

Senate Bill 205

By: Senators Cagle of the 49th, Pearson of the 51st, Harbison of the 15th and Hill of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated,
2 relating to prohibited acts relative to alcoholic beverages, so as to make it unlawful for a
3 person under 21 years of age to consume an alcoholic beverage; to provide for the suspension
4 of the driver's license of a person under 21 years of age convicted of consuming an alcoholic
5 beverage; to provide for the suspension of drivers' licenses for certain conduct relating to
6 furnishing or acting as an agent to purchase alcoholic beverages for a person under 21 years
7 of age; to amend Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia
8 Annotated, relating to the cancellation, suspension, and revocation of drivers' licenses, so as
9 to provide for the administrative suspension of the drivers' licenses of persons under 21 years
10 of age charged with consuming an alcoholic beverage; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to
15 prohibited acts relative to alcoholic beverages, is amended by striking subsections (a), (b),
16 and (c) of Code Section 3-3-23, relating to prohibited acts relative to alcoholic beverages and
17 persons under 21 years of age, and inserting in lieu thereof the following:

18 "(a) Except as otherwise authorized by law:

19 (1) No person knowingly, directly or through another person, shall furnish, cause to be
20 furnished, or permit any person in such person's employ to furnish any alcoholic
21 beverage to any person under 21 years of age;

22 (2) No person under 21 years of age shall purchase, attempt to purchase, or knowingly
23 possess any alcoholic beverage;

24 (2.1) No person under 21 years of age shall knowingly consume any alcoholic beverage;

25 (3) No person under 21 years of age shall misrepresent such person's age in any manner
26 whatever for the purpose of obtaining illegally any alcoholic beverage;

1 (4) No person knowingly or intentionally shall act as an agent to purchase or acquire any
2 alcoholic beverage for or on behalf of a person under 21 years of age; or

3 (5) No person under 21 years of age shall misrepresent his or her identity or use any false
4 identification for the purpose of purchasing or obtaining any alcoholic beverage.

5 (b) The prohibitions contained in paragraphs (1), (2), (2.1), and (4) of subsection (a) of this
6 Code section shall not apply with respect to the sale, purchase, or possession of alcoholic
7 beverages for consumption:

8 (1) For medical purposes pursuant to a prescription of a physician duly authorized to
9 practice medicine in this state; or

10 (2) At a religious ceremony.

11 (c) The prohibitions contained in paragraphs (1), (2), (2.1), and (4) of subsection (a) of this
12 Code section shall not apply with respect to the possession of alcoholic beverages for
13 consumption by a person under 21 years of age when the parent or guardian of the person
14 under 21 years of age gives the alcoholic beverage to the person and when possession is
15 in the home of the parent or guardian and such parent or guardian is present."

16 SECTION 2.

17 Said article is further amended by striking Code Section 3-3-23.1, relating to the procedure
18 and penalties upon violation of Code Section 3-3-23, and inserting in lieu thereof the
19 following:

20 "3-3-23.1.

21 (a) It is unlawful for any person knowingly to violate any prohibition contained in Code
22 Section 3-3-23, relating to furnishing alcoholic beverages to, and purchasing, attempting
23 to purchase, consuming, and possession of alcoholic beverages by, a person under 21 years
24 of age.

25 (a.1) An alcohol concentration of 0.02 grams or more in the body of a person under 21
26 years of age as detected by a chemical test to determine blood alcohol content shall
27 constitute a violation of paragraph (2.1) of subsection (a) of Code Section 3-3-23.

28 (b)(1) Any person convicted of violating any prohibition contained in subsection (a) of
29 Code Section 3-3-23 shall, upon the first conviction, be guilty of a misdemeanor, except
30 that any person convicted of violating paragraph (2) of subsection (a) of Code Section
31 3-3-23 shall, upon the first conviction, be guilty of a misdemeanor and shall be punished
32 by not more than six months' imprisonment or a fine of not more than \$300.00, or both
33 and except that any person convicted of violating paragraph (4) of subsection (a) of Code
34 Section 3-3-23 shall, upon the first conviction, be guilty of a misdemeanor of a high and
35 aggravated nature.

1 (2) Any person convicted of violating any prohibition contained in subsection (a) of
2 Code Section 3-3-23 shall, upon the second or subsequent conviction, be guilty of a
3 misdemeanor of a high and aggravated nature, except that any person convicted of
4 violating paragraph (2) of subsection (a) of Code Section 3-3-23 shall, upon the second
5 or subsequent conviction, be guilty of a misdemeanor.

6 (3) In addition to any other penalty provided for in paragraphs (1) and (2) of this
7 subsection, the driver's license of any person convicted of ~~attempting to purchase an~~
8 ~~alcoholic beverage in violation of~~ violating paragraph (2), (2.1), or (4) of subsection (a)
9 of Code Section 3-3-23 upon the first conviction shall be suspended for six months and
10 upon the second or subsequent conviction shall be suspended for one year.

