

House Bill 191

By: Representative Lord of the 103<sup>rd</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 the voluntary cancellation of the registration of certain vehicles and the  
3 restoration thereof; to provide definitions; to provide for an exception for insurers for  
4 reporting certain insurance coverage for fleet insurance policies; to change the fees for lapse  
5 and restoration fees; to provide that the commissioner may waive lapse fees in certain  
6 situations; to provide a date for the beginning of suspensions, lapse fees, and restoration fees;  
7 to change the information which shall not be disclosed; to provide a date for the provision  
8 of reports to the Commissioner of Insurance of violations of the notice requirement by  
9 insurers; to provide an exception to such reports for fleet policies; to provide for access to  
10 insurance records maintained by the department for the insurer of record and for the manner  
11 for access to such records; to change certain provisions concerning proof of insurance; to  
12 require that law enforcement officers verify insurance coverage on each vehicle stopped; to  
13 change the provisions relative to the taking of the driver's license of the operator of a vehicle  
14 for which there is no acceptable evidence of minimum insurance coverage by an arresting  
15 officer; to provide for related matters; to provide for effective dates; to repeal conflicting  
16 laws; and for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended  
20 by adding a new Code Section 40-2-10 to read as follows:

21 "40-2-10.

22 A vehicle registrant may voluntarily cancel the registration on a vehicle if the vehicle is  
23 stolen, repossessed but not redeemed by the registrant, junked, inoperable, in storage, or  
24 used seasonally for agricultural or other purposes when such vehicle is not in use. A  
25 registration that has been voluntarily cancelled may be reinstated upon payment of all  
26 accrued ad valorem taxes and license fees, if any, and payment of a \$10.00 fee."



1 satisfy all notice requirements of law and no further notice to the owner shall be required  
2 for the suspensions and revocations provided for in this Code section.

3 (2) It shall be the duty of the owner of such motor vehicle to obtain minimum motor  
4 vehicle insurance coverage and it shall be the duty of the owner's insurer to provide  
5 proof of such coverage to the department within 30 days of the date of such notice,  
6 pursuant to the requirements of subparagraph (b)(1)(A) of Code Section 40-5-71. If the  
7 vehicle is covered by a fleet policy, the owner's insurer shall not be required to provide  
8 such proof to the department by electronic means.

9 (c)(1) When proof of minimum motor vehicle insurance coverage is provided within the  
10 time period specified in this Code section, but there has been a lapse of coverage, the  
11 owner shall remit a \$25.00 lapse fee to the department. Failure to remit the lapse fee to  
12 the department within 30 days of the date on which the notification was mailed by the  
13 department will result in the suspension of the owner's motor vehicle registration by  
14 operation of law as if the proof had not been provided in a timely manner as provided in  
15 paragraph (2) of this subsection.

16 (2) If proof is not provided within the time period specified in this Code section that  
17 minimum motor vehicle insurance coverage is in effect, the owner's motor vehicle  
18 registration shall be suspended immediately by operation of law by the department.  
19 When such proof is provided and the owner pays a \$25.00 lapse fee ~~of \$25.00~~ and pays  
20 a \$60.00 restoration fee ~~of \$60.00, or \$50.00 when processed by mail~~, the suspension  
21 shall terminate; provided, however, that the commissioner may waive the lapse fee and  
22 restoration fee for any owner whose vehicle registration has been suspended pursuant to  
23 this paragraph who provides proof of continuous minimum motor vehicle insurance  
24 coverage.

25 (3) In the event of a second suspension of the owner's registration under this Code  
26 section after February 1, 2003, during any five-year period, the department by operation  
27 of law shall suspend the motor vehicle registration for a period of 90 days. After the 90  
28 day suspension period and when proof is provided that minimum motor vehicle insurance  
29 coverage is in effect and the owner pays a \$25.00 lapse fee ~~of \$25.00~~ and pays a \$60.00  
30 restoration fee ~~of \$60.00, or \$50.00 when processed by mail~~, the suspension shall  
31 terminate.

32 (4) In the event of a third or subsequent suspension of the owner's registration under this  
33 Code section after February 1, 2003, during any five-year period, the department by  
34 operation of law shall revoke the motor vehicle registration and no new application for  
35 registration shall be accepted for a period of six months after such revocation. After six  
36 months from the date of revocation and when proof is provided that minimum motor  
37 vehicle insurance coverage is in effect and the owner pays a \$25.00 lapse fee ~~of \$25.00~~

1 and pays a \$160.00 restoration fee of ~~\$160.00, or \$150.00~~ when processed by mail, the  
 2 owner may apply for registration of the motor vehicle.

3 (d) The commissioner may waive the lapse fee for any owner whose vehicle registration  
 4 has been voluntarily cancelled pursuant to Code Section 40-2-10.

