

House Bill 191 (FLOOR SUBSTITUTE)

By: Representative 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, so
2 as to provide for the voluntary cancellation of the registration of certain vehicles and the
3 restoration thereof; to change certain provisions relating to form and contents of application
4 for registration and heavy vehicle tax; to provide that vehicle registration or renewal thereof
5 shall not be issued under certain conditions; to change certain provisions relating to
6 notification of coverage termination; to change certain provisions relating to notice of
7 insurance issuance, renewal, or termination; to change certain provisions relating to
8 insurance requirements for operation of motor vehicles generally; to change certain
9 provisions relating to insurance requirements for operation of motorcycles; to amend Chapter
10 34 of Title 33 of the Official Code of Georgia Annotated, relating to motor vehicle accident
11 reparations, so as to repeal certain provisions relating to vehicles not to be licensed until
12 proof of insurance is furnished; to provide for related matters; to provide for effective dates;
13 to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

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

18 "40-2-10.

19 A vehicle registrant may voluntarily cancel the registration on a vehicle when such vehicle
20 is not in use for any reason, including without limitation if the vehicle is stolen, repossessed
21 but not redeemed by the registrant, junked, inoperable, in storage, used seasonally for
22 agricultural or other purposes, or if the owner is on active duty in the armed forces of the
23 United States and is transferred to a duty station away from the location of the vehicle or
24 is on active sea duty. A registration that has been voluntarily cancelled may be reinstated
25 upon payment of all accrued ad valorem taxes and license fees, if any."

1 commercial policy that is subject to adjustment by audit for vehicle changes at the end
 2 of the policy period.

3 (3) 'Lapse' means one or more days upon which the records of the department do not
 4 reflect that a motor vehicle was covered by a policy of minimum motor vehicle insurance
 5 coverage.

6 (4) 'Minimum motor vehicle insurance coverage' means minimum coverage as specified
 7 in Chapter 34 of Title 33.

8 ~~(3)~~ (5) 'Proof of minimum insurance coverage' means the receipt from an insurer by the
 9 department of notice of such insurance coverage by electronic transmission or other
 10 means approved by the department.

11 ~~(4)~~ (6) 'Terminate' or 'termination' means actual cessation of insurance coverage after the
 12 date upon which coverage will not be restored for any reason, including without
 13 limitation cancellation, nonrenewal, and nonpayment of premium and without regard to
 14 whether such cessation was preceded by any extension or grace period allowed by the
 15 insurer.

16 (b)(1) After receipt of notification of coverage termination, if the department does not,
 17 on or before the effective date of such termination, receive notice from an insurer that
 18 new minimum motor vehicle insurance coverage for such motor vehicle has been issued,
 19 the department shall send a notice to the owner of the motor vehicle stating that the
 20 department has been informed of the fact of the coverage termination and informing the
 21 owner of the penalties provided by law. The department shall send such notice to the
 22 address of the owner of the motor vehicle shown on the records of the department. The
 23 mailing of such notice by the department to the address of the owner of the motor vehicle
 24 as shown on the records of the department shall be deemed conclusively to be notice to
 25 such owner of such owner's duty to maintain the required minimum insurance coverage
 26 and the possible penalties and consequences for failing to do so and shall be deemed to
 27 satisfy all notice requirements of law and no further notice to the owner shall be required
 28 for the suspensions and revocations provided for in this Code section.

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

35 (c)(1) When proof of minimum motor vehicle insurance coverage is provided within the
 36 time period specified in this Code section, but there has been a lapse of coverage, the
 37 owner shall remit a \$25.00 lapse fee to the department. Failure to remit the lapse fee to

1 the department within 30 days of the date on which the notification was mailed by the
 2 department will result in the suspension of the owner's motor vehicle registration by
 3 operation of law as if the proof had not been provided in a timely manner as provided in
 4 paragraph (2) of this subsection. If any lapse fee provided for in this Code section is paid
 5 to the county tax commissioner, the county shall retain \$5.00 thereof as a collection fee.

