

Senate Bill 392

By: Senators Smith of the 52nd, Shafer of the 48th, Collins of the 6th, Clay of the 37th,
Lamutt of the 21st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to enact the "Truancy Enforcement Act"; to
3 provide a short title; to provide any student the right to a letter from his or her school
4 administrator relating to attendance; to provide notice to a student prior to reaching the
5 maximum number of allowable absences for purposes of obtaining and maintaining an
6 instruction permit or driver's license; to provide for reporting by schools to the Department
7 of Motor Vehicle Safety of students who have violated the attendance requirements for
8 purposes of obtaining and maintaining an instruction permit or driver's license; to provide
9 that attendance reports and records are included in the meaning of "education records"; to
10 amend Chapter 2 of Title 39 of the Official Code of Georgia Annotated, relating to regulation
11 of employment of minors, so as to require that a minor provide an employer with a letter
12 from his or her school administrator indicating an attendance record in good standing; to
13 require such employer to maintain such letter in minor's employment file; to provide that
14 violation by an employer in obtaining and maintaining such attendance letter constitutes a
15 misdemeanor; to amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated,
16 relating to drivers' licenses for motor vehicles, so as to require minors to comply with
17 attendance requirements for one academic year prior to applying for an instruction permit or
18 driver's license; to provide that the Department of Motor Vehicles notify a minor who is
19 ineligible to obtain an instruction permit or driver's license due to noncompliance with
20 attendance requirements; to provide that the instruction permit or driver's license is
21 immediately returned to the Department of Motor Vehicle Safety in the event of suspension;
22 to provide for an exemption to the attendance requirements for purposes of undue hardship,
23 detriment to health or welfare, or otherwise not in the best interests of the minor; to provide
24 that any suspension shall be for a period of one year or until the minor reaches his or her
25 eighteenth birthday; to provide for an effective date; to repeal conflicting laws; and for other
26 purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Truancy Enforcement Act."

SECTION 2.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended in Code Section 20-2-697, relating to cooperation of principals and teachers in public schools with visiting teachers and attendance officers and attendance reports and records kept by public schools, by inserting a new subsection (a.1) to read as follows:

"(a.1) Any student shall have the right to request and receive, within three business days from the date of such request, a letter from his or her school administrator indicating that the student is enrolled full-time and has an attendance record in good standing for the current academic year."

SECTION 3.

Said chapter is further amended by striking Code Section 20-2-701, relating to local school superintendents or visiting teachers and attendance officers reporting truants to juvenile or other courts, and inserting in lieu thereof the following:

"20-2-701.

(a) Local school superintendents as applied to private schools and home study programs or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child.

(b) Local school superintendents as applied to private schools and home study programs or visiting teachers and attendance officers as applied to public schools shall use their best efforts to notify any child 14 years of age or older who has only three absences remaining prior to violating the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such notification shall be made via first-class mail.

(c) Local school superintendents as applied to private schools and home study programs or visiting teachers and attendance officers as applied to public schools shall report to the Department of Motor Vehicle Safety any child 14 years of age or older who does not meet the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such report shall include the child's name, current address, and social security number, if known."

SECTION 6.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses for motor vehicles, is amended in Code Section 40-5-22, relating to persons not to be licensed, minimum ages for licensees, school attendance requirements, and driving training requirements, by striking subsection (a.1) and inserting in lieu thereof the following:

"(a.1)(1) The department shall not issue an instruction permit or driver's license to a person who is younger than 18 years of age unless at the time such minor submits an application for an instruction permit or driver's license the applicant presents acceptable proof that he or she has received a high school diploma, a general educational development (GED) ~~equivalency~~ diploma, a special diploma, or a certificate of high school completion, ~~has permission of his or her parent or guardian to withdraw from school,~~ or has terminated his or her secondary education and is enrolled in a postsecondary school or the records of the department indicate that said applicant:

(A) Is enrolled in and not under suspension from a public or private school and ~~satisfies~~ has satisfied relevant attendance requirements as set forth in paragraph (2) of this subsection for a period of one academic year prior to application for an instruction permit or driver's license; or

(B) Is enrolled in a home education program that satisfies the requirements of all state laws governing such courses.

