

House Bill 447

By: Representatives Powell of the 23rd and Parham of the 94th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to change certain provisions relating to applications of minors for drivers'
3 licenses and distinctive license for persons under age 21; to change certain provisions
4 relating to when courts are to send licenses and reports of convictions to the Department of
5 Motor Vehicle Safety; to change the provisions relating to suspension of license or driving
6 privilege for failure to respond to citation and reinstatement of license; to provide for
7 forwarding of information and fees; to change certain provisions relating to limited driving
8 permits for certain offenders; to change certain provisions relating to purpose of Article 4 of
9 Chapter 5 of said title; to provide for licensing periods; to provide for bonds; to change
10 certain provisions relating to optional programs; to change certain provisions relating to
11 establishment and approval of clinics and programs for driver improvement and driving
12 under the influence of alcohol and drugs, out-of-state certificates of completion, instructor
13 licenses, fees, and operation of clinics by employees of probation division; to provide
14 requirements for court ordered programs; to change certain provisions relating to
15 reinstatement of licenses suspended for certain offenses or for points; to change certain
16 provisions relating to reduction of point count upon completion of course; to change certain
17 provisions relating to administrative penalties; to change certain provisions relating to
18 administration of the Motor Vehicle Safety Responsibility Act, rules and regulations,
19 hearings, and appeals; to amend Code Section 42-8-112 of the Official Code of Georgia
20 Annotated, relating to proof of compliance required for reinstatement of certain drivers'
21 licenses and for obtaining probationary licenses and reporting requirements, so as to change
22 certain provisions relating to reporting requirements for provider centers for ignition
23 interlock devices; to amend Chapter 13 of Title 43 of the Official Code of Georgia
24 Annotated, relating to instructors in driver training and operators of driver training schools,
25 so as to provide for licensing and regulation of instructors and operators of driver's education
26 programs; to provide an effective date; to repeal conflicting laws; and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA

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1 of the contractual rights of students in such form as will meet with the approval of the
 2 Department of Motor Vehicle Safety or the Department of Human Resources, as
 3 applicable, and written by a company authorized to do business in this state. The principal
 4 sum of the bond shall be established by the commissioner of motor vehicle safety or the
 5 Board of Human Resources, as applicable; however, in no event shall this amount be less
 6 than \$2,500.00 per location, and a single bond at such rate may be submitted for all
 7 locations under the same ownership. If at any time said bond is not valid and in force, the
 8 license of the clinic or program shall be deemed suspended by operation of law until a
 9 valid surety company bond is again in force."

10 SECTION 3.

11 Said title is further amended by striking subsection (a) of Code Section 40-5-81, relating to
 12 optional programs, and inserting in lieu thereof the following:

13 "~~(a) This article shall not affect the power of any court to require attendance at any course~~
 14 ~~or driver improvement program to which the court could otherwise require attendance~~ Any
 15 driver improvement program to which attendance is required by court order shall conform
 16 to the requirements of this article."

17 SECTION 4.

18 Said title is further amended by striking Code Section 40-5-83, relating to establishment and
 19 approval of clinics and programs, out-of-state certificates of completion, instructor licenses,
 20 fees, and operation of clinics by employees of probation division, and inserting in lieu thereof
 21 the following:

22 "40-5-83.

23 (a)(1) The commissioner of motor vehicle safety shall establish criteria for the approval
 24 of driver improvement clinics. To be approved, a clinic shall provide and operate either
 25 a defensive driving course, an advanced defensive driving course, or a professional
 26 defensive driving course or any combination thereof. Clinics shall be composed of
 27 uniform education and training programs consisting of six hours of instruction designed
 28 for the rehabilitation of problem drivers. The commissioner shall establish standards and
 29 requirements concerning the contents of courses, ~~duration of courses,~~ qualifications of
 30 instructors, ~~fees,~~ attendance requirements for students, and examinations. Approved
 31 clinics ~~may~~ shall charge a fee of ~~not more than \$60.00~~ \$75.00 for a defensive driving
 32 course, an advanced defensive driving course, or a professional defensive driving course;
 33 except that such clinics may charge different fees of their own choosing if the person is
 34 not enrolling in such course pursuant to court order or department requirement. No clinic
 35 shall be approved unless such clinic agrees in writing to allow the examination and audit

1 of the books, records, and financial statements of such clinic. Clinics may be operated
 2 by any individual, partnership, corporation, association, civic group, club, county,
 3 municipality, board of education, school, or college.

