

Senate Bill 226

By: Senators Smith of the 52nd, Thomas of the 54th, Mullis of the 53rd, Cagle of the 49th, Unterman of the 45th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to
 2 payment and disposition of fines, so as to provide a short title; to create the Georgia Driver's
 3 Education Commission; to provide for the membership, appointment, terms, and duties of
 4 such commission; to provide for the ability of the commission to accept federal grants and
 5 funds and donations from other sources and the disposition of such funds; to provide for the
 6 imposition, collection, and disposition of certain additional fees for violation of certain
 7 criminal and traffic laws of this state; to provide for appropriations; to amend Article 2 of
 8 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance,
 9 expiration, and renewal of drivers' licenses, so as to change the minimum age for the
 10 issuance of certain licenses and permits; to provide for related matters; to provide effective
 11 dates and applicability; to repeal conflicting laws; and for other purposes.

12 WHEREAS, Joshua Brown, the son of Alan and LuGina Brown, was killed in a tragic
 13 automobile accident on July 9, 2003; and

14 WHEREAS, the death of this young man has underscored the need for a greater effort to
 15 train Georgia young people in how to drive; and

16 WHEREAS, the advancement of computer simulations and training has made driver
 17 education and training more affordable and convenient; and

18 WHEREAS, the state should assist in getting more young people into these driver education
 19 and training programs.

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

SECTION 1.

Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to payment and disposition of fines, is amended by adding a new Article 10 to read as follows:

"ARTICLE 10

15-21-170.

This article shall be known and may be cited as 'Joshua's Law.'

15-21-171.

As used in this article, the term 'commission' means the Georgia Driver's Education Commission created in Code Section 15-21-172.

15-21-172.

There is established the Georgia Driver's Education Commission, which is assigned to the Department of Education for administrative purposes only, as prescribed in Code Section 50-4-3.

15-21-173.

(a) The Georgia Driver's Education Commission shall consist of nine members who shall serve for terms of four years, except that with respect to the first members appointed, three members shall be appointed for a term of three years, three for a term of two years, and three for a term of one year. The following agencies shall each appoint two members of the commission:

(1) The State Board of Education; and

(2) The Department of Motor Vehicle Safety.

The director of the Governor's Office of Highway Safety shall appoint one member of the commission. The remaining four members of the commission shall be appointed by the Governor, at least two of whom shall be driver's education instructors. The Governor shall also establish initial terms of office for all nine members of the commission within the limitations of this subsection.

(b) In the event of death, resignation, disqualification, or removal for any reason of any member of the commission, the vacancy shall be filled in the same manner as the original appointment and the successor shall serve for the unexpired term.

(c) Membership on the commission does not constitute a public office, and no member shall be disqualified from holding public office by reason of his or her membership.

1 (d) The Governor shall designate a chairperson of the commission from among the
2 members, which chairperson shall serve in that position at the pleasure of the Governor.
3 The commission may elect such other officers and committees as it considers appropriate.

4 (e) The commission, with the approval of the Governor, may employ such professional,
5 technical, or clerical personnel as deemed necessary to carry out the purposes of this
6 article.

7 15-21-174.

8 Members of the commission shall serve without compensation but shall receive the same
9 expense allowance per day as that received by a member of the General Assembly for each
10 day such member of the commission is in attendance at a meeting of such commission, plus
11 either reimbursement for actual transportation costs while traveling by public carrier or the
12 same mileage allowance for use of a personal car in connection with such attendance as
13 members of the General Assembly receive. Such expense and travel allowance shall be
14 paid in lieu of any per diem, allowance, or other remuneration now received by any such
15 member for such attendance.

16 15-21-175.