6 (2) If proof is not provided within the time period specified in this Code section that
 7 minimum motor vehicle insurance coverage is in effect, the owner's motor vehicle
 8 registration shall be suspended immediately by operation of law by the department. When
 9 such proof is provided and the owner pays a \$25.00 lapse fee ~~of \$25.00~~ and pays a \$60.00
 10 restoration fee ~~of \$60.00, or \$50.00 when processed by mail~~, the suspension shall
 11 terminate; provided, however, that the commissioner may waive the lapse fee and
 12 restoration fee for any owner whose vehicle registration has been suspended pursuant to
 13 this paragraph who provides proof of continuous minimum motor vehicle insurance
 14 coverage. If any restoration fee provided for in this Code section is paid to the county tax
 15 commissioner, the county shall retain \$10.00 thereof as a collection fee.

16 (3) In the event of a second suspension of the owner's registration under this Code
 17 section on or after February December 1, 2003, during any five-year period, the
 18 department by operation of law shall suspend the motor vehicle registration for a period
 19 of 90 days. After the 90 day suspension period and when proof is provided that minimum
 20 motor vehicle insurance coverage is in effect and the owner pays a \$25.00 lapse fee ~~of~~
 21 ~~\$25.00~~ and pays a \$60.00 restoration fee ~~of \$60.00, or \$50.00 when processed by mail~~,
 22 the suspension shall terminate.

23 (4) In the event of a third or subsequent suspension of the owner's registration under this
 24 Code section on or after February December 1, 2003, during any five-year period, the
 25 department by operation of law shall revoke the motor vehicle registration and no new
 26 application for registration shall be accepted for a period of six months after such
 27 revocation. After six months from the date of revocation and when proof is provided that
 28 minimum motor vehicle insurance coverage is in effect and the owner pays a \$25.00
 29 lapse fee ~~of \$25.00~~ and pays a \$160.00 restoration fee ~~of \$160.00, or \$150.00 when~~
 30 ~~processed by mail~~, the owner may apply for registration of the motor vehicle.

31 (d)(1) The commissioner may waive the lapse fee for any owner whose vehicle
 32 registration has been voluntarily cancelled pursuant to Code Section 40-2-10.

33 (2) Upon being presented with a copy of official orders or other satisfactory proof of
 34 ordered duty as approved by rule or regulation of the commissioner showing that an
 35 owner of a motor vehicle was deployed outside the continental United States on active
 36 military duty in the armed forces of the United States at the time his or her minimum
 37 motor vehicle insurance coverage for such vehicle terminated, the county tag agent shall

1 waive the lapse fee and restoration fee, suspension of the owner's motor vehicle
 2 registration under this Code section shall terminate, and application for registration of the
 3 vehicle which otherwise satisfies requirements provided by law may be accepted without
 4 delay.

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 suspending motor vehicle registrations as provided
 8 in this Code section on December 1, 2003. The department shall commence requiring
 9 payment of lapse fees and restoration fees as provided in this Code section on January 1,
 10 2004."

11 SECTION 4.

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

15 "40-5-71.

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

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

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

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

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

31 (b)(1)(A) For purposes of aiding in the enforcement of the requirement of minimum
 32 motor vehicle liability insurance, any insurer issuing or renewing in this state any
 33 policy of motor vehicle liability insurance required by Chapter 34 of Title 33 other than
 34 a fleet policy shall within 30 days after the date the insurance agent binds the coverage
 35 or on the date such coverage was renewed, whichever is applicable, provide notice of
 36 such insurance coverage by electronic transmission to the department; except that once

1 coverage data has been electronically transmitted to the department, there shall be no
 2 requirement to report on subsequent renewals of that coverage. Insurance coverage
 3 information included in such notice of issue or renewal shall be limited exclusively to
 4 name of insurer; vehicle identification number; the make and year of the insured motor
 5 vehicle; and policy effective date. The department shall not require ~~the name of the~~
 6 ~~insurer~~ or the policy limits to be disclosed for purposes of this subparagraph. For the
 7 purposes of this Code section, the vehicle identification number shall be the vehicle
 8 identification number as that number is shown in the records of the department. For the
 9 purposes of this Code section, the Commissioner of Insurance shall furnish such notices
 10 to the department upon issuance of a certificate of self-insurance.

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

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

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

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

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

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

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

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

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

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

24 SECTION 5.

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

28 "40-6-10.