4 (1.1)(A) No driver improvement clinic shall be permitted to use, adopt, or conduct any
 5 business under any name that is like or deceptively similar to any name used by any
 6 other driver improvement clinic, Georgia company, or Georgia corporation registered
 7 with the Secretary of State. This subparagraph shall not prohibit the franchising or
 8 licensing of any part or all of the name of a driver improvement clinic by the owner or
 9 the rights thereof to another licensed driver improvement clinic.

10 (B) This paragraph shall not prohibit the franchising or licensing of any part or all of
 11 the name of a clinic by the owner of the rights therein to another licensed driver
 12 improvement clinic.

13 (2) The commissioner may issue a special license to the instructor of any commercial
 14 driver training school authorizing such instructor to teach a defensive driving course,
 15 advanced defensive driving course, or professional defensive driving course of a driver
 16 improvement clinic provided pursuant to this Code section if such instructor is qualified
 17 to teach a teen-age driver education course which consists of a minimum of 30 hours of
 18 classroom and six hours of behind-the-wheel training and such instructor certifies to the
 19 commissioner that he or she has provided at least 250 hours of behind-the-wheel training
 20 in a teen-age driver education course.

21 (b)(1) The commissioner shall be authorized to accept certificates of completion from
 22 all defensive driving, driving under the influence, and alcohol and drug programs, clinics,
 23 and courses approved by any other state, the District of Columbia, and territories and
 24 possessions of the United States, including military reservations, whereby driver
 25 improvement clinics, programs, and courses shall be approved for use by residents of this
 26 state, other states, the District of Columbia, and territories and possessions of the United
 27 States.

28 (2) Driver improvement clinics, programs, and courses outside of the State of Georgia
 29 shall not be required to comply with the provisions of subsection (a) of this Code section.

30 (3) Driving under the influence and alcohol and drug programs, clinics, and courses
 31 outside of the State of Georgia shall not be required to comply with the provisions of
 32 subsection (e) of this Code section; provided, however, that the department shall not
 33 accept certificates of completion from any such program, clinic, or course unless said
 34 program, clinic, or course has been certified by the Department of Human Resources as
 35 substantially conforming, with respect to course content, with the standards and
 36 requirements promulgated by the Department of Human Resources under subsection (e)
 37 of this Code section. Certificates of completion from an out-of-state program, clinic, or

1 course not so certified by the Department of Human Resources may be accepted only for
2 the purpose of permitting persons who are not residents of the State of Georgia to
3 reinstate nonresident operating privileges.

4 (c) The commissioner shall be authorized to issue a special license to the instructor of any
5 driver improvement clinic who is qualified to teach the alcohol and drug course prescribed
6 in subsection (b) of Code Section 20-2-142. A driver improvement clinic shall offer such
7 alcohol and drug course only through a qualified instructor and shall not charge a fee for
8 such course of more than \$25.00. The commissioner shall be authorized to issue a special
9 license to the instructor of any commercial driver training school to teach the alcohol and
10 drug course prescribed in subsection (b) of Code Section 20-2-142 who is qualified to teach
11 a teen-age driver education course, which course consists of a minimum of 30 hours of
12 classroom and six hours of behind-the-wheel training. The alcohol and drug program may
13 be included in the 30 hours of classroom training as part of a curriculum approved by the
14 department. Any fee authorized by law for such a drug and alcohol course may be included
15 in the tuition charge for a teen-age driver education course. Any text or workbook provided
16 or required by the Department of Public Safety for such alcohol and drug course shall be
17 provided by the department at the same fee as currently charged by the department to any
18 public or private school, contractor, or appropriate representative currently teaching the
19 program.

20 (d) Notwithstanding the provisions of any law or rule or regulation which prohibits any
21 individual who is a probation officer or other official or employee of the probation division
22 of the Department of Corrections or a spouse of such individual from owning, operating,
23 instructing at, or being employed by a driver improvement clinic, any individual who is a
24 probation officer or other official or employee of the probation division of the Department
25 of Corrections or a spouse of such individual who owns, operates, instructs at, or is
26 employed by a driver improvement clinic on June 1, 1985, and who in all respects is and
27 remains qualified to own, operate, instruct at, or be employed by a driver improvement
28 clinic is expressly authorized to continue on and after June 1, 1985, to engage in such
29 activities. No person who owns, operates, or is employed by a private company which has
30 contracted to provide probation services for misdemeanor cases shall be authorized to own,
31 operate, be an instructor at, or be employed by a driver improvement clinic or a DUI
32 Alcohol or Drug Use Risk Reduction Program.

