

House Bill 11

By: Representative Franklin of the 17<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, so  
2 as to provide for seizure, suspension, and revocation of drivers' licenses for certain conduct;  
3 to provide that persons convicted of certain offenses shall not be licensed again; to provide  
4 that homicide by vehicle which occurs as a result of driving under the influence of alcohol  
5 or drugs shall be punishable by life imprisonment or death; to provide an effective date; to  
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended  
10 by adding a new Code Section 40-5-54.2 to read as follows:

11 "40-5-54.2.

12 (a) Whenever any person is charged with the offenses of:

13 (1)(A) Homicide by vehicle, as defined by Code Section 40-6-393; or

14 (B) Feticide by vehicle, as defined by Code Section 40-6-393.1; and

15 (2)(A) Violating Code Section 40-6-391 where the person's alcohol concentration at  
16 the time of the offense was 0.08 grams or more; or

17 (B) Exceeding the maximum lawful speed limit by 24 miles per hour or more

18 and such charges arise out of the same course of conduct, the law enforcement officer shall  
19 take the driver's license of the person so charged. The driver's license shall be attached  
20 to the court's copy of the citation and complaint form and shall be forwarded to the court  
21 having jurisdiction of the offenses. A copy of the citation and complaint form shall be  
22 forwarded, within ten days of issue, to the department. Taking the driver's license as  
23 required in this Code section shall not prohibit any law enforcement officer or agency from  
24 requiring any cash bond authorized by Article 1 of Chapter 6 of Title 17.

1 (b)(1) No temporary driving permit shall be issued to a person whose driver's license has  
2 been seized as provided by this Code section.

3 (2) Upon the receipt of a sworn written report of the law enforcement officer that the  
4 officer had reasonable grounds to believe the arrested person had committed offenses  
5 arising out of the same course of conduct which constitute grounds for seizure of a  
6 driver's license under subsection (a) of this Code section, the department shall suspend  
7 the person's driver's license, subject to review as provided in this chapter.

8 (c)(1) If the person is convicted of violating or enters a plea of nolo contendere to  
9 offenses arising out of the same course of conduct which constitute grounds for seizure  
10 of a driver's license under subsection (a) of this Code section, the court shall, within ten  
11 days of such conviction or plea, forward the person's driver's license and the record of  
12 the disposition of the case to the department, and the department shall forthwith revoke  
13 the person's driver's license. The department shall not issue any new or renewal driver's  
14 license or permit to any person who is convicted of violating or enters a plea of nolo  
15 contendere to offenses arising out of the same course of conduct which constitute grounds  
16 for revocation under this subsection.

17 (2) If the person is not convicted of violating and does not enter a plea of nolo  
18 contendere to offenses arising out of the same course of conduct which constitute grounds  
19 for seizure of a driver's license under subsection (a) of this Code section, and the court  
20 is in possession of the driver's license, the court shall upon adjudication or dismissal of  
21 the charges return the driver's license to the person and notify the department forthwith  
22 of the disposition of the case, and the suspension of the driver's license shall terminate  
23 upon such adjudication or dismissal; unless the license is in suspension or revocation for  
24 any other offense, in which case the court shall forward the license to the department."

## 25 SECTION 2.

26 Said title is further amended by striking in its entirety Code Section 40-6-393, relating to  
27 homicide by vehicle, and inserting in lieu thereof the following:

28 "40-6-393.

29 (a) Any person who, without malice aforethought, causes the death of another person  
30 through the violation of subsection (a) of Code Section 40-6-163 or subsection (b) of Code  
31 Section 40-6-270 or Code Section 40-6-390 or 40-6-391 or subsection (a) of Code Section  
32 40-6-395 commits the offense of homicide by vehicle in the first degree and, upon  
33 conviction thereof, shall be punished by imprisonment for not less than three years nor  
34 more than 15 years; provided, however, that where the death is caused through a violation  
35 of Code Section 40-6-391 and the offender's alcohol concentration at the time of the  
36 offense was greater than 0.16 grams, said offense shall be punished by imprisonment for

1 not less than 25 years, by imprisonment for life, by imprisonment for life without parole,  
2 or by death. For purposes of the jury considering aggravating circumstances required for  
3 imposition of the sentence of death, said offense shall be considered murder, and an  
4 additional available aggravating circumstance relative to said offense shall be that the  
5 defendant knowingly and intentionally violated Code Section 40-6-391.

6 (b) Any person who causes the death of another person, without an intention to do so, by  
7 violating any provision of this title other than subsection (a) of Code Section 40-6-163 or  
8 subsection (b) of Code Section 40-6-270 or Code Section 40-6-390 or 40-6-391 or  
9 subsection (a) of Code Section 40-6-395 commits the offense of homicide by vehicle in the  
10 second degree when such violation is the cause of said death and, upon conviction thereof,  
11 shall be punished as provided in Code Section 17-10-3.

12 (c) Any person who, after being declared a habitual violator as determined under Code  
13 Section 40-5-58 and while such person's license is in revocation, causes the death of  
14 another person, without malice aforethought, by operation of a motor vehicle, commits the  
15 offense of homicide by vehicle in the first degree and, upon conviction thereof, shall be  
16 punished by imprisonment for not less than five years nor more than 20 years; provided,  
17 however, that where the death is caused through a violation of Code Section 40-6-391 and  
18 the offender's alcohol concentration at the time of the offense was greater than 0.16 grams,  
19 said offense shall be punished by imprisonment for not less than 25 years, by imprisonment  
20 for life, by imprisonment for life without parole, or by death. For purposes of the jury  
21 considering aggravating circumstances required for imposition of the sentence of death,  
22 said offense shall be considered murder, and an additional available aggravating  
23 circumstance relative to said offense shall be that the defendant knowingly and  
24 intentionally violated Code Section 40-6-391. Adjudication, and adjudication of guilt or  
25 imposition of such sentence for a person so convicted and sentenced to a term of years or  
26 life may be suspended, probated, deferred, or withheld but only after such person shall have  
27 served at least one year in the penitentiary.

28 (d) A person sentenced to life without parole for homicide by vehicle in the first degree  
29 shall not be eligible for any form of parole or early release administered by the State Board  
30 of Pardons and Paroles unless the State Board of Pardons and Paroles or a court of this state  
31 shall, after notice and public hearing, determine that such person is innocent of the offense  
32 for which the sentence was imposed; and the term of imprisonment shall not be reduced  
33 by any earned time, early release, work release, leave, or other sentence-reducing measures  
34 under programs administered by the Department of Corrections."

1 **SECTION 3.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law  
3 without such approval.

4 **SECTION 4.**

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