

House Bill 1253

By: Representatives Rice of the 51st, Murphy of the 23rd, Talton of the 145th, and Dollar of the 45th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
2 drivers' licenses, so as to provide for reinstatement of a minor's license upon proof of
3 graduation from high school; to provide that social security numbers shall not be used on
4 driver's licenses; to provide for a suspension for violation of restrictions on a driver's license;
5 to add a license suspension for failure to appear in a federal court in this state; to clarify the
6 habitual violator permit eligibility provisions; to provide for confidentiality of medical
7 reports used for medical revocation of a driver's license; to provide that each violation of a
8 provision that leads to a license suspension is treated as a separate transaction; to change the
9 times relating to restoring full driving privileges from a limited driving permit; to clarify that
10 trafficking is grounds for a driver's license suspension; to provide a penalty for driving a
11 vehicle in violation of an out of service order; to allow for issuance of nonresident
12 commercial driver's licenses; to clarify the requirements for commercial driver's licenses
13 with a hazardous materials endorsement; to amend Chapter 6 of Title 40 of the Official Code
14 of Georgia Annotated, relating to the uniform rules of the road, so as to clarify the penalty
15 for racing on a highway; to provide that a speeding conviction must specify the amount by
16 which the speed limit was exceeded; to provide for related matters; to repeal conflicting laws;
17 to provide for an effective date; and for other purposes.

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

19 **SECTION 1.**

20 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
21 is amended by striking the undesignated text following division (a.1)(2)(C)(v) of Code
22 Section 40-5-22, relating to minimum age for licensees, school attendance requirements, and
23 driving training requirements, in its entirety and inserting in its place the following:

24 "Notice given by certified mail or statutory overnight delivery with return receipt
25 requested mailed to the person's last known address shall be prima-facie evidence that
26 such person received the required notice. Such notice shall include instructions to the

1 minor to return immediately the instruction permit or driver's license to the department
 2 and information summarizing the minor's right to request an exemption from the
 3 provisions of this subsection. The minor so notified may request in writing a hearing
 4 within ten business days from the date of receipt of notice. Within 30 days after
 5 receiving a written request for a hearing, the department shall hold a hearing as provided
 6 for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such
 7 hearing, the department shall sustain its order of suspension or rescind such order. The
 8 department shall be authorized to grant an exemption from the provisions of this
 9 subsection to a minor, upon such minor's petition, if there is clear and convincing
 10 evidence that the enforcement of the provisions of this subsection upon such minor would
 11 create an undue hardship upon the minor or the minor's family or if there is clear and
 12 convincing evidence that the enforcement of the provisions of this subsection would act
 13 as a detriment to the health or welfare of the minor. Appeal from such hearing shall be
 14 in accordance with said chapter. If no hearing is requested within the ten business days
 15 specified above, the right to a hearing shall have been waived and the instruction permit
 16 or driver's license of the minor shall remain suspended. The suspension provided for in
 17 this paragraph shall be for a period of one year or shall end upon the date of such minor's
 18 eighteenth birthday or upon receipt of satisfactory proof that the minor is pursuing or has
 19 received a general educational development (GED) diploma, a high school diploma, a
 20 special diploma, a certificate of high school completion, or has terminated his or her
 21 secondary education and is enrolled in a postsecondary school, whichever comes first."

22 SECTION 2.

23 Said chapter is further amended by striking Code Section 40-5-28.1, relating to use of social
 24 security numbers on drivers' licenses, in its entirety and inserting in its place the following:
 25 "40-5-28.1.

26 No license or permit issued or renewed on or after July 1, ~~1997~~ 2006, pursuant to this
 27 article shall contain the social security number of the licensee or permit holder ~~unless such~~
 28 ~~person specifically requests the use of such number."~~

29 SECTION 3.

30 Said chapter is further amended by striking subsection (c) of Code Section 40-5-30, relating
 31 to restricted driver's licenses, in its entirety and inserting in its place the following:

32 "(c) The department, upon receiving satisfactory evidence of any violation of the
 33 restrictions of such license, may ~~revoke~~ suspend the license, ~~but the licensee shall be~~
 34 ~~entitled to a hearing as upon a revocation under subsection (c) of Code Section 40-5-59 for~~

1 a period of six months. No person shall operate a motor vehicle in any manner in violation
2 of the restrictions imposed in a restricted license issued to him or her."

3 **SECTION 4.**

4 Said chapter is further amended by striking Code Section 40-5-56, relating to driver's license
5 suspensions for failure to respond to a citation and appear before a court of competent
6 jurisdiction, in its entirety and inserting in its place the following:

7 "40-5-56.