5 (e) The commissioner may promulgate such rules and regulations as are necessary to  
 6 implement this Code section.

7 (f) The department shall commence the suspensions, lapse fees, and restoration fees  
 8 provided for in this Code section beginning on July 1, 2003."

### 9 SECTION 3.

10 Said title is further amended by striking Code Section 40-5-71, relating to notice of insurance  
 11 issuance, renewal, or termination, and inserting in lieu thereof a new Code Section 40-5-71  
 12 to read as follows:

13 "40-5-71.

14 (a) As used in this Code section, the term:

15 (1) 'Commercial vehicle policy' means a policy of motor vehicle liability insurance  
 16 insuring a motor vehicle that is rated or insured as a business use or commercial use  
 17 vehicle or is licensed by the state as a commercial vehicle; ~~except that such term shall not~~  
 18 ~~include any policy issued to a named insured who is a natural person.~~

19 (2) 'Fleet policy' means a commercial vehicle policy that insures two or more vehicles  
 20 that are not identified individually by vehicle identification number on the policy or a  
 21 commercial vehicle policy that is subject to adjustment by audit for vehicle changes at  
 22 the end of the policy period.

23 (3) 'Owner' shall have the same meaning given in paragraph (.2) of subsection (a) of  
 24 Code Section 40-2-21.

25 (4) 'Terminate' or 'termination' means actual cessation of insurance coverage for any  
 26 reason, including without limitation cancellation, nonrenewal, or nonpayment of  
 27 premium, and without regard to whether such cessation was preceded by any extension  
 28 or grace period allowed by the insurer.

29 (b)(1)(A) For purposes of aiding in the enforcement of the requirement of minimum  
 30 motor vehicle liability insurance, any insurer issuing or renewing in this state any  
 31 policy of motor vehicle liability insurance required by Chapter 34 of Title 33 other than  
 32 a fleet policy shall within 30 days after the date the insurance agent binds the coverage  
 33 or on the date such coverage was renewed, whichever is applicable, provide notice of  
 34 such insurance coverage by electronic transmission to the department; except that once  
 35 coverage data has been electronically transmitted to the department, there shall be no  
 36 requirement to report on subsequent renewals of that coverage. Insurance coverage

1 information included in such notice of issue or renewal shall be limited exclusively to  
2 vehicle identification number; the make and year of the insured motor vehicle; and  
3 policy effective date. The department shall not require ~~the name of the insurer or the~~  
4 policy limits to be disclosed for purposes of this subparagraph. For the purposes of this  
5 Code section, the vehicle identification number shall be the vehicle identification  
6 number as that number is shown in the records of the department. For the purposes of  
7 this Code section, the Commissioner of Insurance shall furnish such notices to the  
8 department upon issuance of a certificate of self-insurance.

9 (B) In cases in which the minimum motor vehicle insurance coverage required by  
10 Chapter 34 of Title 33 terminates, the insurer shall by electronic transmission notify the  
11 department of such coverage termination on or before the date coverage ends or, if  
12 termination is at the request of the insured, then on the date such request is processed  
13 by the insurer. Insurance coverage termination information included in such notice  
14 shall include vehicle identification number and the date of coverage termination. For  
15 the purposes of this Code section, the Commissioner of Insurance shall furnish such  
16 notices to the department upon termination of a certificate of self-insurance.

17 (C) The commissioner shall notify the Commissioner of Insurance quarterly of any and  
18 all violations of the notice requirements of this paragraph by any insurer, and the  
19 Commissioner of Insurance may take appropriate action against such insurer the same  
20 as is authorized by Code Section 33-2-24 for violations of Title 33; provided, however,  
21 that there shall be no private cause of action against an insurer or the department for  
22 civil damages for providing information, failing to provide information, or erroneously  
23 providing information pursuant to this Code section. No insurer shall utilize the costs  
24 of any audit or examination conducted by the Insurance Department pursuant to this  
25 paragraph as a cost of business in the insurer's rate base. The department shall  
26 commence the reports provided for in this Code section beginning January 1, 2004.

27 (D) The reports required of insurers and the Commissioner of Insurance shall not apply  
28 to any vehicle for which the vehicle coverage is provided by a fleet policy.

29 (2) The department shall prescribe the form and manner of electronic transmission for  
30 the purposes of insurers sending the notices required by this Code section which shall in  
31 no way be construed as modifying the provisions of Code Section 33-24-45.

32 (3) Notwithstanding the provisions of paragraph (1) of this subsection, any irregularities  
33 in the notice to the department required by paragraph (1) of this subsection shall not  
34 invalidate an otherwise valid cancellation.

