

The House Committee on Special Judiciary offers the following substitute to HB 11:

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 seizure, suspension, and revocation of drivers' licenses for certain conduct;
3 to provide that persons convicted of certain offenses shall not be licensed again; to provide
4 that homicide by vehicle which occurs as a result of driving under the influence of alcohol
5 or drugs under certain circumstances shall be punishable by life imprisonment, imprisonment
6 of not less than 25 years, or by imprisonment for life without parole; to provide an effective
7 date; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
11 by adding a new Code Section 40-5-54.2 to read as follows:

12 "40-5-54.2.

13 (a) Whenever any person is charged with the offenses homicide by vehicle, as defined by
14 Code Section 40-6-393 and:

15 (1) Violating Code Section 40-6-391 where the person's alcohol concentration at the
16 time of the offense was 0.08 grams or more; or

17 (2) Exceeding the maximum lawful speed limit by 24 miles per hour or more

18 and such charges arise out of the same course of conduct, the law enforcement officer shall
19 take the driver's license of the person so charged. The driver's license shall be attached
20 to the court's copy of the citation and complaint form and shall be forwarded to the court
21 having jurisdiction of the offenses. A copy of the citation and complaint form shall be
22 forwarded, within ten days of issue, to the department. Taking the driver's license as
23 required in this Code section shall not prohibit any law enforcement officer or agency from
24 requiring any cash bond authorized by Article 1 of Chapter 6 of Title 17.

1 (b)(1) No temporary driving permit shall be issued to a person whose driver's license has
2 been seized as provided by this Code section.

3 (2) Upon the receipt of a sworn written report of the law enforcement officer that the
4 officer had reasonable grounds to believe the arrested person had committed offenses
5 arising out of the same course of conduct which constitute grounds for seizure of a
6 driver's license under subsection (a) of this Code section, the department shall suspend
7 the person's driver's license, subject to review as provided in this chapter.

8 (c)(1) If the person is convicted of violating or enters a plea of nolo contendere to
9 offenses arising out of the same course of conduct which constitute grounds for seizure
10 of a driver's license under subsection (a) of this Code section, the court shall, within ten
11 days of such conviction or plea, forward the person's driver's license and the record of
12 the disposition of the case to the department, and the department shall forthwith revoke
13 the person's driver's license. The department shall not issue any new or renewal driver's
14 license or permit to any person who is convicted of violating or enters a plea of nolo
15 contendere to offenses arising out of the same course of conduct which constitute grounds
16 for revocation under this subsection.

17 (2) If the person is not convicted of violating and does not enter a plea of nolo
18 contendere to offenses arising out of the same course of conduct which constitute grounds
19 for seizure of a driver's license under subsection (a) of this Code section, and the court
20 is in possession of the driver's license, the court shall upon adjudication or dismissal of
21 the charges return the driver's license to the person and notify the department forthwith
22 of the disposition of the case, and the suspension of the driver's license shall terminate
23 upon such adjudication or dismissal; unless the license is in suspension or revocation for
24 any other offense, in which case the court shall forward the license to the department."

25 SECTION 2.

26 Said title is further amended by striking in its entirety Code Section 40-6-393, relating to
27 homicide by vehicle, and inserting in lieu thereof the following:

28 "40-6-393.

29 (a) Any person who, without malice aforethought, causes the death of another person
30 through the violation of subsection (a) of Code Section 40-6-163 or subsection (b) of Code
31 Section 40-6-270 or Code Section 40-6-390 or 40-6-391 or subsection (a) of Code Section
32 40-6-395 commits the offense of homicide by vehicle in the first degree and, upon
33 conviction thereof, shall be punished by imprisonment for not less than three years nor
34 more than 15 years; provided, however, that where the death is caused through a violation
35 of Code Section 40-6-391 and the offender's alcohol concentration at the time of the

1 offense was greater than 0.16 grams, said offense shall be punished by imprisonment for
 2 not less than 25 years, by imprisonment for life, or by imprisonment for life without parole.

3 (b) Any person who causes the death of another person, without an intention to do so, by
 4 violating any provision of this title other than subsection (a) of Code Section 40-6-163 or
 5 subsection (b) of Code Section 40-6-270 or Code Section 40-6-390 or 40-6-391 or
 6 subsection (a) of Code Section 40-6-395 commits the offense of homicide by vehicle in the
 7 second degree when such violation is the cause of said death and, upon conviction thereof,
 8 shall be punished as provided in Code Section 17-10-3.

9 (c) Any person who, after being declared a habitual violator as determined under Code
 10 Section 40-5-58 and while such person's license is in revocation, causes the death of
 11 another person, without malice aforethought, by operation of a motor vehicle, commits the
 12 offense of homicide by vehicle in the first degree and, upon conviction thereof, shall be
 13 punished by imprisonment for not less than five years nor more than 20 years; provided,
 14 however, that where the death is caused through a violation of Code Section 40-6-391 and
 15 the offender's alcohol concentration at the time of the offense was greater than 0.16 grams,
 16 said offense shall be punished by imprisonment for not less than 25 years, by imprisonment
 17 for life, or by imprisonment for life without parole. Adjudication, and adjudication of guilt
 18 or imposition of such sentence for a person so convicted and sentenced to a term of years
 19 or life may be suspended, probated, deferred, or withheld but only after such person shall
 20 have served at least one year in the penitentiary.

21 (d) A person sentenced to life without parole for homicide by vehicle in the first degree
 22 shall not be eligible for any form of parole or early release administered by the State Board
 23 of Pardons and Paroles unless the State Board of Pardons and Paroles or a court of this state
 24 shall, after notice and public hearing, determine that such person is innocent of the offense
 25 for which the sentence was imposed; and the term of imprisonment shall not be reduced
 26 by any earned time, early release, work release, leave, or other sentence-reducing measures
 27 under programs administered by the Department of Corrections."

28 SECTION 3.

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

31 SECTION 4.

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