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

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

1 (A) If the policy providing such coverage was applied for within the last 30 days, a
 2 current written binder for such coverage for a period not exceeding 30 days from the
 3 date such binder was issued shall be considered satisfactory proof or evidence of
 4 required minimum insurance coverage;

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

8 (C) If the owner acquired ownership of the ~~motor vehicle in question~~ within the past
 9 ~~20~~ 30 days, if the type of proof described in subparagraph (A) of this paragraph is not
 10 applicable but the vehicle is currently effectively provided with required minimum
 11 insurance coverage under the terms of a policy providing required minimum insurance
 12 coverage for another motor vehicle, then a copy of the insurer's declaration of coverage
 13 under the policy providing such required minimum insurance coverage for such other
 14 vehicle shall be considered satisfactory proof or evidence of required minimum
 15 insurance coverage for the vehicle ~~in question~~, but only if accompanied by proof or
 16 evidence that the owner acquired ownership of the vehicle ~~in question~~ within the past
 17 ~~20~~ 30 days.

18 (2.1) If the vehicle is insured under a fleet policy as defined in Code Section 40-2-137
 19 providing the required minimum insurance coverage or if the vehicle is engaged in
 20 interstate commerce and registered under the provisions of Article 3A of Chapter 2 of this
 21 title, the insurance information card issued by the insurer shall be considered satisfactory
 22 proof of required minimum insurance coverage for the vehicle.

23 (2.2) If the vehicle is insured under a certificate of self-insurance issued by the
 24 Commissioner of Insurance providing the required minimum insurance coverage under
 25 which the vehicle owner did not report the vehicle identification number to the
 26 Commissioner of Insurance, the insurance information card issued by the Commissioner
 27 of Insurance shall be considered satisfactory proof of required minimum insurance
 28 coverage for the vehicle, but only if accompanied by a copy of the certificate issued by
 29 the Commissioner of Insurance.

30 (3) On and after ~~February 1, 2003~~ January 1, 2004, the requirement under this Code
 31 section that proof or evidence of minimum liability insurance be maintained in a motor
 32 vehicle at all times during the operation of the vehicle shall not apply to the owner or
 33 operator of any vehicle for which the records or data base of the Department of Motor
 34 Vehicle Safety ~~indicate~~ indicates that required minimum insurance coverage is currently
 35 effective.

36 (4) Except as otherwise provided in paragraph (7) of this subsection, any person who
 37 fails to comply with the requirements of this subsection shall be guilty of a misdemeanor

1 and, upon conviction thereof, shall be subject to a fine of not less than \$200.00 nor more
2 than \$1,000.00 or imprisonment for not more than 12 months, or both.

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

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

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

21 (8)(A) For purposes of this Code section up to and including ~~January~~ December 31,
22 2003, a valid insurance card shall be sufficient proof of insurance for any vehicle.

23 (B) For purposes of this Code section on and after ~~February 1, 2003~~ January 1, 2004,
24 a valid insurance card shall be sufficient proof of insurance only for any vehicle
25 covered under a ~~commercial vehicle~~ fleet policy as defined in Code Section 40-5-71.
26 The insurance card for a fleet policy shall contain at least the name of the insurer,
27 policy number, policy issue or effective date, policy expiration date, and the name of
28 the insured and may, but shall not be required to, include the year, make, model, and
29 vehicle identification number of the vehicle insured.

30 (C) For any vehicle covered under a policy of motor vehicle liability insurance that is
31 not a ~~commercial vehicle~~ fleet policy as defined in Code Section 40-5-71, the insurer
32 shall issue a policy information ~~identification~~ card which shall contain at least the name
33 of the insurer, policy number, policy issue or effective date, policy expiration date,
34 name of the insured, and year, make, model, and vehicle identification number of each
35 vehicle insured; ~~provided, however, that~~ and on and after ~~February 1, 2003~~ January 1,
36 2004, the owner or operator of the motor vehicle shall keep such policy information
37 card in the vehicle at all times during operation of the vehicle for purposes of Code

1 Section 40-6-273.1, but any such policy information ~~identification~~ card shall not be
 2 sufficient proof of insurance for any purposes of this Code section except as otherwise
 3 provided in this Code section.