17 (a) The commission shall do all of the following:

18 (1) Meet at such times and places as it shall determine necessary or convenient to
19 perform its duties. The commission shall also meet on the call of the chairperson or the
20 Governor;

21 (2) Maintain minutes of its meetings;

22 (3) Adopt rules and regulations for the transaction of its business;

23 (4) Accept applications for disbursements of available moneys;

24 (5) Maintain records of all expenditures of the commission, funds received as gifts and
25 donations, and disbursements made; and

26 (6) Conform to the standards and requirements prescribed by the state auditor pursuant
27 to Chapter 6 of Title 50.

28 (b) The commission shall utilize existing state resources and staff of participating
29 departments whenever practicable.

30 15-21-176.

31 The commission may recommend to the Governor and the General Assembly changes in
32 state programs, statutes, policies, budgets, and standards relating to the provision of driver
33 education and training in this state.

1 15-21-177.

2 The commission may accept federal funds granted by Congress or executive order for the
3 purposes of this article as well as gifts and donations from individuals, private
4 organizations, or foundations. The acceptance and use of federal funds do not commit state
5 funds and do not place an obligation upon the General Assembly to continue the purposes
6 for which the federal funds are made available.

7 15-21-178.

8 The commission may authorize the disbursement of available funds from moneys
9 appropriated to the commission by the General Assembly for purposes of providing driver
10 education and training to a person, entity, or program eligible pursuant to criteria to be set
11 by the commission; provided, however, that such driver education and training shall be
12 limited to those courses of education and training exclusively utilizing computer driving
13 simulators and related text books and materials. Nothing in this Code section shall be
14 construed to limit the authority of the Department of Motor Vehicle Safety under Chapter
15 13 of Title 43, 'The Driver Training School and Commercial Driver Training School
16 License Act.'

17 15-21-179.

18 (a) In every case in which any court in this state shall impose a fine, which shall be
19 construed to include costs, for any violation of the traffic laws of this state or for violations
20 of ordinances of political subdivisions which have adopted by reference the traffic laws of
21 this state, there shall be imposed as an additional penalty a sum equal to 5 percent of the
22 original fine.

23 (b) Such sums shall be in addition to any amount required to be paid into any pension,
24 annuity, or retirement fund under Title 47 or any other law and in addition to any other
25 amounts provided for in this article.

26 15-21-180.

27 (a) The sums provided for in Code Section 15-21-179 shall be assessed and collected by
28 the clerk or other court officer charged with the duty of collecting moneys from fines and
29 shall be paid over by the last day of the following month to the Georgia Superior Court
30 Clerks' Cooperative Authority for remittance to the Office of Treasury and Fiscal Services
31 to be deposited into the general fund of the state treasury.

32 (b) Any person whose duty it is to collect and remit the sums provided for in this article
33 who refuses to so remit shall be guilty of a misdemeanor.

1 15-21-181.
 2 As soon as practicable after the end of each fiscal year, the Office of Treasury and Fiscal
 3 Services shall report the amount of funds received pursuant to Code Section 15-21-179 to
 4 the Office of Planning and Budget and the commission. It is the intent of the General
 5 Assembly that, subject to appropriation, an amount equal to such proceeds received from
 6 such fines in any fiscal year shall be made available during the following fiscal year to the
 7 commission for the purposes set forth in Code Section 15-21-178."

8 **SECTION 2.**

9 Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
 10 issuance, expiration, and renewal of drivers' licenses, is amended by striking Code Section
 11 40-5-22, relating to persons not to be licensed and minimum ages for licenses, and inserting
 12 in lieu thereof a new Code Section 40-5-22 to read as follows:

13 "40-5-22.