11 (4) In addition to any other penalty provided for in paragraphs (1) and (2) of this
12 subsection, the driver's license of any person charged with consuming an alcoholic
13 beverage in violation of paragraph (2.1) of subsection (a) of Code Section 3-3-23 shall
14 be seized by the law enforcement officer pursuant to the provisions of Code Section
15 40-5-67 and may be administratively suspended pursuant to the provisions of Code
16 Sections 40-5-67.1 and 40-5-67.2.

17 (c) Whenever any person who has not been previously convicted of any offense under this
18 Code section or under any other law of the United States or this or any other state relating
19 to alcoholic beverages pleads guilty to or is found guilty of a violation of paragraph (2),
20 (2.1), or (3) of subsection (a) of Code Section 3-3-23, the court, without entering a
21 judgment of guilt and with the consent of such person, may defer further proceedings and
22 place such person on probation upon such reasonable terms and conditions as the court may
23 require. The terms of probation shall preferably be such as require the person to undergo
24 a comprehensive rehabilitation program (including, if necessary, medical treatment), not
25 to exceed three years, designed to acquaint such person with the ill effects of alcohol abuse
26 and with knowledge of the gains and benefits which can be achieved by being a good
27 member of society. Upon violation of a term or condition of probation, the court may enter
28 an adjudication of guilt and proceed accordingly. Upon fulfillment of the terms and
29 conditions of probation, the court shall discharge such person and dismiss the proceedings
30 against him or her. Discharge and dismissal under this subsection shall be without court
31 adjudication of guilt and shall not be deemed a conviction for purposes of this subsection
32 or for purposes of disqualifications or disabilities imposed by law upon conviction of a
33 crime. Discharge and dismissal under this subsection may occur only once with respect to
34 any person.

35 (d) Unless the officer has reasonable cause to believe such person is intoxicated, a law
36 enforcement officer may arrest by issuance of a citation a person accused of violating only
37 paragraph (2) or (2.1) of subsection (a) of Code Section 3-3-23. The citation shall

1 enumerate the specific charges against the person and either the date upon which the person
 2 is to appear and answer the charges or a notation that the person will be later notified of the
 3 date upon which the person is to appear and answer the charges. If the person charged shall
 4 fail to appear as required, the judge having jurisdiction of the offense may issue a warrant
 5 or other order directing the apprehension of such person and commanding that such person
 6 be brought before the court to answer the charges contained within the citation and the
 7 charge of his or her failure to appear as required. Nothing in this subsection shall be
 8 construed to invalidate an otherwise valid arrest by citation of a person who is intoxicated.

9 (e) A law enforcement officer arresting a person by the issuance of a citation under
 10 subsection (d) of this Code section may require any such person having a driver's license
 11 or instruction permit to deposit such license or permit with the arresting officer in order to
 12 ensure the appearance of such person to answer the charges against him or her. The
 13 procedures and rules connected with the acceptance of such license or permit and
 14 subsequent disposition of the case shall be the same as provided for the acceptance of a
 15 driver's license as bail on arrest for traffic offenses pursuant to Code Section 17-6-11.

16 (f) In addition to any other punishment or sentence, the court may order all persons
 17 convicted under subsection (b) of this Code section or sentenced under subsection (c) of
 18 this Code section to complete a DUI Alcohol or Drug Use Risk Reduction Program
 19 prescribed by the Department of Human Resources within 120 days of such conviction or
 20 sentence. Failure to complete such program within 120 days shall be contempt of court and
 21 shall be punished by a fine of not more than \$300.00 or 20 days imprisonment, or both. If
 22 the conviction or sentence results from a charge of unlawful possession of alcoholic
 23 beverages while operating a motor vehicle, the court shall report such conviction or
 24 sentence to the Department of Motor Vehicle Safety within ten days after conviction or
 25 sentencing."

26 SECTION 3.

27 Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to the
 28 cancellation, suspension, and revocation of drivers' licenses, is amended by striking Code
 29 Section 40-5-67, relating to the seizure and disposition of drivers' licenses of persons
 30 charged with driving under the influence, and inserting in lieu thereof the following:

31 "40-5-67.

32 (a) Whenever any resident or nonresident person is charged with violating Code Section
 33 40-6-391 or paragraph (2.1) of subsection (a) of Code Section 3-3-23, the law enforcement
 34 officer shall take the driver's license of the person so charged. The driver's license shall
 35 be attached to the court's copy of the uniform traffic citation and complaint form and shall
 36 be forwarded to the court having jurisdiction of the offense. A copy of the uniform traffic

1 citation and complaint form shall be forwarded, within ten days of issue, to the department.
2 Taking the driver's license as required in this Code section shall not prohibit any law
3 enforcement officer or agency from requiring any cash bond authorized by Article 1 of
4 Chapter 6 of Title 17.