4 (b) An owner or any other person who knowingly operates or knowingly authorizes
 5 another to operate a motor vehicle without effective insurance on such vehicle or without
 6 an approved plan of self-insurance shall be guilty of a misdemeanor and, upon conviction
 7 thereof, shall be subject to a fine of not less than \$200.00 nor more than \$1,000.00 or
 8 imprisonment for not more than 12 months, or both. An operator of a motor vehicle shall
 9 not be guilty of a violation of this Code section if such operator maintains a policy of motor
 10 vehicle insurance which extends coverage to any vehicle the operator may drive. An owner
 11 or operator of a motor vehicle shall not be issued a citation by a law enforcement officer
 12 for a violation of this Code section if the sole basis for issuance of such a citation is that
 13 the law enforcement officer is unable to obtain insurance coverage information from the
 14 records of the department.

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

19 (d) ~~Insurance~~ Except for vehicles insured under a fleet policy as defined in Code Section
 20 40-2-137 or under a plan of self-insurance approved by the Commissioner of Insurance,
 21 insurance coverage information from records of the department shall be prima-facie
 22 evidence of the facts stated therein and shall be admissible as evidence in accordance with
 23 Code Section 24-3-17 for the purposes of this Code section.

24 (e) The minimum liability insurance data base of the department shall be operational for
 25 the purposes of testing, evaluation, verification of data, and validation of accuracy not later
 26 than November 1, 2002, and shall be fully operational not later than ~~February 1, 2003~~
 27 January 1, 2004."

28 SECTION 6.

29 Said title is further amended by striking Code Section 40-6-11, relating to insurance
 30 requirements for operation of motorcycles, and inserting in lieu thereof the following:

31 "40-6-11.

32 (a) For the purposes of this Code section, 'motorcycle' means any motor vehicle traveling
 33 on public streets or highways having a seat or saddle for the use of the rider and designed
 34 to travel on not more than three wheels in contact with the ground but excluding a tractor
 35 and a moped.

1 (b) No owner of a motorcycle or any other person, other than a self-insurer as defined in
 2 Chapter 34 of Title 33, shall operate or authorize any other person to operate the
 3 motorcycle unless the owner has liability insurance on the motorcycle equivalent to that
 4 required as evidence of security for bodily injury and property damage liability under Code
 5 Section 40-9-37. Any person who violates this subsection shall be guilty of a misdemeanor.

6 (c) The operator of a motorcycle shall keep proof or evidence of the minimum insurance
 7 coverage required by this Code section in his or her immediate possession or on the
 8 motorcycle at all times when such person is operating the motorcycle but only under the
 9 same circumstances and of the same type as prescribed for operators of other motor
 10 vehicles in ~~paragraph (1) of subsection (a) of~~ Code Section 40-6-10. Any person who
 11 violates this subsection shall be subject to a fine not to exceed \$25.00; however, there shall
 12 be no suspension of the person's operator's license or motor vehicle license tag for a
 13 violation of this subsection.

14 (d)(1) Insurance coverage information from records of the department shall be
 15 prima-facie evidence of the facts stated therein and shall be admissible as evidence in
 16 accordance with Code Section 24-3-17 for the purposes of this Code section.

17 (2) Every law enforcement officer in this state shall request the operator of a motorcycle
 18 subject to the provisions of subsection (c) of this Code section to produce proof or
 19 evidence of minimum insurance coverage required by this Code section at any time the
 20 law enforcement officer stops the motorcycle or requests the presentation of the driver's
 21 license of such operator.

22 (e) An owner or operator of a motorcycle shall not be issued a citation by a law
 23 enforcement officer for a violation of this Code section if the sole basis for issuance of such
 24 a citation is that the law enforcement officer is unable to obtain insurance coverage
 25 information from the records of the department."

26 SECTION 7.

27 Chapter 34 of Title 33 of the Official Code of Georgia Annotated, relating to motor vehicle
 28 accident reparations, is amended by striking and reserving Code Section 33-34-5, relating to
 29 vehicles not to be licensed until proof of insurance is furnished.

30 SECTION 8.

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

33 SECTION 9.

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