

House Bill 616 (AM)

By: Representative Parham of the 94<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 and  
2 traffic, so as to provide for certain use and revision of drivers' operating records; to change  
3 certain provisions relating to examination of applicants; to change certain provisions relating  
4 to restrictions on ability of courts to change or modify traffic law sentences or judgments;  
5 to change the length of Georgia residency required to obtain a veteran's license; to provide  
6 an effective date; to 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 and traffic, is  
10 amended by striking Code Section 40-5-27, relating to examination of applicants, and  
11 inserting in lieu thereof the following:

12 "40-5-27.

13 (a) The department shall examine every applicant for a driver's license. Such examination  
14 shall include a test of the applicant's eyesight, his or her ability to understand official  
15 traffic-control devices, and his or her knowledge of safe driving practices and the traffic  
16 laws of this state and shall also include a comprehensive on-the-road driving test during  
17 which the applicant shall be required to fully demonstrate his or her ability to exercise  
18 ordinary and reasonable control in the operation of a motor vehicle of the type or general  
19 class of vehicles he or she desires a license to drive; provided, however, that the  
20 on-the-road driving test requirement shall not apply to any applicant for a Class C driver's  
21 license who holds a Class D driver's license issued on or after January 1, 2002. Applicants  
22 18 years of age and older with valid ~~and current~~ licenses issued by another state of the  
23 United States or the District of Columbia who surrender their previous licenses to obtain  
24 a Georgia license ~~shall~~ or submit a certified copy of the driver operating record from the  
25 prior state of licensure may be exempt from taking such tests other than tests of eyesight.  
26 The examination may also include such further physical and mental examination as the

1 department finds necessary to determine the applicant's fitness to operate a motor vehicle  
2 safely upon the highways. The commissioner may establish by rules and regulations the  
3 type of tests or demonstrations to be made by applicants for any class of license.

4 (b) The department shall make provision for giving an examination either in the county  
5 where the applicant resides or at another place reasonably convenient to the applicant. The  
6 examination, with the exception of those required for a commercial driver's license,  
7 commercial driver's license permit, or noncommercial Class A, B, or M license, shall be  
8 given at least once each month in each county of the state.

9 (c)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, no driver's  
10 license shall be issued to any person who does not have a visual acuity of 20/60,  
11 corrected or uncorrected, in at least one eye or better and a horizontal field of vision with  
12 both eyes open of at least 140 degrees or, in the event that one eye only has usable vision,  
13 horizontal field of vision must be at least 70 degrees temporally and 50 degrees nasally.

14 (2) A person whose visual acuity is less than 20/60 but better than 20/200 using  
15 spectacles, contact lenses, or the carrier portion of bioptic spectacles shall be considered  
16 eligible for a driver's license if the person is not otherwise disqualified from having a  
17 driver's license under the provisions of this article and if:

18 (A) The person can attain a visual acuity of at least 20/60 through utilizing bioptic  
19 telescopes;

20 (B) The telescopes are prescribed by a licensed optometrist or ophthalmologist;

21 (C) The person presents documentation of having satisfactorily completed training in  
22 the use of the bioptic telescope as certified by the prescribing doctor;

23 (D) The person presents documentation of an on-the-road evaluation and having  
24 satisfactorily completed any recommended training in driving while using bioptic  
25 telescopes from a certified driver's license examiner;

26 (E) The person completes a standard driver's education course while using the bioptic  
27 telescopes subsequent to completing evaluation or training with a driver's license  
28 examiner; and

29 (F) The person presents said documentation to a department operated test site and  
30 passes a driver's test examination administered by the department.

31 (3) A person who is licensed to drive using bioptic telescopes shall be subject to possible  
32 restrictions placed on his or her license as determined and recommended by the  
33 prescribing optometrist or ophthalmologist or the driver's license examiner. Any  
34 recommended restrictions shall be reported to the department in writing at the time the  
35 person presents himself or herself for a driver's test examination. Restrictions may  
36 include daylight driving only, outside rear-view mirrors, certain area and time  
37 restrictions, no interstate driving, yearly reevaluations by an optometrist or

1 ophthalmologist, and other such restrictions. Any restrictions shall be eligible for review  
 2 and reconsideration after one year by completing all of the steps described in  
 3 subparagraphs (A) through (F) of paragraph (2) of this subsection, including completing  
 4 any additional possible testing under special conditions, as determined by the optometrist  
 5 or ophthalmologist.