14 (a) The Except as otherwise provided in this Code section, the department shall not issue
 15 any Class C driver's license to any person who is under 18 years of age or Class M driver's
 16 license to any person who is under the age of ~~16~~ 17 years, except that the department may,
 17 under subsection (a) of Code Section 40-5-24, issue a Class P instruction permit permitting
 18 the operation of a noncommercial Class C vehicle to any person who is at least 15 years
 19 of age, and may, under subsection (b) of Code Section 40-5-24, issue a Class D driver's
 20 license permitting the operation of a noncommercial Class C vehicle to any person who is
 21 at least ~~16~~ 17 years of age. On and after January 1, 1985, the department shall not issue
 22 any driver's license to any person under 18 years of age unless such person presents a
 23 certificate or other evidence acceptable to the department which indicates satisfactory
 24 completion of an alcohol and drug course as prescribed in subsection (b) of Code Section
 25 20-2-142; provided, however, that a person under 18 years of age who becomes a resident
 26 of this state and who has in his or her immediate possession a valid license issued to him
 27 or her in another state or country shall not be required to take or complete the alcohol and
 28 drug course. The department shall not issue a driver's license or a Class P instruction
 29 permit for the operation of a Class A or B vehicle or any commercial driver's license to any
 30 person who is under the age of 18 years.

31 (a.1)(1) The department shall not issue an instruction permit or driver's license to a
 32 person who is younger than 18 years of age unless at the time such minor submits an
 33 application for an instruction permit or driver's license the applicant presents acceptable
 34 proof that he or she has received a high school diploma, a general educational
 35 development (GED) diploma, a special diploma, or a certificate of high school

1 completion; or has terminated his or her secondary education and is enrolled in a
2 postsecondary school or the records of the department indicate that said applicant:

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

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

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

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

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

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

22 (C) Has been suspended from school for:

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

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

26 (iii) Possession or use of a weapon on school property. For purposes of this
27 subparagraph, the term 'weapon' shall be defined in accordance with Code Section
28 16-11-127.1 but shall not include any part of an archeological or cultural exhibit
29 brought to school in connection with a school project;

30 (iv) Any sexual offense prohibited under Chapter 6 of Title 16; or

31 (v) Causing substantial physical or visible bodily harm to or seriously disfiguring
32 another person, including another student.

33 Notice given by certified mail or statutory overnight delivery with return receipt
34 requested mailed to the person's last known address shall be prima-facie evidence that
35 such person received the required notice. Such notice shall include instructions to the
36 minor to return immediately the instruction permit or driver's license to the department
37 and information summarizing the minor's right to request an exemption from the

1 provisions of this subsection. The minor so notified may request in writing a hearing
 2 within ten business days from the date of receipt of notice. Within 30 days after
 3 receiving a written request for a hearing, the department shall hold a hearing as provided
 4 for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such
 5 hearing, the department shall sustain its order of suspension or rescind such order. The
 6 department shall be authorized to grant an exemption from the provisions of this
 7 subsection to a minor, upon such minor's petition, if there is clear and convincing
 8 evidence that the enforcement of the provisions of this subsection upon such minor would
 9 create an undue hardship upon the minor or the minor's family or if there is clear and
 10 convincing evidence that the enforcement of the provisions of this subsection would act
 11 as a detriment to the health or welfare of the minor. Appeal from such hearing shall be
 12 in accordance with said chapter. If no hearing is requested within the ten business days
 13 specified above, the right to a hearing shall have been waived and the instruction permit
 14 or driver's license of the minor shall remain suspended. The suspension provided for in
 15 this paragraph shall be for a period of one year or shall end upon the date of such minor's
 16 eighteenth birthday, whichever comes first.

17 (3) The State Board of Education and the commissioner of motor vehicle safety are
 18 authorized to promulgate rules and regulations to implement the provisions of this
 19 subsection.

