

House Bill 767

By: Representatives Lunsford of the 85th, Post 2, Westmoreland of the 86th, Walker of the 115th, and Brooks of the 47th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 13 of Title 40 of the Official Code of Georgia Annotated,
2 relating to traffic violations bureaus, so as to change certain provisions relating to the
3 disposition of traffic violations by traffic violations bureaus; to provide for a standing order
4 by the court that no incarceration shall be imposed for certain violations; to provide for fines
5 for certain traffic violations; to provide for notice to the defendant; to provide for probation
6 and suspension of drivers' licenses; to amend Article 3 of Chapter 5 of Title 40 of the
7 Official Code of Georgia Annotated, relating to cancellation, suspension, and revocation of
8 licenses, so as to provide for suspension of driver's licenses; to provide for related matters;
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 3 of Chapter 13 of Title 40 of the Official Code of Georgia Annotated, relating to
13 traffic violations bureaus, is amended by striking Code Section 40-13-60, relating to
14 disposition of traffic violations and jurisdiction of bureau, and inserting in its place the
15 following:

16 "40-13-60.

17 (a) Any traffic violation under the jurisdiction of the traffic violations bureau shall be
18 characterized and classified as a traffic violation and shall not be considered as a
19 misdemeanor, but shall be subject to a fine not to exceed the misdemeanor fine which
20 would otherwise apply.

21 (b) The court may enter a standing written order that incarceration shall not be imposed for
22 certain traffic violations disposed of within the traffic violations bureau absent specific
23 notice to the defendant that the court intends to consider imposing criminal penalties in the
24 case. In the event such notice is given, the charge shall then be considered a misdemeanor,
25 and the court may impose any penalty allowed by law for such misdemeanor. Upon giving
26 such notice, the case shall be removed from the traffic violations bureau. When a standing

1 order waiving incarceration is in effect, the defendant shall have no right to demand trial
 2 by jury or the right to appointed counsel. If the court gives notice to treat one or more
 3 traffic violation bureau offenses as a misdemeanor, the defendant shall be entitled to at
 4 least 30 days between the giving of such notice and the trial of the case. Such notice shall
 5 specifically notify the defendant of the right to counsel, the right to seek appointed counsel
 6 if indigent, and the right to trial by jury.

7 (c) For any traffic violation, the court may sentence the defendant to a 12 month period of
 8 probation per offense. Such probation may result in the suspension of the defendant's
 9 driver's license or non-resident privilege to drive in the State upon violation, but shall not
 10 result in incarceration. Such probation shall otherwise be subject to the procedural
 11 requirements of Chapter 8 of Title 42. If a person convicted of any offense fails to pay any
 12 fine imposed pursuant to this Code section, the court shall notify the department and the
 13 person's driver's license shall be reinstated if the person submits proof of payment from
 14 the court and pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is
 15 processed by mail for the return of his or her license.

16 (d) Whenever any traffic violation is transferred from another court to a court which has
 17 a traffic violations bureau, if such offense is classified as a traffic violation on the traffic
 18 violations bureau schedule of the receiving court, such violation shall be handled and
 19 disposed of by such traffic violations bureau.

20 (e) Where a defendant demands a trial on a traffic violation, it shall be tried before a judge
 21 of the court which established the traffic violations bureau. The request for a trial shall not
 22 result in a loss of jurisdiction by the traffic violations bureau."

23 **SECTION 2.**

24 Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
 25 cancellation, suspension, and revocation of licenses, is amended by inserting a new Code
 26 Section 40-5-54.2 to read as follows:

27 "40-5-54.2.

28 The department shall suspend the license of any driver as required by Code Section
 29 40-13-60."

30 **SECTION 3.**

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