

House Bill 1241

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 prohibit Class D drivers from using cellular telephones or other portable  
3 communications devices while operating a motor vehicle on public roads; to include a  
4 violation of the safety belt law as an additional basis to deny an application for upgrading a  
5 Class D license to a Class C license; to provide for the separate misdemeanor offense of child  
6 endangerment where a person commits the act of racing, laying drag, fleeing and attempting  
7 to elude, reckless driving, or aggressive driving with a person under the age of 14 in the  
8 vehicle; to provide for points toward license restrictions for failure to properly restrain a child  
9 under the age of five in a vehicle; to require safety belts for any occupant under the age of  
10 18 in a passenger vehicle; to provide for increased fines for failure to secure a seat belt on  
11 a minor; to provide an effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 This Act shall be known and may be cited as the "Child Highway Safety Act."

15 style="text-align:center">**SECTION 2.**

16 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
17 amended in Article 2 of Chapter 5 by striking Code Section 40-5-24, relating to instruction  
18 permits, graduated licensing, and related license restrictions, and inserting in its place the  
19 following:

20 "40-5-24.

21 (a)(1) Any resident of this state who is at least 15 years of age may apply to the  
22 department for an instruction permit to operate a noncommercial Class C vehicle. The  
23 department shall, after the applicant has successfully passed all parts of the examination  
24 referred to in Code Section 40-5-27 other than the driving test, issue to the applicant an  
25 instruction permit which shall entitle the applicant, while having such permit in his or her

1 immediate possession, to drive a Class C vehicle upon the public highways for a period  
2 of two years when accompanied by a person at least 21 years of age who is licensed as  
3 a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of  
4 exercising control over the vehicle, and who is occupying a seat beside the driver.

5 (2) A person who has been issued an instruction permit under this subsection and has  
6 never been issued a Class D driver's license under subsection (b) of this Code section will  
7 become eligible for a Class D driver's license under subsection (b) of this Code section  
8 only if such person is at least 16 years of age, has a valid instruction permit which is not  
9 under suspension, and, for a period of not less than 12 consecutive months prior to  
10 making application for a Class D driver's license, has not been convicted of a violation  
11 of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of  
12 Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing  
13 or attempting to elude an officer, reckless driving, convicted of a violation of Code  
14 Section 40-8-76.1, failure to utilize safety belt equipment, or convicted of any offense for  
15 which four or more points are assessable under subsection (c) of Code Section 40-5-57.

16 (3) This subsection does not apply to instruction permits for the operation of  
17 motorcycles.

18 (b)(1) Any resident of this state who is at least 16 years of age and who, for a period of  
19 at least 12 months, had a valid instruction permit issued under subsection (a) of this Code  
20 section may apply to the department for a Class D driver's license to operate a  
21 noncommercial Class C vehicle if such resident has otherwise complied with all  
22 prerequisites for the issuance of such Class D driver's license as provided in subsection  
23 (a) of this Code section, provided that a resident at least 16 years of age who has at any  
24 age surrendered to the department a valid instruction permit or driver's license issued by  
25 another state or the District of Columbia or who has submitted to the department proof,  
26 to the satisfaction of the department, of a valid instruction permit or driver's license  
27 issued by another state or the District of Columbia may apply his or her driving record  
28 under such previously issued permit or driver's license toward meeting the eligibility  
29 requirements for a Class D driver's license the same as if such previously issued permit  
30 or driver's license were an instruction permit issued under subsection (a) of this Code  
31 section.

32 (2) The department shall, after all applicable requirements have been met, issue to the  
33 applicant a Class D driver's license which shall entitle the applicant, while having such  
34 license in his or her immediate possession, to drive a Class C vehicle upon the public  
35 highways of this state under the following conditions:

1 (A) Any Class D license holder shall not drive a Class C motor vehicle on the public  
 2 roads, streets, or highways of this state between the hours of 12:00 Midnight and 6:00  
 3 A.M. eastern standard time or eastern daylight time, whichever is applicable; ~~and~~

4 (B)(i) Any Class D license holder shall not drive a Class C motor vehicle upon the  
 5 public roads, streets, or highways of this state when more than three other passengers  
 6 in the vehicle who are not members of the driver's immediate family are less than 21  
 7 years of age.