20 (a.2)(1) On and after January 1, 2002, the department shall not issue any initial Class D
 21 driver's license or, in the case of a person who has never been issued a Class D driver's
 22 license by the department or the equivalent thereof by any other jurisdiction, any initial
 23 Class C driver's license unless such person:

24 (A) ~~Has~~ Is at least 16 years of age and has completed an approved driver education
 25 course in a licensed private or public driver training school and in addition a cumulative
 26 total of at least ~~20~~ 40 hours of other supervised driving experience including at least six
 27 hours at night, all of which is verified in writing signed before a person authorized to
 28 administer oaths by a parent or guardian of the applicant or by the applicant if such
 29 person is at least 18 years of age; or

30 (B) ~~Has~~ Is at least 17 years of age and has completed a cumulative total of at least 40
 31 hours of supervised driving experience including at least six hours at night, and the
 32 same is verified in writing signed before a person authorized to administer oaths by a
 33 parent or guardian of the applicant or by the applicant if such person is at least 18 years
 34 of age; provided, however, that a person under 18 years of age who becomes a resident
 35 of this state, who meets all of the qualifications for issuance of a Class C license with
 36 the exception of the completion of an approved driver's training course and at least 40
 37 hours of supervised driving experience as required by this subsection, and who has in

1 his or her immediate possession a valid license equivalent to a Class C license issued
 2 to him or her in another state or country shall be entitled to receive a Class C license.

3 (2) The commissioner shall by rule or regulation establish standards for approval of any
 4 driver education course for purposes of subparagraph (A) of paragraph (1) of this
 5 subsection, provided that such course shall be designed to educate young drivers about
 6 safe driving practices and the traffic laws of this state and to train young drivers in the
 7 safe operation of motor vehicles.

8 (3) For purposes of supervised driving experience under paragraph (1) of this subsection,
 9 supervision shall be provided by a person at least 21 years of age who is licensed as a
 10 driver for a commercial or noncommercial Class C vehicle, who is fit and capable of
 11 exercising control over the vehicle, and who is occupying a seat beside the driver.

12 (b) Notwithstanding the provisions of subsection (a) of this Code section, any person 14
 13 years of age who has a parent or guardian who is medically incapable of being licensed to
 14 operate a motor vehicle due to visual impairment may apply for and, subject to the
 15 approval of the commissioner, may be issued a restricted noncommercial Class P
 16 instruction permit for the operation of a noncommercial Class C vehicle. Any person
 17 permitted pursuant to this subsection shall be accompanied by such visually impaired
 18 parent or guardian whenever operating a motor vehicle.

19 (c) The department shall not issue any driver's license to nor renew the driver's license of
 20 any person:

21 (1) Whose license has been suspended during such suspension, or whose license has
 22 been revoked, except as otherwise provided in this chapter;

23 (2) Whose license is currently under suspension or revocation in any other jurisdiction
 24 upon grounds which would authorize the suspension or revocation of a license under this
 25 chapter;

26 (3) Who is a habitual user of alcohol or any drug to a degree rendering him incapable of
 27 safely driving a motor vehicle;

28 (4) Who has previously been adjudged to be afflicted with or suffering from any mental
 29 disability or disease and who has not at the time of application been restored to
 30 competency by the methods provided by law;

31 (5) Who is required by this chapter to take an examination, unless such person shall have
 32 successfully passed such examination;

33 (6) Who the commissioner has good cause to believe would not, by reason of physical
 34 or mental disability, be able to operate a motor vehicle with safety upon the highway; or

35 (7) Whose license issued by any other jurisdiction is suspended or revoked by such other
 36 jurisdiction during the period such license is suspended or revoked by such other
 37 jurisdiction."

SECTION 3.

Said article is further amended by striking Code Section 40-5-24, relating to instruction permits and graduated licensing, and inserting in lieu thereof a new Code Section 40-5-24 to read as follows:

"40-5-24.

(a)(1) Any resident of this state who is at least 15 years of age may apply to the department for an instruction permit to operate a noncommercial Class C vehicle. The department shall, after the applicant has successfully passed all parts of the examination referred to in Code Section 40-5-27 other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his or her immediate possession, to drive a Class C vehicle upon the public highways for a period of two years when accompanied by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver.

