-1.

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

21 (b)(1) This section shall become effective on July 1, 2001.

22 (2) Section 1-1 of this Act shall become effective on July 1, 2001, for purposes of
23 promulgating rules or regulations and shall become effective for all other purposes on
24 January 1, 2002.

25 (3) Subsection (a) of Code Section 40-5-27 as amended by this Act shall become
26 effective six months after the effective date of appropriation by the General Assembly of
27 sufficient funds for purposes of such amendment.

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

33 SECTION 4-2.

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