35 (4) ~~The provisions of this subsection shall not apply to any commercial vehicle policy~~  
36 ~~as defined in this Code section.~~

1 (5) The minimum liability insurance records which the department is required to  
 2 maintain under this Code section or any other provision are exempt from the provisions  
 3 of any law of this state requiring that such records be open for public inspection;  
 4 provided, however, that the records of any particular motor vehicle may be available for  
 5 inspection by any law enforcement officer for official law enforcement investigations, the  
 6 insurer of record, and the owner of the vehicle in the manner prescribed by the  
 7 commissioner.

8 (c) The commissioner may promulgate such rules and regulations as are necessary to  
 9 implement this Code section.

10 (d)(1) The department shall monitor the reporting of the issuance of new and renewal  
 11 policies and termination of coverage by insurers.

12 (2) A match is based upon the vehicle identification number as recorded on the  
 13 department's motor vehicle records. When the vehicle identification number does not  
 14 match ~~with~~ the department's motor vehicle records, the department shall notify the  
 15 insurer and the insurer shall, within 30 days from receipt of the returned error, correct the  
 16 vehicle identification number and resubmit the transaction. After receipt of the  
 17 department's notice, if the insurer determines that the vehicle identification number  
 18 ~~which~~ that it submitted to the department is in fact the accurate number on the insured  
 19 vehicle, then the insurer shall so notify the department and the owner of the vehicle,  
 20 whereupon the owner shall, in accordance with department procedures, obtain a  
 21 correction of such number at the appropriate county tag office."

#### 22 SECTION 4.

23 Said title is further amended by striking Code Section 40-6-10, relating to insurance  
 24 requirements for operation of motor vehicles generally, and inserting in lieu thereof a new  
 25 Code Section 40-6-10 to read as follows:

26 "40-6-10.

27 (a)(1) Until January 31, 2003, the owner or operator of a motor vehicle for which  
 28 minimum motor vehicle liability insurance coverage is required under Chapter 34 of Title  
 29 33 shall keep proof or evidence of required minimum insurance coverage in the vehicle  
 30 at all times during the operation of the vehicle. The owner of a motor vehicle shall  
 31 provide to any operator of such vehicle proof or evidence of required minimum insurance  
 32 coverage for the purposes of compliance with this subsection.

33 (2) The following shall be acceptable proof of insurance on a temporary basis:

34 (A) If the policy providing such coverage was applied for within the last 30 days, a  
 35 current written binder for such coverage for a period not exceeding 30 days from the

1 date such binder was issued shall be considered satisfactory proof or evidence of  
2 required minimum insurance coverage;

3 (B) If the vehicle is operated under a rental agreement, a duly executed vehicle rental  
4 agreement shall be considered satisfactory proof or evidence of required minimum  
5 insurance coverage; ~~and~~

6 (C) If the owner acquired ownership of the ~~motor vehicle in question~~ within the past  
7 ~~20~~ 30 days, if the type of proof described in subparagraph (A) of this paragraph is not  
8 applicable but the vehicle is currently effectively provided with required minimum  
9 insurance coverage under the terms of a policy providing required minimum insurance  
10 coverage for another motor vehicle, then a copy of the insurer's declaration of coverage  
11 under the policy providing such required minimum insurance coverage for such other  
12 vehicle shall be considered satisfactory proof or evidence of required minimum  
13 insurance coverage for the vehicle ~~in question~~, but only if accompanied by proof or  
14 evidence that the owner acquired ownership of the vehicle ~~in question~~ within the past  
15 ~~20~~ 30 days;

16 (D) If the vehicle is insured under a fleet policy as defined in Code Section 40-2-137  
17 providing the required minimum insurance coverage or if the vehicle is engaged in  
18 interstate commerce and registered under the provisions of Article 3A of Chapter 2 of  
19 this title, the insurance information card issued by the insurer shall be considered  
20 satisfactory proof of required minimum insurance coverage for the vehicle; and

21 (E) If the vehicle is insured under a certificate of self-insurance issued by the  
22 Commissioner of Insurance providing the required minimum insurance coverage under  
23 which the vehicle owner did not report the vehicle identification number to the  
24 Commissioner of Insurance, the insurance information card issued by the  
25 Commissioner of Insurance shall be considered satisfactory proof of required minimum  
26 insurance coverage for the vehicle, but only if accompanied by a copy of the certificate  
27 issued by the Commissioner of Insurance.

28 (3) On and after February 1, 2003, the requirement under this Code section that proof or  
29 evidence of minimum liability insurance be maintained in a motor vehicle at all times  
30 during the operation of the vehicle shall not apply to the owner or operator of any vehicle  
31 for which the records or data base of the Department of Motor Vehicle Safety ~~indicate~~  
32 indicates that required minimum insurance coverage is currently effective.