8 (ii) During the six-month period immediately following issuance of such license, any  
 9 Class D license holder shall not drive a Class C motor vehicle upon the public roads,  
 10 streets, or highways of this state when any other passenger in the vehicle is not a  
 11 member of the driver's immediate family; and

12 (C) Any Class D license holder shall not drive a motor vehicle upon the public roads,  
 13 streets, or highways of this state while using a cellular or mobile telephone device or  
 14 other cellular, electronic, or wireless communications device;

15 provided, however, that a Class D license holder shall not be charged with a violation of  
 16 this paragraph alone but may be charged with violating this paragraph in addition to any  
 17 other traffic offense.

18 (3) A person who has been issued a Class D driver's license under this subsection and  
 19 has never been issued a Class C driver's license under this chapter will become eligible  
 20 for a Class C driver's license under this chapter only if such person has a valid Class D  
 21 driver's license which is not under suspension and, for a period of not less than 12  
 22 consecutive months prior to making application for a Class C driver's license, has not  
 23 been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene  
 24 of an accident in violation of Code Section 40-6-270, racing on highways or streets, using  
 25 a motor vehicle in fleeing or attempting to elude an officer, reckless driving, convicted  
 26 of a violation of Code Section 40-8-76.1, failure to utilize safety belt equipment, or  
 27 convicted of any offense for which four or more points are assessable under subsection  
 28 (c) of Code Section 40-5-57 and is at least 18 years of age.

29 (c) Any resident of this state who is at least 16 years of age may apply to the department  
 30 for a noncommercial Class M motorcycle instruction permit. The department shall, after  
 31 the applicant has successfully passed all parts of the examination other than the driving test,  
 32 issue to the applicant an instruction permit which shall entitle the applicant, while having  
 33 such permit in his or her immediate possession, to drive a motorcycle or a motor driven  
 34 cycle upon the public highways for a period of six months. A motorcycle instruction permit  
 35 shall not be valid when carrying passengers, on a limited access highway, or at night.

36 (d) Any resident of this state who is at least 18 years of age may apply to the department  
 37 for an instruction permit to operate noncommercial vehicles in Classes A and B. Such

1 permits may be issued only to persons with valid commercial or noncommercial Class C  
 2 licenses or persons who have passed all required tests for a commercial or noncommercial  
 3 Class C license. The department shall, after the applicant has successfully passed all parts  
 4 of the appropriate examination other than the skill and driving test, issue to the applicant  
 5 an instruction permit which shall entitle the applicant, while having the permit in his or her  
 6 immediate possession, to operate a vehicle of the appropriate noncommercial class upon  
 7 the public highways for a period of 12 months when accompanied by a licensed driver,  
 8 qualified in the vehicle being operated, who is fit and capable of exercising control over  
 9 the vehicle, and who is occupying a seat beside the driver as an instructor. Prior to being  
 10 issued a driver's license for Classes A and B, the applicant shall pass a knowledge and skill  
 11 test for driving a Class A or B vehicle as provided by the commissioner.

12 (e) The department shall issue a temporary driver's permit to an applicant for a driver's  
 13 license permitting him or her to operate a specified type or class of motor vehicle while the  
 14 department is completing its investigation and determination of all facts relative to such  
 15 applicant's eligibility to receive a driver's license. Such permit must be in his or her  
 16 immediate possession while operating a motor vehicle, and it shall be invalid when the  
 17 applicant's license has been issued or for good cause has been refused. Such permit shall  
 18 be valid for no more than 45 days. When a license has been refused, the permit shall be  
 19 returned to the department within ten days of receipt of written notice of refusal."

### 20 SECTION 3.

21 Said title is further amended in Article 9 of Chapter 6 by striking Code Section 40-6-186,  
 22 relating to racing, and inserting in its place the following:

23 "40-6-186.

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

25 (1) 'Drag race' means the operation of two or more vehicles from a point side by side at  
 26 accelerated speeds in a competitive attempt to outdistance each other or the operation of  
 27 one or more vehicles over a common selected course from the same point to the same  
 28 point for the purpose of comparing the relative speeds or power of acceleration of such  
 29 vehicle or vehicles within a certain distance or time limit.