The department shall notify such minor of his or her ineligibility for an instruction permit or driver's license at the time of such application.

(2) The department shall forthwith notify by certified mail or statutory overnight delivery, return receipt requested, any minor issued an instruction permit or driver's license in accordance with this subsection other than a minor who has terminated his or her secondary education and is enrolled in a postsecondary school ~~or who has permission of his or her parent or guardian to withdraw from school~~ that such minor's instruction permit or driver's license is suspended subject to review as provided for in this subsection if the ~~records of the~~ department ~~indicate~~ receives notice pursuant to Code Section 20-2-701 that indicates that such minor:

(A) Has dropped out of school without graduating and has remained out of school for ten consecutive school days;

(B) Has more than ten consecutive school days of unexcused absences in any semester or combination of two consecutive quarters; or

(C) Has been suspended from school for:

(i) Threatening, striking, or causing bodily harm to a teacher or other school personnel;

(ii) Possession or sale of drugs or alcohol on school property; or

1 (iii) Possession or use of a weapon on school property. For purposes of this
 2 subparagraph, the term 'weapon' shall not include any part of an archeological or
 3 cultural exhibit brought to school in connection with a school project.

4 Notice given by certified mail or statutory overnight delivery with return receipt
 5 requested mailed to the person's last known address shall be prima-facie evidence that
 6 such person received the required notice. Such notice shall include instructions to the
 7 minor to return immediately the instruction permit or driver's license to the department.

8 The minor so notified may request in writing a hearing within ten business days from the
 9 date of receipt of notice. Within 30 days after receiving a written request for a hearing,
 10 the department shall hold a hearing as provided for in Chapter 13 of Title 50, the 'Georgia
 11 Administrative Procedure Act.' After such hearing, the department shall sustain its order
 12 of suspension or rescind such order. The department shall be authorized to grant an
 13 exemption from the provisions of this subsection to a minor, upon such minor's petition,
 14 if enforcement of the provisions of this subsection upon such minor would create an
 15 undue hardship upon the minor or the minor's family, if there is clear and convincing
 16 evidence that the enforcement of the provisions of this subsection would act as a
 17 detriment to the health or welfare of the minor, or if enforcement of the provisions of this
 18 subsection would otherwise not be in the best interests of the minor. Any exemption
 19 granted herein shall be effective for a maximum of one year, at which time a minor may
 20 petition for a further exemption. Appeal from such hearing shall be in accordance with
 21 said chapter. If no hearing is requested within the ten business days specified above, the
 22 right to a hearing shall have been waived and the instruction permit or driver's license of
 23 the minor shall remain suspended. The suspension provided for in this paragraph shall
 24 be for a period ~~to end~~ of one year or shall end upon the date of such minor's eighteenth
 25 birthday, ~~but such minor's instruction permit or driver's license shall be reinstated if the~~
 26 ~~minor submits evidence satisfactory to the department that he or she has resumed regular~~
 27 ~~studies as determined by the State Board of Education and qualifies for an instruction~~
 28 ~~permit or driver's license under the provisions of this subsection, upon payment of a~~
 29 ~~restoration fee of \$50.00; provided, however, that any instruction permit or driver's~~
 30 ~~license suspended pursuant to subparagraph (C) of this paragraph shall not be reinstated~~
 31 ~~until 90 days after the effective date of the suspension of such permit or license~~
 32 whichever comes first.

33 (3) The State Board of Education and the commissioner of motor vehicle safety are
 34 authorized to promulgate rules and regulations to implement the provisions of this
 35 subsection."

1 **SECTION 7.**

2 This Act shall become effective on July 1, 2004.

3 **SECTION 8.**

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