8 (a) Notwithstanding any other provisions of this chapter or any other law to the contrary,
9 the department shall suspend the driver's license or privilege to operate a motor vehicle in
10 this state of any person who has failed to respond to a citation to appear before a court of
11 competent jurisdiction ~~of in~~ this state or ~~of in~~ any other state for a traffic violation other
12 than a parking violation. ~~The department shall forthwith notify such person that his license~~
13 ~~is to be suspended subject to review as provided for in this chapter.~~

14 (b) ~~The person so notified may request a hearing within ten days from the date of receipt~~
15 ~~of notice sent by registered mail or statutory overnight delivery. Within 30 days after~~
16 ~~receiving a written request for a hearing, the department shall hold a hearing as provided~~
17 ~~for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~ After such
18 hearing, ~~the department shall sustain its order of suspension or rescind such order. If no~~
19 ~~hearing is requested within the ten days specified above, the right to a hearing shall have~~
20 ~~been waived and the license of the driver shall be suspended.~~

21 (c) The suspension provided for in this Code section shall be for an indefinite period until
22 such person shall respond and pay any fines and penalties imposed. Such person's license
23 shall be reinstated if the person submits proof of payment of the fine from the court of
24 jurisdiction and pays a restoration fee of \$35.00 or \$25.00 when such reinstatement is
25 processed by mail to the department. Such suspension shall be in addition to any other
26 suspension or revocation provided for in this chapter."

27 **SECTION 5.**

28 Said chapter is further amended by striking subparagraph (e)(1)(A) of Code Section 40-5-58,
29 relating to habitual violators and probationary licenses, in its entirety and inserting in its
30 place the following:

31 "(A) Such person has not been convicted, or pleaded nolo contendere to a charge, of
32 violating any provision of this chapter, Chapter 6 of this title, or any local ordinance
33 relating to the movement of vehicles for a period of two years immediately preceding
34 the application for a probationary driver's license;"

1 ~~Section 16-13-2, subsection (a), (b), or (j) of Code Section 16-13-30, or Code Section~~
 2 ~~16-13-33; paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391; or the law~~
 3 ~~of any other jurisdiction shall by operation of law be suspended and such suspension shall~~
 4 ~~be subject to the following terms and conditions: ; provided that each charge for which a~~
 5 ~~conviction was obtained shall be treated as a separate transaction for the purpose of~~
 6 ~~imposing a license suspension hereunder, even if said convictions arise from a single~~
 7 ~~incident:~~".

8 **SECTION 10.**

9 Said chapter is further amended by striking subsection (b) of Code Section 40-5-121, relating
 10 to driving while license is suspended or revoked, in its entirety and inserting in its place the
 11 following:

12 "~~(b)(1) The charge of driving with a suspended or disqualified license shall not be made~~
 13 ~~where the suspension is a result of a failure to respond under Code Section 40-5-56 or an~~
 14 ~~insurance cancellation unless the arresting officer has verified a service date and such date~~
 15 ~~is placed on the uniform citation. If the suspension or disqualification is verified and the~~
 16 ~~driver possesses a driver's license, the license shall be confiscated and mailed to the~~
 17 ~~department. If the suspension or disqualification is not verified, the arresting officer shall~~
 18 ~~serve the driver and attach the driver's license, if available, to the copy of service and send~~
 19 ~~it to the department.~~

20 ~~(2)~~ The department, upon receiving a record of the conviction of any person under this
 21 Code section upon a charge of driving a vehicle while the license of such person was
 22 suspended, disqualified, or revoked, including suspensions under subsection (f) of Code
 23 Section 40-5-75, shall extend the period of suspension or disqualification for six months.
 24 The court shall be required to confiscate the license, if applicable, and attach it to the
 25 uniform citation and forward it to the department within ten days of conviction. The period
 26 of suspension or disqualification provided for in this Code section shall begin on the date
 27 the person is convicted of violating this Code section."

28 **SECTION 11.**

29 Said chapter is further amended by striking subparagraph (C) of paragraph (7) and the
 30 undesignated text following said subparagraph (C) and paragraphs (9) and (22) of Code
 31 Section 40-5-142, relating to definitions relevant to commercial driver's licenses, in their
 32 entirety and inserting in their respective places the following:

33 "(C) If the vehicle is transporting hazardous materials and is required to be placarded
 34 in accordance with the Motor Carrier Safety Rules prescribed by the United States
 35 Department of Transportation, Title 49 C.F.R. Part 172, subpart F;