33 (e) The Department of Human Resources is designated as the agency responsible for
34 establishing criteria for the approval of DUI Alcohol or Drug Use Risk Reduction
35 Programs. An applicant must meet the certification criteria promulgated by the Department
36 of Human Resources through its standards and must provide the following services: (1) the
37 assessment component and (2) the intervention component. The Department of Human

1 Resources is designated as the agency responsible for establishing rules and regulations
2 concerning the contents and duration of the components of DUI Alcohol or Drug Use Risk
3 Reduction Programs, qualifications of instructors, attendance requirements for students,
4 examinations, and program evaluations. Qualified instructors shall be certified for periods
5 of four years each, which may be renewed. Approved DUI Alcohol or Drug Use Risk
6 Reduction Programs shall charge a fee of \$75.00 for the assessment component and
7 ~~\$175.00~~ \$190.00 for the intervention component. An additional fee for required student
8 program materials shall be established by the Department of Human Resources in such an
9 amount as is reasonable and necessary to cover the cost of such materials. No DUI Alcohol
10 or Drug Use Risk Reduction Program shall be approved unless such clinic agrees in writing
11 to submit reports as required in the rules and regulations of the Department of Human
12 Resources and to allow the examination and audit of the books, records, and financial
13 statements of such DUI Alcohol or Drug Use Risk Reduction Program by the Department
14 of Human Resources or its authorized agent. DUI Alcohol or Drug Use Risk Reduction
15 Programs may be operated by any public, private, or governmental entity; provided,
16 however, that, except as otherwise provided in this subsection, in any political subdivision
17 in which a DUI Alcohol or Drug Use Risk Reduction Program is operated by a private
18 entity, whether for profit or nonprofit, neither the local county board of health nor any other
19 governmental entity shall fund any new programs in that area. Programs currently in
20 existence which are operated by local county boards of health or any other governmental
21 entities shall be authorized to continue operation. New programs may be started in areas
22 where no private DUI Alcohol or Drug Use Risk Reduction Programs have been made
23 available to said community. The Department of Corrections is authorized to operate DUI
24 Alcohol or Drug Use Risk Reduction Programs in its facilities where offenders are not
25 authorized to participate in such programs in the community, provided that such programs
26 meet the certification criteria promulgated by the Department of Human Resources. All
27 such programs operated by the Department of Corrections shall be exempt from all fee
28 provisions established in this subsection specifically including the rebate of any fee for the
29 costs of administration. No DUI Alcohol or Drug Use Risk Reduction Program will be
30 approved unless such clinic agrees in writing to pay to the state, for the costs of
31 administration, a fee of \$15.00, for each offender assessed or each offender attending for
32 points reduction, provided that nothing in this Code section shall be construed so as to
33 allow the Department of Human Resources to retain any funds required by the Constitution
34 of Georgia to be paid into the state treasury; and provided, further, that the Department of
35 Human Resources shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of
36 Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such
37 miscellaneous funds."

1 points, upon the satisfactory completion by such driver of an approved defensive driving
2 course ~~or a DUI Alcohol or Drug Use Risk Reduction Program~~ and the submission of a
3 certificate by such driver to the department. The provisions of this Code section shall be
4 available one time only to each driver in any five-year period."

5 SECTION 7.

6 Said title is further amended by striking Code Section 40-5-88, relating to administrative
7 penalties, and inserting in lieu thereof the following:

8 "40-5-88.

9 (a) As an alternative to criminal or other civil enforcement, the commissioner of motor
10 vehicle safety or the commissioner of human resources, whichever is applicable, in order
11 to enforce this article or any orders, rules, or regulations promulgated pursuant to this
12 article, may issue an administrative fine not to exceed \$1,000.00 for each violation,
13 whenever that commissioner, after a hearing, determines that any person, firm, or
14 corporation has violated any provisions of this article or any regulations or orders
15 promulgated under this article.

16 (b) The hearing and any administrative review thereof shall be conducted in accordance
17 with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia
18 Administrative Procedure Act.' Any person, firm, or corporation who has exhausted all
19 administrative remedies available and who is aggrieved or adversely affected by a final
20 order or action of either the commissioner of motor vehicle safety or the commissioner of
21 human resources shall have the right of judicial review thereof in accordance with Chapter
22 13 of Title 50. All fines recovered under this Code section shall be paid into the state
23 treasury. The commissioner of motor vehicle safety or the commissioner of human
24 resources, as appropriate, may file, in the superior court (1) wherein the person under order
25 resides; (2) if such person is a corporation, in the county wherein the corporation maintains
26 its principal place of business; or (3) in the county wherein the violation occurred, a
27 certified copy of a final order of such commissioner, whether unappealed from or affirmed
28 upon appeal, whereupon the court shall render judgment in accordance therewith and notify
29 the parties. Such judgment shall have the same effect and proceedings in relation thereto
30 shall thereafter be the same as though the judgment had been rendered in an action duly
31 heard and determined by the court. The penalty prescribed in this Code section shall be
32 concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative
33 rights, remedies, forfeitures, or penalties provided, allowed, or available to such
34 commissioner with respect to any violation of this article or any order, rules, or regulations
35 promulgated pursuant to this article."