33 (4) Except as otherwise provided in paragraph (7) of this subsection, any person who  
34 fails to comply with the requirements of this subsection shall be guilty of a misdemeanor  
35 and, upon conviction thereof, shall be subject to a fine of not less than \$200.00 nor more  
36 than \$1,000.00 or imprisonment for not more than 12 months, or both.

1 (5) Every law enforcement officer in this state shall determine if the operator of a motor  
 2 vehicle subject to the provisions of this Code section has the required minimum insurance  
 3 coverage every time the law enforcement officer stops the vehicle or requests the  
 4 presentation of the driver's license of the operator of the vehicle.

5 (6) If a law enforcement officer of this state determines that the owner or operator of a  
 6 motor vehicle subject to the provisions of this Code section does not have proof or  
 7 evidence of required minimum insurance coverage, the arresting officer shall issue a  
 8 uniform traffic citation for operating a motor vehicle without proof of insurance ~~and shall~~  
 9 ~~take possession of the driver's license and forward it to a court of competent jurisdiction.~~  
 10 If the court or arresting officer determines that the operator is not the owner, then a  
 11 uniform traffic citation may be issued to the owner for authorizing the operation of a  
 12 motor vehicle without proof of insurance.

13 (7) If the person receiving a citation under this subsection shows to the court having  
 14 jurisdiction of the case that required minimum insurance coverage was in effect at the  
 15 time the citation was issued, the court ~~shall return the driver's license upon payment of~~  
 16 may impose a fine not to exceed \$25.00. The court shall not in this case forward a record  
 17 of the disposition of the case to the department and the driver's license of such person  
 18 shall not be suspended.

19 (8)(A) For purposes of this Code section up to and including January 31, 2003, a valid  
 20 insurance card shall be sufficient proof of insurance for any vehicle.

21 (B) For purposes of this Code section on and after February 1, 2003, a valid insurance  
 22 card shall be sufficient proof of insurance only for any vehicle covered under a  
 23 ~~commercial vehicle~~ fleet policy as defined in Code Section 40-5-71.

24 (C) For any vehicle covered under a policy of motor vehicle liability insurance that is  
 25 not a ~~commercial vehicle~~ fleet policy as defined in Code Section 40-5-71, the insurer  
 26 shall issue a policy information ~~identification~~ card which shall contain at least the name  
 27 of the insurer, policy number, policy issue or effective date, policy expiration date,  
 28 name of the insured, and year, make, model, and vehicle identification number of each  
 29 vehicle insured; provided, however, that on and after February 1, 2003, any such policy  
 30 information ~~identification~~ card shall not be sufficient proof of insurance for any  
 31 purposes of this Code section except as otherwise provided herein.

32 (b) An owner or any other person who knowingly operates or knowingly authorizes  
 33 another to operate a motor vehicle without effective insurance on such vehicle or without  
 34 an approved plan of self-insurance shall be guilty of a misdemeanor and, upon conviction  
 35 thereof, shall be subject to a fine of not less than \$200.00 nor more than \$1,000.00 or  
 36 imprisonment for not more than 12 months, or both. An operator of a motor vehicle shall  
 37 not be guilty of a violation of this Code section if such operator maintains a policy of motor

1 vehicle insurance which extends coverage to any vehicle the operator may drive. An owner  
2 or operator of a motor vehicle shall not be issued a citation by a law enforcement officer  
3 for a violation of this Code section if the sole basis for issuance of such a citation is that  
4 the law enforcement officer is unable to obtain insurance coverage information from the  
5 records of the department.

6 (c) Any person who knowingly makes a false statement or certification under Code  
7 Section 40-5-71 or this Code section shall be guilty of a misdemeanor and, upon conviction  
8 thereof, shall be subject to a fine of not less than \$200.00 nor more than \$1,000.00 or  
9 imprisonment for not more than 12 months, or both.

10 (d) ~~Insurance~~ Except for vehicles insured under a fleet policy as defined in Code Section  
11 40-2-137 or under a plan of self insurance approved by the Commissioner of Insurance,  
12 insurance coverage information from records of the department shall be prima-facie  
13 evidence of the facts stated therein and shall be admissible as evidence in accordance with  
14 Code Section 24-3-17 for the purposes of this Code section.

15 (e) The minimum liability insurance data base of the department shall be operational for  
16 the purposes of testing, evaluation, verification of data, and validation of accuracy not later  
17 than November 1, 2002, and shall be fully operational not later than February 1, 2003."

#### 18 SECTION 5.

19 This Act shall become effective upon its approval by the Governor or upon its becoming law  
20 without such approval, except for Sections 1 and 4 which shall become effective July 1,  
21 2003.

#### 22 SECTION 6.

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