1 provided, however, that for the purposes of this article, no agricultural vehicle, ~~military~~
 2 ~~vehicle operated by military personnel~~ commercial vehicle operated by military personnel
 3 for military purposes, recreational vehicle, or fire-fighting or emergency equipment
 4 vehicle shall be considered a commercial vehicle. As used in this paragraph, the term
 5 'agricultural vehicle' means a farm vehicle which is controlled and operated by a farmer;
 6 used to transport agricultural products, farm machinery, or farm supplies to or from a
 7 farm; and operated within 150 miles of such person's farm; which vehicle is not used in
 8 the operations of a motor carrier. Any other waiver by the Federal Highway
 9 Administration pursuant to Federal Law 49 C.F.R. Parts 383, 391, RIN 2125-AB 68, of
 10 the United States Department of Transportation shall supersede state law in authorizing
 11 the Department of Driver Services to exempt said classes."

12 "(9) 'Conviction' means ~~a~~ an unvacated adjudication of guilt, or a determination that a
 13 person has violated or failed to comply with the law in a court of original jurisdiction or
 14 by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral
 15 deposited to secure the person's appearance in court, a plea of guilty or nolo contendere
 16 accepted by the court, ~~a finding of guilt, or the payment of a fine or court cost, or~~
 17 violation of a condition of release without bail, regardless of whether the penalty is
 18 rebated, suspended, or probated."

19 "(22) 'Serious traffic violation' means conviction of any of the following offenses when
 20 operating a commercial motor vehicle or a non-commercial motor vehicle:

- 21 (A) Speeding 15 or more miles per hour above the posted speed limit;
- 22 (B) Reckless driving, as defined under state or local law;
- 23 (C) Following another vehicle too closely, as defined under state or local law;
- 24 (D) Improper or erratic lane change which presents a risk to any other vehicle, but not
 25 including failure to signal a lane change;
- 26 (E) A violation, arising in connection with a fatal crash, of state law or a local
 27 ordinance, relating to motor vehicle traffic control, excluding parking, weight, length,
 28 height, and vehicle defect violations;
- 29 (F) A railroad grade crossing violation as defined under state law or local ordinance;
- 30 (G) Driving a commercial motor vehicle without obtaining a commercial driver's
 31 license;
- 32 (H) Driving a commercial motor vehicle without a valid commercial driver's license
 33 in the driver's immediate possession; or
- 34 (I) Driving a commercial motor vehicle without a commercial driver's license of the
 35 proper class and/or endorsements for the specific vehicle being operated or for the
 36 passengers or type of cargo transported."

SECTION 12.

Said chapter is further amended by striking subsection (b) of Code Section 40-5-146, relating to operation of a commercial motor vehicle without valid license or driving privilege, in its entirety and inserting in its place the following:

"(b)(1) No person may drive a commercial motor vehicle while his or her driving privilege is suspended, revoked, or canceled, or while subject to a disqualification; (2) No person may drive a commercial motor vehicle ~~or~~ in violation of an out of service order."

SECTION 13.

Said chapter is further amended by adding a new Code section to read as follows:

"40-5-148.2.

If an individual is a resident of another state while that other state is prohibited from issuing commercial driver's licenses pursuant to 49 C.F.R. Section 384.405, that individual is eligible to obtain a nonresident commercial driver's license. The individual shall provide the information specified in Code Section 40-5-149. The department shall promulgate rules and regulations as necessary to implement this Code section within 90 days of being notified that a state will be prohibited from issuing commercial driver's licenses."

SECTION 14.

Said chapter is further amended by adding a new subsection (i) to Code Section 40-5-150, relating to contents, classifications, endorsements, and restrictions on commercial driver's licenses, to read as follows:

"(i) Before issuing, renewing, upgrading, or transferring a commercial driver's license with a hazardous materials endorsement, the department shall obtain a Transportation Security Administration determination that the individual does not pose a security risk warranting denial of the endorsement. The department shall promulgate rules and regulations as necessary to implement this Code subsection."

SECTION 15.

Said chapter is further amended by striking subsections (b), (c), and (g) of Code Section 40-5-151, relating to disqualification from driving a commercial motor vehicle, in their entirety and inserting in lieu thereof new subsections (b), (c), and (g) and by adding a new subsection (i) to read as follows:

"(b) Any person is disqualified from driving a commercial motor vehicle for a period of not less than three years if convicted of a first violation of using a commercial motor vehicle in the commission of a felony or for offenses specified in ~~paragraph (1) of~~

1 subsection (a) of this Code section, provided that the vehicle being operated or used in
2 connection with such violation or commission of such felony is transporting a hazardous
3 material required to be placarded under Section 105 of the Hazardous Material
4 Transportation Act.