1 year for the purpose of assisting such persons to meet the requirements for licensed
 2 driving of Class C or Class M motor vehicles in this state.

3 ~~(3)~~(4) 'Driver's license examiners' means examiners appointed by the Department of
 4 Motor Vehicle Safety for the purpose of giving driver's license examinations.

5 ~~(4)~~(5) 'Motor vehicle' means every vehicle which is self-propelled upon, or by which any
 6 person or property is or may be transported or drawn upon, a public highway except
 7 devices used exclusively upon stationary rails or tracks.

8 ~~(5)~~(6) 'Person' means every natural person, firm, partnership, limited liability company,
 9 association, corporation, or school."

10 SECTION 11.

11 Said chapter is further amended by striking in its entirety Code Section 43-13-3, relating to
 12 license requirement, and inserting in lieu thereof the following:

13 "43-13-3.

14 No person shall operate a driver training school, operate a driver's education program, or
 15 engage in the business of giving instruction for hire in the driving of motor vehicles or in
 16 the preparation of an applicant for examination given by driver's license examiners for a
 17 driver's license or permit unless a license therefor has been secured from the department.

18 Separate licenses shall be required for the operation of a driver training school and a
 19 driver's education program."

20 SECTION 12.

21 Said chapter is further amended by striking in its entirety Code Section 43-13-4, relating to
 22 qualifications for driver training and school operators, and inserting in lieu thereof the
 23 following:

24 "43-13-4.

25 Every person who desires to operate a driver training school or a driver's education
 26 program shall meet the following requirements:

27 (1) Be of good moral character;

28 (2) Maintain an established place of business in the State of Georgia which is open to the
 29 public;

30 (3) Maintain bodily injury and property damage liability insurance on motor vehicles
 31 while used in driver training instruction, insuring the liability of the driver training
 32 school, the driving instructors, and any person taking instruction, in at least the following
 33 amounts: \$100,000.00 for bodily injury to or death of one person in any one accident and,
 34 subject to such limit for one person, \$200,000.00 for bodily injury to or death of two or
 35 more persons in any one accident and the amount of \$20,000.00 for damage to property

1 of others in any one accident. Evidence of such insurance coverage, in the form of a
 2 certificate from the insurance carrier, shall be filed with the department; and such
 3 certificate shall stipulate that the insurance shall not be canceled except upon ten days'
 4 prior written notice to the department. Such insurance shall be written by a company
 5 authorized to do business in this state;

6 (4) Provide a continuous surety company bond in the principal sum of \$2,500.00 for the
 7 protection of the contractual rights of students in such form as will meet with the
 8 approval of the department and written by a company authorized to do business in this
 9 state; provided, however, that the aggregate liability of the surety for all breaches of the
 10 condition of the bond in no event shall exceed the principal sum of \$2,500.00 per
 11 location, and a single bond at such rate for all schools operated by the same person may
 12 be provided in satisfaction of this paragraph. The surety on any such bond may cancel
 13 such bond on giving 30 days' notice thereof in writing to the department and shall be
 14 relieved of liability for any breach of any condition of the bond which occurs after the
 15 effective date of cancellation;

16 (5) Have the equipment necessary to the giving of proper instruction in the operation of
 17 motor vehicles as prescribed by the department; and

18 (6) Pay to the department an application fee of \$25.00."

19 SECTION 13.

20 Said chapter is further amended by inserting a new Code section to read as follows:

21 "43-13-4.1.

22 (a) No driver training school shall be permitted to use, adopt, or conduct any business
 23 under any name that is like or deceptively similar to any name of a Georgia corporation
 24 registered with the Secretary of State.

25 (b) This Code section shall not prohibit the franchising or licensing of any part or all of the
 26 name of a driver training school by the owner of the rights therein to another licensed
 27 driver training school."

28 SECTION 14.

29 Said chapter is further amended by striking in its entirety Code Section 43-13-5, relating to
 30 qualifications of driver training school instructors, and inserting in lieu thereof the following:

31 "43-13-5.