5 (b) At the time the law enforcement officer takes the driver's license, the officer shall issue
6 a temporary driving permit to the person as follows:

7 (1) If the driver refuses to submit to a test or tests to determine the presence of alcohol
8 or drugs as required in Code Section 40-5-55, the officer shall issue a 30 day temporary
9 driving permit;

10 (2) If the driver's license is required to be suspended under Code Section 40-5-67.1, the
11 officer shall issue a 30 day temporary driving permit; or

12 (3) If the test or tests administered pursuant to Code Section 40-5-55 indicate an alcohol
13 concentration in violation of Code Section 40-6-391 but less than the level for an
14 administrative suspension of the license under subsection (c) of Code Section 40-5-67.1,
15 the officer shall issue a 180 day temporary driving permit.

16 This temporary driving permit shall be valid for the stated period or until the person's
17 driving privilege is suspended or revoked under any provision of this title. The department,
18 at its sole discretion, may delay the expiration date of the temporary driving permit, but in
19 no event shall this delay extend beyond the date when such person's driving privilege is
20 suspended or revoked under any provision of this title. The department shall by rules and
21 regulations establish the conditions under which the expiration of the temporary permit
22 may be delayed.

23 (c)(1) If the person is convicted of violating or enters a plea of nolo contendere to a
24 charge of violating Code Section 40-6-391 or paragraph (2.1) of subsection (a) of Code
25 Section 3-3-23, the court shall, within ten days, forward the person's driver's license and
26 the record of the disposition of the case to the department. At this time, the court shall
27 also require the person to surrender the temporary driving permit issued pursuant to
28 subsection (b) of this Code section.

29 (2) If the person is not convicted of violating and does not enter a plea of nolo
30 contendere to a charge of violating Code Section 40-6-391 or paragraph (2.1) of
31 subsection (a) of Code Section 3-3-23, and the court is in possession of the driver's
32 license, the court shall return the driver's license to the person unless the license is in
33 suspension for any other offense, in which case the court shall forward the license to the
34 department for disposition."

SECTION 4.

Said article is further amended by striking subsections (c) and (d) of Code Section 40-5-67.1 and inserting in lieu thereof the following:

"(c) If a person under arrest or a person who was involved in any traffic accident resulting in serious injuries or fatalities submits to a chemical test upon the request of a law enforcement officer and the test results indicate that a suspension or disqualification is required under this Code section, the results shall be reported to the department. Upon the receipt of a sworn report of the law enforcement officer that the officer had reasonable grounds to believe the arrested person had consumed an alcoholic beverage in violation of paragraph (2.1) of subsection (a) of Code Section 3-3-23 or had been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state in violation of Code Section 40-6-391 or that such person had been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state and was involved in a traffic accident involving serious injuries or fatalities and that the person submitted to a chemical test at the request of the law enforcement officer and the test results indicate either an alcohol concentration of 0.08 grams or more or, for a person under the age of 21, an alcohol concentration of 0.02 grams or more, the department shall suspend the person's driver's license, permit, or nonresident operating privilege pursuant to Code Section 40-5-67.2, subject to review as provided for in this chapter. Upon the receipt of a sworn report of the law enforcement officer that the arrested person had been operating or was in actual physical control of a moving commercial motor vehicle and the test results indicate an alcohol concentration of 0.04 grams or more, the department shall disqualify the person from operating a motor vehicle for a minimum period of one year.

(d) If a person under arrest or a person who was involved in any traffic accident resulting in serious injuries or fatalities refuses, upon the request of a law enforcement officer, to submit to a chemical test designated by the law enforcement officer as provided in subsection (a) of this Code section, no test shall be given; but the law enforcement officer shall report the refusal to the department. Upon the receipt of a sworn report of the law enforcement officer that the officer had reasonable grounds to believe the arrested person had consumed an alcoholic beverage in violation of paragraph (2.1) of subsection (a) of Code Section 3-3-23 or had been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state in violation of Code Section 40-6-391 or that such person had been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state and was involved in a traffic accident which resulted in serious injuries or fatalities and that the person had refused to submit to the test upon the request of the law enforcement officer,

1 the department shall suspend the person's driver's license, permit, or nonresident operating
2 privilege for a period of one year or if the person was operating or in actual physical
3 control of a commercial motor vehicle, the department shall disqualify the person from
4 operating a commercial motor vehicle and shall suspend the person's driver's license,
5 permit, or nonresident operating privilege, subject to review as provided for in this
6 chapter."

7 **SECTION 5.**

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