5 (c) Any person is disqualified from driving a commercial motor vehicle for life if
6 convicted of two or more violations of any of the offenses specified in subsection (a) of
7 Code Section 40-5-54, paragraph (1) of subsection (b) of Code Section 40-5-146, or Code
8 Section 40-6-391, the refusal to submit to state administered chemical testing as prescribed
9 by Code Section 40-5-55, or any combination of those offenses or refusals, arising from
10 two or more separate incidents."

11 "(g)(1) Any person is disqualified from driving a commercial motor vehicle based on the
12 following violations of out-of-service orders:

13 (A) First violation — a driver who is convicted of a first violation of an out-of-service
14 order is disqualified for a period of not less than 90 days and not more than one year;

15 (B) Second violation — a driver who is convicted of two violations of out-of-service
16 orders in separate incidents is disqualified for a period of not less than one year and not
17 more than five years; and

18 (C) Third or subsequent violation — a driver who is convicted of three or more
19 violations of out-of-service orders in separate incidents is disqualified for a period of
20 not less than three years and not more than five years.

21 (2) Whenever the operator of a commercial motor vehicle is issued an out-of-service
22 order, a copy of such order shall be issued to the operator of the commercial motor
23 vehicle, the operator of the commercial motor vehicle's employer, and a copy or notice
24 of such out-of-service order shall be provided to the department. The form of such
25 out-of-service order, the procedures for notifying the department upon the issuance of
26 such an order, and other matters relative to the issuance of out-of-service orders and
27 violations thereof shall be provided in rules and regulations promulgated by the
28 commissioner.

29 (3) Any person is disqualified for a period of not less than 180 days nor more than two
30 years if the driver is convicted of a first violation of an out-of-service order while
31 transporting hazardous materials required to be placarded under Section 105 of the
32 Hazardous Materials Transportation Act, or while operating commercial motor vehicles
33 designed to transport more than 15 passengers, including the driver. A driver is
34 disqualified for a period of not less than three years nor more than five years if, during
35 any ten-year period, the driver is convicted of any subsequent violations of out-of-service
36 orders, in separate incidents, while transporting hazardous materials required to be
37 placarded under Section 105 of the Hazardous Materials Transportation Act, or while

1 operating commercial motor vehicles designed to transport more than 15 passengers,
 2 including the driver."

3 "(i) Any person is disqualified from driving a commercial motor vehicle for a period of not
 4 less than 60 days if it is determined, in a check of an applicant's license status and record
 5 prior to issuing a commercial driver's license or at any time after the commercial driver's
 6 license is issued, that the applicant has falsified information on his or her application or any
 7 related filing."

9 **SECTION 16.**

10 Said chapter is further amended by striking subsection (c) of Code Section 40-5-159, relating
 11 to penalties for driving a commercial motor vehicle while in violation of the law, in its
 12 entirety and inserting in its place the following:

13 "(c)(1) Any person who drives a commercial motor vehicle while in violation of the
 14 provisions mandated under Code Section 40-5-146 shall be guilty of a misdemeanor and,
 15 upon conviction thereof, shall be fined not less than \$500.00. The department shall
 16 suspend the commercial driver's license or commercial driving privilege of such any
 17 driver convicted of violating subsection (a) or paragraph (1) of subsection (b) of Code
 18 Section 40-5-146 for a period of six months.

19 (2) The department shall suspend the commercial driver's license or commercial driving
 20 privilege of any person who is convicted of violating Code Section 40-5-29 in a
 21 commercial vehicle for a period of six months."

22 **SECTION 17.**

23 Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to the uniform rules
 24 of the road, is amended by striking subsection (c) of Code Section 40-6-186, relating to
 25 racing on highways or streets, and inserting in its place the following:

26 "(c) Any person convicted of violating subsection (b) of this Code section shall be guilty
 27 of a misdemeanor. ~~In addition to the punishment prescribed by law, the Department of~~
 28 ~~Public Safety shall suspend for 12 months the license of any person convicted of such~~
 29 ~~violation."~~

30 **SECTION 18.**

31 Said chapter is further amended by striking Code Section 40-6-187, relating to charging
 32 speeding violations, in its entirety and inserting in its place the following:

1 "40-6-187.

2 (a) In every charge of violation of any speed regulation in this chapter, the summons or
3 notice to appear shall specify the speed at which the defendant is alleged to have driven and
4 also the maximum speed applicable within the district or at the location.

5 (b) For the purpose of imposing points pursuant to Code Section 40-5-57, every sentence
6 for a violation of any speed regulation in this chapter shall state the specific amount by
7 which the person convicted exceeded the speed limit."

8 **SECTION 19.**

9 This Act shall become effective on July 1, 2006.

10 **SECTION 20.**

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