32 Every person who desires to qualify as an instructor for a driver training school or a
 33 driver's education program shall meet the following requirements:

34 (1) Be of good moral character;

1 (2) Present to the department evidence of credit in driver education and safety from an
 2 accredited college or university equivalent to credits in those subjects which are required
 3 of instructors in the public schools of this state or give satisfactory performance on a
 4 written, oral, performance, or combination examination administered by the department
 5 testing both knowledge of the field of driver education and skills necessary to instruct and
 6 impart driving skills and safety to students. The examination shall be administered
 7 quarterly or upon the written application of four or more prospective licensees. The
 8 examination fee shall not exceed \$25.00;

9 (3) Be physically able to operate safely a motor vehicle and to instruct others in the
 10 operation of motor vehicles;

11 (4) Hold a valid driver's license; and

12 (5) Pay to the department an application fee of \$5.00."

13 SECTION 15.

14 Said chapter is further amended by striking in its entirety Code Section 43-13-6, relating to
 15 issuance of licenses to qualified applicants and expiration and renewal of licenses, and
 16 inserting in lieu thereof the following:

17 "43-13-6.

18 (a) The department shall issue a license certificate to each operator of a driver training
 19 school, to each operator of a driver's education program, ~~or~~ to each driver training
 20 instructor, or to each driver's education instructor when the department is satisfied that
 21 such person has met the qualifications required under this chapter.

22 (b) All licenses issued to driver training schools, driver's education programs, ~~or~~ driver
 23 training instructors, or driver's education instructors pursuant to this chapter shall be valid
 24 for four years from the date of issuance unless sooner canceled, suspended, or revoked
 25 under Code Section 43-13-7. All licenses shall be renewed through the department as
 26 provided in subsection (d) of this Code section and shall be valid for four years from the
 27 date of renewal.

28 (c) The license of each driver training school, driver's education program, ~~and each~~ driver
 29 training instructor, and driver's education instructor may be renewed subject to the same
 30 conditions as the original license and upon payment of the same fee.

31 (d) All applications for renewal of a driver training school's license, driver's education
 32 program license, ~~or~~ driver training instructor's license, or driver's education instructor's
 33 license shall be on a form prescribed by the department and must be filed with the
 34 department not more than 60 days nor less than ten days preceding the expiration date of
 35 the license to be renewed."

1 school that fails to comply with any requirement imposed by or pursuant to this chapter.
 2 (c) The hearing and any administrative review thereof shall be conducted in accordance
 3 with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia
 4 Administrative Procedure Act.' Any person, firm, or corporation who has exhausted all
 5 administrative remedies available and who is aggrieved or adversely affected by a final
 6 order or action of the commissioner shall have the right of judicial review thereof in
 7 accordance with Chapter 13 of Title 50. All fines recovered under this Code section shall
 8 be paid into the state treasury. The commissioner may file, in the superior court: (1)
 9 wherein the person under order resides; (2) if such person is a corporation, in the county
 10 wherein the corporation maintains its principal place of business; or (3) in the county
 11 wherein the violation occurred, a certified copy of a final order of the commissioner,
 12 whether unappealed from or affirmed upon appeal, whereupon the court shall render
 13 judgment in accordance therewith and notify the parties. Such judgment shall have the
 14 same effect, and proceedings in relation thereto shall thereafter be the same as though the
 15 judgment had been rendered in an action duly heard and determined by the court. The
 16 penalty prescribed in this Code section shall be concurrent, alternative, and cumulative
 17 with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or
 18 penalties provided, allowed, or available to the commissioner with respect to any violation
 19 of this chapter or any order, rules, or regulations promulgated pursuant to this chapter."

20 SECTION 18.

21 Said chapter is further amended by striking in its entirety Code Section 43-13-10, relating
 22 to exceptions to operation under this chapter, and inserting in lieu thereof the following:

23 "43-13-10.

24 (a) This chapter shall not apply to ~~a college conducting a driver training course; nor shall~~
 25 ~~it apply to~~ driver improvement schools operated by the state or by a county or municipality.

26 (b) Any public or private secondary or postsecondary school may conduct driver training
 27 courses or driver's education programs, subject to the requirement that the provisions of
 28 this chapter other than paragraph (2) of Code Section 43-13-4 shall apply to secondary
 29 schools conducting driver training courses or driver's education programs and to instructors
 30 therefor."

31 SECTION 19.

32 This Act shall become effective July 1, 2003.

33 SECTION 20.

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