(2) A person who has been issued an instruction permit under this subsection and has never been issued a Class D driver's license under subsection (b) of this Code section will become eligible for a Class D driver's license under subsection (b) of this Code section only if such person is at least ~~16~~ 17 years of age, has a valid instruction permit which is not under suspension, and, for a period of not less than 12 consecutive months prior to making application for a Class D driver's license, has not been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, or convicted of any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of this paragraph except for age who has completed an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22 will be eligible for a Class D driver's license.

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

(b)(1) Any resident of this state who is at least ~~16~~ 17 years of age and who, for a period of at least 12 months, had a valid instruction permit issued under subsection (a) of this Code section may apply to the department for a Class D driver's license to operate a noncommercial Class C vehicle if such resident has otherwise complied with all prerequisites for the issuance of such Class D driver's license as provided in subsection (a) of this Code section, provided that a resident at least ~~16~~ 17 years of age who has at any age surrendered to the department a valid instruction permit or driver's license issued

1 by another state or the District of Columbia or who has submitted to the department
2 proof, to the satisfaction of the department, of a valid instruction permit or driver's
3 license issued by another state or the District of Columbia may apply his or her driving
4 record under such previously issued permit or driver's license toward meeting the
5 eligibility requirements for a Class D driver's license the same as if such previously
6 issued permit or driver's license were an instruction permit issued under subsection (a)
7 of this Code section; provided, however, that a person who is at least 16 years of age and
8 meets all of the other qualifications of this paragraph except for age who has completed
9 an approved driver education training course as provided in subsection (a.2) of Code
10 Section 40-5-22 may apply for a Class D driver's license.

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

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

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

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

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

29 (3) A person who has been issued a Class D driver's license under this subsection and
30 has never been issued a Class C driver's license under this chapter will become eligible
31 for a Class C driver's license under this chapter only if such person has a valid Class D
32 driver's license which is not under suspension and, for a period of not less than 12
33 consecutive months prior to making application for a Class C driver's license, has not
34 been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene
35 of an accident in violation of Code Section 40-6-270, racing on highways or streets, using
36 a motor vehicle in fleeing or attempting to elude an officer, reckless driving, or convicted

1 of any offense for which four or more points are assessable under subsection (c) of Code
2 Section 40-5-57 and is at least 18 years of age.

3 (c) Any resident of this state who is at least ~~16~~ 17 years of age may apply to the
4 department for a noncommercial Class M motorcycle instruction permit. The department
5 shall, after the applicant has successfully passed all parts of the examination other than the
6 driving test, issue to the applicant an instruction permit which shall entitle the applicant,
7 while having such permit in his or her immediate possession, to drive a motorcycle or a
8 motor driven cycle upon the public highways for a period of six months; provided,
9 however, that a person who is at least 16 years of age and meets all of the other
10 qualifications of this subsection except for age who has completed an approved driver
11 education training course as provided in subsection (a.2) of Code Section 40-5-22 may
12 apply for a Class M motorcycle instruction permit. A motorcycle instruction permit shall
13 not be valid when carrying passengers, on a limited access highway, or at night.

14 (d) Any resident of this state who is at least 18 years of age may apply to the department
15 for an instruction permit to operate noncommercial vehicles in Classes A and B. Such
16 permits may be issued only to persons with valid commercial or noncommercial Class C
17 licenses or persons who have passed all required tests for a commercial or noncommercial
18 Class C license. The department shall, after the applicant has successfully passed all parts
19 of the appropriate examination other than the skill and driving test, issue to the applicant
20 an instruction permit which shall entitle the applicant, while having the permit in his or her
21 immediate possession, to operate a vehicle of the appropriate noncommercial class upon
22 the public highways for a period of 12 months when accompanied by a licensed driver,
23 qualified in the vehicle being operated, who is fit and capable of exercising control over
24 the vehicle, and who is occupying a seat beside the driver as an instructor. Prior to being
25 issued a driver's license for Classes A and B, the applicant shall pass a knowledge and skill
26 test for driving a Class A or B vehicle as provided by the commissioner.

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