30 (2) 'Racing' means the use of one or more vehicles in an attempt to outgain, outdistance,  
 31 or prevent another vehicle from passing, to arrive at a given destination ahead of another  
 32 vehicle or vehicles, or to test the physical stamina or endurance of drivers over  
 33 long-distance driving routes.

34 (b) No person shall drive any vehicle on a highway in this state in any race, speed  
 35 competition or contest, drag race or acceleration contest, test of physical endurance,  
 36 exhibition of speed or acceleration, or for the purpose of making a speed record, and no

1 person shall in any manner participate in any such race, competition of speed, contest of  
2 speed, or test or exhibition of speed.

3 (c) Any person convicted of violating subsection (b) of this Code section shall be guilty  
4 of a misdemeanor. In addition to the punishment prescribed by law, the Department of  
5 Public Safety shall suspend for 12 months the license of any person convicted of such  
6 violation.

7 (d) A person who commits a violation of this Code section while transporting in a motor  
8 vehicle a child under the age of 14 years is guilty of the separate offense of endangering  
9 a child by racing. The offense of endangering a child by racing shall not be merged with  
10 the offense of laying drag, racing, reckless driving, speeding, or any other offense for the  
11 purposes of prosecution and sentencing. An offender who is convicted of a violation of this  
12 subsection shall be punished in accordance with the provisions of subsection (d) of Code  
13 Section 16-12-1, relating to the offense of contributing to the delinquency, unruliness, or  
14 deprivation of a child."

#### 15 SECTION 4.

16 Said title is further amended in Article 11 of Chapter 6 by striking Code Section 40-6-251,  
17 relating to laying drag, and inserting in its place the following:

18 "40-6-251.

19 (a) No driver of any motor vehicle shall operate the vehicle upon the public streets,  
20 highways, public or private driveways, airport runways, or parking lots in such a manner  
21 as to create a danger to persons or property by intentionally and unnecessarily causing the  
22 vehicle to move in a zigzag or circular course or to gyrate or spin around, except to avoid  
23 a collision or injury or damage.

24 (b) The offenses described in this Code section shall be sufficiently identified on any  
25 traffic ticket, warrant, accusation, or indictment when referred to as 'laying drags.'

26 (c) This Code section shall not apply to drivers operating vehicles in or on any raceway,  
27 drag strip, or similar place customarily and lawfully used for such purposes.

28 (d) Any person violating subsection (a) of this Code section shall be guilty of a  
29 misdemeanor.

30 (e) A person who commits a violation of this Code section while transporting in a motor  
31 vehicle a child under the age of 14 years is guilty of the separate offense of endangering  
32 a child by laying drag. The offense of endangering a child by laying drag shall not be  
33 merged with the offense of laying drag, racing, reckless driving, or speeding for the  
34 purposes of prosecution and sentencing. An offender who is convicted of a violation of this  
35 subsection shall be punished in accordance with the provisions of subsection (d) of Code

1 Section 16-12-1, relating to the offense of contributing to the delinquency, unruliness, or  
 2 deprivation of a child."

3 **SECTION 5.**

4 Said title is further amended in Article 12 of Chapter 6 by striking Code Section 40-6-270,  
 5 relating to hit and run or leaving the scene of an accident, and inserting in its place the  
 6 following:

7 "40-6-270.

8 (a) The driver of any vehicle involved in an accident resulting in injury to or the death of  
 9 any person or in damage to a vehicle which is driven or attended by any person shall  
 10 immediately stop such vehicle at the scene of the accident or shall stop as close thereto as  
 11 possible and forthwith return to the scene of the accident and shall:

12 (1) Give his or her name and address and the registration number of the vehicle he or she  
 13 is driving;

14 (2) Upon request and if it is available, exhibit his or her operator's license to the person  
 15 struck or the driver or occupant of or person attending any vehicle collided with; and

16 (3) Render to any person injured in such accident reasonable assistance, including the  
 17 transporting, or the making of arrangements for the transporting, of such person to a  
 18 physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such  
 19 treatment is necessary or if such transporting is requested by the injured person.