6 (4) The user of a bioptic telescope shall require renewal of his or her license biennially.  
 7 The person must be reevaluated at least biennially by an optometrist or ophthalmologist  
 8 and must biennially pass the driver's road test examination administered by the  
 9 department. A certification by the optometrist or ophthalmologist that the user's visual  
 10 acuity, visual field, and eye health remain stable shall be presented to the department at  
 11 the time of the biennial road test examination. In the event that changes in vision are  
 12 determined, the person's license shall expire and the person must successfully repeat all  
 13 of the steps described in subparagraphs (A) through (F) of paragraph (2) of this  
 14 subsection in order to have his or her license reinstated."

## 15 SECTION 2.

16 Said title is further amended by striking Code Section 40-13-32, relating to restrictions on  
 17 ability of courts to change or modify traffic law sentences or judgments, and inserting in lieu  
 18 thereof the following:

19 "40-13-32.

20 (a) No court having jurisdiction over cases arising out of the traffic laws of this state or the  
 21 traffic laws of any county or municipal government shall change or modify a traffic law  
 22 sentence or judgment rendered pursuant to a conviction, plea of guilty, or plea of nolo  
 23 contendere after 90 days from the date of judgment, except for the purpose of correcting  
 24 clerical errors therein, unless there is strict compliance with all of the following  
 25 requirements:

26 (1) A motion to change or modify the sentence or judgment is made by the defendant to  
 27 the court rendering the judgment;

28 (2) Notice, including a copy of the motion and rule nisi, is given to the prosecuting  
 29 official who brought the original charge at least ten days prior to the motion hearing; and

30 (3) A hearing is held with opportunity for the state to be heard.

31 (b) If the original judgment is changed or modified pursuant to this Code section, the judge  
 32 shall certify to the Department of Motor Vehicle Safety that such change or modification  
 33 is a true and correct copy of the change or modification and that the requirements set forth  
 34 in paragraphs (1) through (3) of subsection (a) of this Code section have been met.

35 (c) Except for orders correcting clerical errors, the Department of Motor Vehicle Safety  
 36 shall not recognize as valid any change or modification order nor make any changes to a

1 driver's history unless such change or modification as submitted to the department is in  
 2 strict compliance with the requirements set forth in subsections (a) and (b) of this Code  
 3 section. Whenever a certified copy of a change or modification order is submitted to the  
 4 department in strict compliance with the requirements of subsections (a) and (b) of this  
 5 Code section, the department shall upon receipt of such order revise its record of the  
 6 driver's history accordingly, and any suspension or revocation of a driver's license or  
 7 assessment of points based upon a vacated judgment shall be void from the beginning.

8 (d) In the case of municipal courts, notice to the city attorney, or to the solicitor in those  
 9 cases where the municipal court has a solicitor, shall be deemed to be notice as provided  
 10 for in this Code section.

11 (e) In all cases wherein notice is required in this Code section, same shall be deemed  
 12 sufficient if sent by certified mail or statutory overnight delivery, return receipt requested,  
 13 with adequate postage thereon, to the correct address of the prosecuting official.

14 (f) Notwithstanding other laws and specifically notwithstanding Code Section 17-7-93, a  
 15 motion to change or modify a traffic law sentence or judgment may, at any time ~~prior to~~  
 16 ~~the expiration of the term of court following the term at which judgment and sentence were~~  
 17 ~~pronounced or within 90 days of the time judgment and sentence were pronounced,~~  
 18 ~~whichever time period is greater,~~ be made by the defendant and accepted by the court as  
 19 provided in this Code section."

### 20 SECTION 3.

21 Said article is further amended by striking subparagraph (1) of subsection (c) of Code Section  
 22 40-5-36, relating to veterans' licenses, honorary licenses, and other distinctive licenses, and  
 23 inserting in its place the following:

24 "(1) Veterans who were residents of Georgia at the time of enlistment or commissioning  
 25 and are residents at the time of application for the license, or who have been residents of  
 26 Georgia for at least ~~five~~ two years immediately preceding the date of application for the  
 27 license, who served on active duty in the armed forces of the United States or on active  
 28 duty in a reserve component of the armed forces of the United States, including the  
 29 National Guard, during wartime or any conflict when personnel were committed by the  
 30 President of the United States, whether or not such veteran was assigned to a unit or  
 31 division which directly participated in such war or conflict, except for periodic transfer  
 32 from reserve status to active duty status for training purposes, and who were discharged  
 33 or separated under honorable conditions; and"

### 34 SECTION 4.

35 This Act shall become effective on July 1, 2003.

- 1 **SECTION 5.**
- 2 All laws and parts of laws in conflict with this Act are repealed.