20 The driver shall in every event remain at the scene of the accident until fulfilling the  
 21 requirements of this subsection. Every such stop shall be made without obstructing traffic  
 22 more than is necessary.

23 (b) If such accident is the proximate cause of death or a serious injury, any person  
 24 knowingly failing to stop and comply with the requirements of subsection (a) of this Code  
 25 section shall be guilty of a felony and, upon conviction thereof, shall be punished by  
 26 imprisonment for not less than one nor more than five years.

27 (c)(1) If such accident is the proximate cause of an injury other than a serious injury or  
 28 if such accident resulted in damage to a vehicle which is driven or attended by any  
 29 person, any person knowingly failing to stop or comply with the requirements of this  
 30 Code section shall be guilty of a misdemeanor and:

31 (A) Upon conviction shall be fined not less than \$300.00 nor more than \$1,000.00,  
 32 which fine shall not be subject to suspension, stay, or probation, or imprisoned for up  
 33 to 12 months, or both;

34 (B) Upon the second conviction within a five-year period of time, as measured from  
 35 the dates of previous arrests for which convictions were obtained to the date of the  
 36 current arrest for which a conviction is obtained, shall be fined not less than \$600.00

1 nor more than \$1,000.00, which fine shall not be subject to suspension, stay, or  
 2 probation, or imprisoned for up to 12 months, or both; and for purposes of this  
 3 subparagraph, previous pleas of nolo contendere accepted within such five-year period  
 4 shall constitute convictions; and

5 (C) Upon the third or subsequent conviction within a five-year period of time, as  
 6 measured from the dates of previous arrests for which convictions were obtained to the  
 7 date of the current arrest for which a conviction is obtained, shall be fined \$1,000.00,  
 8 which fine shall not be subject to suspension, stay, or probation, or imprisoned for up  
 9 to 12 months, or both; and for purposes of this subparagraph, previous pleas of nolo  
 10 contendere accepted within such five-year period shall constitute convictions.

11 (2) For the purpose of imposing a sentence under this subsection, a plea of nolo  
 12 contendere shall constitute a conviction.

13 (3) If the payment of the fine required under this subsection will impose an economic  
 14 hardship on the defendant, the judge, at his or her sole discretion, may order the  
 15 defendant to pay such fine in installments and such order may be enforced through a  
 16 contempt proceeding or a revocation of any probation otherwise authorized by this Code  
 17 section.

18 (d) A person who commits a violation of this Code section while transporting in a motor  
 19 vehicle a child under the age of 14 years is guilty of the separate offense of endangering  
 20 a child by hit and run. The offense of endangering a child by hit and run shall not be  
 21 merged with the offense of hit and run or leaving the scene of an accident for the purposes  
 22 of prosecution and sentencing. An offender who is convicted of a violation of this  
 23 subsection shall be punished in accordance with the provisions of subsection (d) of Code  
 24 Section 16-12-1, relating to the offense of contributing to the delinquency, unruliness, or  
 25 deprivation of a child.

26 ~~(d)~~(e) Notwithstanding the limits set forth in any municipal charter, any municipal court  
 27 of any municipality shall be authorized to impose the punishments provided for in this  
 28 Code section upon a conviction of violating this Code section or upon conviction of  
 29 violating any ordinance adopting the provisions of this Code section."

### 30 SECTION 6.

31 Said title is further amended in Article 15 of Chapter 6 by striking Code Section 40-6-390,  
 32 relating to reckless driving, and inserting in its place the following:

33 "40-6-390.

34 (a) Any person who drives any vehicle in reckless disregard for the safety of persons or  
 35 property commits the offense of reckless driving.

1 (b) Every person convicted of reckless driving shall be guilty of a misdemeanor and, upon  
 2 conviction thereof, shall be punished by a fine not to exceed \$1,000.00 or imprisonment  
 3 not to exceed 12 months, or by both such fine and imprisonment, provided that no  
 4 provision of this Code section shall be construed so as to deprive the court imposing the  
 5 sentence of the power given by law to stay or suspend the execution of such sentence or  
 6 to place the defendant on probation.

7 (c) A person who commits a violation of this Code section while transporting in a motor  
 8 vehicle a child under the age of 14 years is guilty of the separate offense of endangering  
 9 a child by reckless driving. The offense of endangering a child by reckless driving shall not  
 10 be merged with the offense of laying drag, racing, reckless driving, speeding, or any other  
 11 offense for the purposes of prosecution and sentencing. An offender who is convicted of  
 12 a violation of this subsection shall be punished in accordance with the provisions of  
 13 subsection (d) of Code Section 16-12-1, relating to the offense of contributing to the  
 14 delinquency, unruliness, or deprivation of a child."

#### 15 SECTION 7.

16 Said title is further amended in Article 15 of Chapter 6 by striking Code Section 40-6-395,  
 17 relating to fleeing or attempting to elude a police officer, and inserting in its place the  
 18 following:

19 "40-6-395.

20 (a) It shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or  
 21 her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or  
 22 police officer when given a visual or an audible signal to bring the vehicle to a stop. The  
 23 signal given by the police officer may be by hand, voice, emergency light, or siren. The  
 24 officer giving such signal shall be in uniform prominently displaying his or her badge of  
 25 office, and his or her vehicle shall be appropriately marked showing it to be an official  
 26 police vehicle.

27 (b)(1) Any person violating the provisions of subsection (a) of this Code section shall be  
 28 guilty of a high and aggravated misdemeanor and:

29 (A) Upon conviction shall be fined not less than \$500.00 nor more than \$5,000.00,  
 30 which fine shall not be subject to suspension, stay, or probation and imprisoned for not  
 31 less than ten days nor more than 12 months. Any period of such imprisonment in excess  
 32 of ten days may, in the sole discretion of the judge, be suspended, stayed, or probated;

33 (B) Upon the second conviction within a ten-year period of time, as measured from the  
 34 dates of previous arrests for which convictions were obtained to the date of the current  
 35 arrest for which a conviction is obtained, shall be fined not less than \$1,000.00 nor  
 36 more than \$5,000.00, which fine shall not be subject to suspension, stay, or probation

1 and imprisoned for not less than 30 days nor more than 12 months. Any period of such  
2 imprisonment in excess of 30 days may, in the sole discretion of the judge, be  
3 suspended, stayed, or probated; and for purposes of this paragraph, previous pleas of  
4 nolo contendere accepted within such ten-year period shall constitute convictions; and

5 (C) Upon the third or subsequent conviction within a ten-year period of time, as  
6 measured from the dates of previous arrests for which convictions were obtained to the  
7 date of the current arrest for which a conviction is obtained, shall be fined not less than  
8 \$2,500.00 nor more than \$5,000.00, which fine shall not be subject to suspension, stay,  
9 or probation and imprisoned for not less than 90 days nor more than 12 months. Any  
10 period of such imprisonment in excess of 90 days may, in the sole discretion of the  
11 judge, be suspended, stayed, or probated; and for purposes of this paragraph, previous  
12 pleas of nolo contendere accepted within such ten-year period shall constitute  
13 convictions.

14 (2) For the purpose of imposing a sentence under this subsection, a plea of nolo  
15 contendere shall constitute a conviction.

16 (3) If the payment of the fine required under paragraph (1) of this subsection will impose  
17 an economic hardship on the defendant, the judge, at his or her sole discretion, may order  
18 the defendant to pay such fine in installments and such order may be enforced through  
19 a contempt proceeding or a revocation of any probation otherwise authorized by this  
20 subsection.

21 (4) Notwithstanding the limits set forth in any municipal charter, any municipal court of  
22 any municipality shall be authorized to impose the punishments provided for in this  
23 subsection upon a conviction of violating this subsection or upon conviction of violating  
24 any ordinance adopting the provisions of this subsection.

25 (5)(A) Any person violating the provisions of subsection (a) of this Code section who,  
26 while fleeing or attempting to elude a pursuing police vehicle or police officer in an  
27 attempt to escape arrest for a felony offense other than a violation of this chapter,  
28 operates his or her vehicle in excess of 30 miles an hour above the posted speed limit,  
29 strikes or collides with another vehicle or a pedestrian, flees in traffic conditions which  
30 place the general public at risk of receiving serious injuries, or leaves the state shall be  
31 guilty of a felony punishable by a fine of \$5,000.00 and imprisonment for not less than  
32 one year nor more than five years.

33 (B) Following adjudication of guilt or imposition of sentence for a violation of  
34 subparagraph (A) of this paragraph, the sentence shall not be suspended, probated,  
35 deferred, or withheld, and the charge shall not be reduced to a lesser offense, merged  
36 with any other offense, or served concurrently with any other offense.

1 (6) A person who commits a violation of this Code section while transporting in a motor  
 2 vehicle a child under the age of 14 years is guilty of the separate offense of endangering  
 3 a child by fleeing or attempting to elude a police officer. The offense of endangering a  
 4 child by fleeing or attempting to elude a police officer shall not be merged with the  
 5 offense of fleeing or attempting to elude a police officer for the purposes of prosecution  
 6 and sentencing. An offender who is convicted of a violation of this paragraph shall be  
 7 punished in accordance with the provisions of subsection (d) of Code Section 16-12-1,  
 8 relating to the offense of contributing to the delinquency, unruliness, or deprivation of a  
 9 child.

10 (c) It shall be unlawful for a person:

11 (1) To impersonate a sheriff, deputy sheriff, state trooper, agent of the Georgia Bureau  
 12 of Investigation, agent of the Federal Bureau of Investigation, police officer, or any other  
 13 authorized law enforcement officer by using a motor vehicle or motorcycle designed,  
 14 equipped, or marked so as to resemble a motor vehicle or motorcycle belonging to any  
 15 federal, state, or local law enforcement agency; or

16 (2) Otherwise to impersonate any such law enforcement officer in order to direct, stop,  
 17 or otherwise control traffic."

## 18 SECTION 8.

19 Said title is further amended in Article 15 of Chapter 6 by striking Code Section 40-6-397,  
 20 relating to aggressive driving, and inserting in its place the following:

21 "40-6-397.

22 (a) A person commits the offense of aggressive driving when he or she operates any motor  
 23 vehicle with the intent to annoy, harass, molest, intimidate, injure, or obstruct another  
 24 person, including without limitation violating Code Section 40-6-42, 40-6-48, 40-6-49,  
 25 40-6-123, 40-6-184, 40-6-312, or 40-6-390 with such intent.

26 (b) Any person convicted of aggressive driving shall be guilty of a misdemeanor of a high  
 27 and aggravated nature.

28 (c) A person who commits a violation of this Code section while transporting in a motor  
 29 vehicle a child under the age of 14 years is guilty of the separate offense of endangering  
 30 a child by aggressive driving. The offense of endangering a child by aggressive driving  
 31 shall not be merged with the offense of aggressive driving or any other offense for the  
 32 purposes of prosecution and sentencing. An offender who is convicted of a violation of this  
 33 subsection shall be punished in accordance with the provisions of subsection (d) of Code  
 34 Section 16-12-1, relating to the offense of contributing to the delinquency, unruliness, or  
 35 deprivation of a child."



1 the Medical College of Georgia, the Georgia Hospital Association, the Georgia Association  
 2 of Educators, the Georgia Parent-Teacher Association, and other appropriate organizations  
 3 in educating the citizens of the state and in implementing, coordinating, and carrying out  
 4 the program provided for herein.

5 (d) Violation of this Code section shall not constitute negligence per se nor contributory  
 6 negligence per se. Violation of child safety restraint requirements shall not be the basis for  
 7 cancellation of coverage or increase in insurance rates."

#### 8 SECTION 10.

9 Said title is further amended in Article 1 of Chapter 8 by striking Code Section 40-8-76.1,  
 10 relating to safety belts in passenger vehicles, and inserting in its place the following:

11 "40-8-76.1.

12 (a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle  
 13 designed to carry ten passengers or less and used for the transportation of persons but shall  
 14 not mean pickup trucks, motorcycles, motor driven cycles, or vehicles equipped for  
 15 off-road use, provided that the term 'passenger vehicle' includes any sport utility vehicle,  
 16 'Passenger vehicle' and also includes pickup trucks and every motor vehicle designed to  
 17 carry more than ten but fewer than 16 passengers for any occupant who is under 18 years  
 18 of age.

19 (b) Each occupant of the front seat of a passenger vehicle shall, while such passenger  
 20 vehicle is being operated on a public road, street, or highway of this state, be restrained by  
 21 a seat safety belt approved under Federal Motor Vehicle Safety Standard 208.

22 (c) The requirement of subsection (b) of this Code section shall not apply to:

23 (1) A driver or passenger frequently stopping and leaving the vehicle or delivering  
 24 property from the vehicle, if the speed of the vehicle between stops does not exceed 15  
 25 miles per hour;

26 (2) A driver or passenger possessing a written statement from a physician that such  
 27 person is unable, for medical or physical reasons, to wear a seat safety belt;

28 (3) A driver or passenger possessing an official certificate or license endorsement issued  
 29 by the appropriate agency in another state or country indicating that the driver is unable  
 30 for medical, physical, or other valid reasons to wear a seat safety belt;

31 (4) A driver operating a passenger vehicle in reverse;

32 (5) A passenger vehicle with a model year prior to 1965;

33 (6) A passenger vehicle which is not required to be equipped with seat safety belts under  
 34 federal law;

35 (7) A passenger vehicle operated by a rural letter carrier of the United States Postal  
 36 Service while performing duties as a rural letter carrier;

1 (8) A passenger vehicle from which a person is delivering newspapers; or

2 (9) A passenger vehicle performing an emergency service.

3 (d) The failure of an occupant of a motor vehicle to wear a seat safety belt in any seat of  
4 a motor vehicle which has a seat safety belt or belts shall not be considered evidence of  
5 negligence or causation, shall not otherwise be considered by the finder of fact on any  
6 question of liability of any person, corporation, or insurer, shall not be any basis for  
7 cancellation of coverage or increase in insurance rates, and shall not be evidence used to  
8 diminish any recovery for damages arising out of the ownership, maintenance, occupancy,  
9 or operation of a motor vehicle.

10 (e)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a person  
11 failing to comply with the requirements of subsection (b) of this Code section shall not  
12 be guilty of any criminal act and shall not be guilty of violating any ordinance. A  
13 violation of this Code section shall not be a moving traffic violation for purposes of Code  
14 Section 40-5-57.

15 (2) A person failing to comply with the requirements of subsection (b) of this Code  
16 section shall be guilty of the offense of failure to wear a seat safety belt and, upon  
17 conviction thereof, may be fined not more than \$15.00; but, the provisions of Chapter 11  
18 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of  
19 such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to  
20 a fine for such offense be assessed against a person for conviction thereof. The court  
21 imposing such fine shall forward a record of the disposition of the case of failure to wear  
22 a seat safety belt to the Department of Motor Vehicle Safety.

23 (3) Each minor over four years of age who is an occupant of a passenger vehicle shall,  
24 while such passenger vehicle is being operated on a public road, street, or highway of this  
25 state, be restrained by a seat safety belt approved under Federal Motor Vehicle Safety  
26 Standard 208. In any case where a minor passenger over four years of age fails to comply  
27 with the requirements of this paragraph, the driver of the passenger vehicle shall be guilty  
28 of the offense of failure to secure a seat safety belt on a minor and, upon conviction  
29 thereof, may be fined not more than ~~\$25.00~~ \$35.00. The court imposing such a fine shall  
30 forward a record of the court disposition of the case of failure to secure a seat safety belt  
31 on a minor to the Department of Motor Vehicle Safety. Upon a second or subsequent  
32 conviction of an offense under this paragraph, the defendant shall be punished by a fine  
33 of not more than \$100.00

34 (f) Probable cause for violation of this Code section shall be based solely upon a law  
35 enforcement officer's clear and unobstructed view of a person not restrained as required  
36 by this Code section. Noncompliance with the restraint requirements of this Code section  
37 shall not constitute probable cause for violation of any other Code section."

1 **SECTION 11.**

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

4 **SECTION 12.**

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