

House Bill 1253 (COMMITTEE SUBSTITUTE)

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 provide that applicants for commercial
12 driver's licenses must take the Highway Watch safety and security program; to allow for
13 issuance of nonresident commercial driver's licenses; to clarify the requirements for
14 commercial driver's licenses with a hazardous materials endorsement; to amend Chapter 6
15 of Title 40 of the Official Code of Georgia Annotated, relating to the uniform rules of the
16 road, so as to clarify the penalty for racing on a highway; to provide that a speeding
17 conviction must specify the amount by which the speed limit was exceeded; to provide for
18 related matters; to repeal conflicting laws; to provide for an effective date; and for other
19 purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

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

H. B. 1253 (SUB)

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

25 SECTION 2.

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

28 "40-5-28.1.

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

32 SECTION 3.

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

1 "(c) The department, upon receiving satisfactory evidence of any violation of the
 2 restrictions of such license, may ~~revoke~~ suspend the license, ~~but the licensee shall be~~
 3 ~~entitled to a hearing as upon a revocation under subsection (c) of Code Section 40-5-59 for~~
 4 a period of six months. No person shall operate a motor vehicle in any manner in violation
 5 of the restrictions imposed in a restricted license issued to him or her."

6 **SECTION 4.**

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

10 "40-5-56.

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

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

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

30 **SECTION 5.**

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

34 "(A) Such person has not been convicted, or pleaded nolo contendere to a charge, of
 35 violating any provision of this chapter, Chapter 6 of this title, or any local ordinance

1 relating to the movement of vehicles for a period of two years immediately preceding
2 the application for a probationary driver's license;"

3 SECTION 6.

4 Said chapter is further amended by enacting a new subsection (d) in Code Section 40-5-59,
5 relating to reexamination of drivers believed to be incompetent or unqualified, to read as
6 follows:

7 "(d) The reports required by this Code section shall be confidential and shall be used solely
8 for the purpose of determining the qualifications of any person to drive a motor vehicle on
9 the highways of this state. No civil or criminal action may be brought against any person
10 or agency for providing the information to the department for the purposes of this Code
11 section. The reports, or any reference to the reports, shall not be included in any abstract
12 prepared pursuant to Code Section 40-5-2."

13 SECTION 7.

14 Said chapter is further amended by striking the introductory language of subsection (a) and
15 subsection (d) of Code Section 40-5-63, relating to driver's license suspensions for certain
16 offenses, in their entirety and inserting in their place, respectively, the following:

17 "(a) The driver's license of any person convicted of an offense listed in Code Section
18 40-5-54 or of violating Code Section 40-6-391, unless the driver's license has been
19 previously suspended pursuant to Code Sections 40-5-67.1 and 40-5-67.2, shall by
20 operation of law be suspended and such suspension shall be subject to the following terms
21 and conditions; provided, however, that any person convicted of a drug related offense
22 pursuant to Code Section 40-6-391 shall be governed by the suspension requirements of
23 Code Section 40-5-75; and further provided that each charge for which a conviction was
24 obtained shall be treated as a separate transaction for the purpose of imposing a license
25 suspension hereunder, even if said convictions arise from a single incident."

26 "(d)(1) Any person convicted of violating subsection (a) of Code Section 40-6-393,
27 relating to homicide by vehicle, or Code Section 40-6-394, relating to serious injury by
28 vehicle, shall have his or her license suspended for a period of three years. Such person
29 shall not be eligible for early reinstatement of said driver's license as provided in this
30 Code section or in Article 4 of this chapter and shall not be eligible for a limited driving
31 permit as provided in Code Section 40-5-64.

32 (2) For purposes of this subsection chapter, an accepted plea of nolo contendere to
33 homicide by vehicle in the first degree or serious injury by vehicle any violation of Code
34 Section 40-6-393 or 40-6-394 shall constitute a conviction."

SECTION 8.

Said chapter is further amended by striking subsection (e) of Code Section 40-5-64, relating to limited driving permits for certain offenders, in its entirety and inserting in its place the following:

"(e) *Duration of permit.* A permit issued pursuant to this Code section shall be \$25.00 and shall be nonrenewable and shall become invalid upon the driver's eighteenth birthday in the case of a suspension under paragraph (2) of subsection (a.1) of Code Section 40-5-22, upon the expiration of one year following ~~the effective date of suspension of the applicant's driver's license~~ issuance thereof in the case of a suspension for an offense listed in Code Section 40-5-54 or a suspension under Code Section 40-5-57, ~~upon the expiration of 120 days following conviction in the case of~~ or a suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-63 for a violation of Code Section 40-6-391, upon the expiration of 30 days in the case of an administrative license suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-67.2, or upon the expiration of six months following proof of installation of an ignition interlock device in the case of a limited driving permit issued to a person subject to a court order for installation and use of such a device pursuant to Article 7 of Chapter 8 of Title 42; except that such limited driving permit shall expire upon any earlier reinstatement of the driver's license. A person may apply to the department for a limited driving permit immediately following such conviction if he or she has surrendered his or her driver's license to the court in which the conviction was adjudged or to the department if the department has processed the citation or conviction. Upon the applicant's execution of an affidavit attesting to such facts and to the fact that the court had not imposed a suspension or revocation of his or her driver's license or driving privileges inconsistent with the driving privileges to be conferred by the limited driving permit applied for, the department may issue such person a limited driving permit."

SECTION 9.

Said chapter is further amended by striking the introductory language of subsection (a) of Code Section 40-5-75, relating to suspension of driver's licenses by operation of law, in its entirety and inserting in its place the following:

"(a) The driver's license of any person convicted of any violation of the Georgia Controlled Substances Act, including, but not limited to, possession, distribution, manufacture, cultivation, sale, transfer of, trafficking in, the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, ~~or~~ transfer or traffic in a controlled substance or marijuana, ~~or driving or being in actual physical control of any moving vehicle while under the influence of such a substance in violation of subsection (b) of Code~~

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 striking paragraph (1) of subsection (a) of Code Section 40-5-147, relating to the requirements for issuing a commercial driver's license or instruction permit, in its entirety and inserting in its place the following:

"(a)(1) Except as provided in Code Section 40-5-148, no person may be issued a commercial driver's license unless that person is a resident of this state, is at least 18 years of age, has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 C.F.R. Part 383, subparts G and H, has completed the Highway Watch safety and security training program or its federally designated successor program and is properly registered with the same, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986, Title XII of Public Law 99-570, in addition to any other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the department in English only."

SECTION 14.

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 15.

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:

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

6 SECTION 16.

7 Said chapter is further amended by striking subsection (h) of Code Section 40-5-150, relating
 8 to the contents of a commercial driver's license, in its entirety and inserting in its place the
 9 following:

10 "(h) When applying for renewal of a commercial driver's license, the applicant shall
 11 complete the application form required by subsection (a) of Code Section 40-5-149,
 12 providing updated information and required medical certifications, and provide evidence
 13 the applicant has completed the Highway Watch safety and security training program or
 14 its federally designated successor program and is properly registered with the same. If the
 15 applicant wishes to retain a hazardous materials endorsement, the written test for a
 16 hazardous materials endorsement must be taken and passed."

17 SECTION 17.

18 Said chapter is further amended by striking subsections (b), (c), and (g) of Code Section
 19 40-5-151, relating to disqualification from driving a commercial motor vehicle, in their
 20 entirety and inserting in lieu thereof new subsections (b), (c), and (g) and by adding a new
 21 subsection (i) to read as follows:

22 "(b) Any person is disqualified from driving a commercial motor vehicle for a period of
 23 not less than three years if convicted of a first violation of using a commercial motor
 24 vehicle in the commission of a felony or for offenses specified in ~~paragraph (1) of~~
 25 subsection (a) of this Code section, provided that the vehicle being operated or used in
 26 connection with such violation or commission of such felony is transporting a hazardous
 27 material required to be placarded under Section 105 of the Hazardous Material
 28 Transportation Act.

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

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

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

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

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

11 (2) Whenever the operator of a commercial motor vehicle is issued an out-of-service
12 order, a copy of such order shall be issued to the operator of the commercial motor
13 vehicle, the operator of the commercial motor vehicle’s employer, and a copy or notice
14 of such out-of-service order shall be provided to the department. The form of such
15 out-of-service order, the procedures for notifying the department upon the issuance of
16 such an order, and other matters relative to the issuance of out-of-service orders and
17 violations thereof shall be provided in rules and regulations promulgated by the
18 commissioner.

19 (3) Any person is disqualified for a period of not less than 180 days nor more than two
20 years if the driver is convicted of a first violation of an out-of-service order while
21 transporting hazardous materials required to be placarded under Section 105 of the
22 Hazardous Materials Transportation Act, or while operating commercial motor vehicles
23 designed to transport more than 15 passengers, including the driver. A driver is
24 disqualified for a period of not less than three years nor more than five years if, during
25 any ten-year period, the driver is convicted of any subsequent violations of out-of-service
26 orders, in separate incidents, while transporting hazardous materials required to be
27 placarded under Section 105 of the Hazardous Materials Transportation Act, or while
28 operating commercial motor vehicles designed to transport more than 15 passengers,
29 including the driver.”

30 “(i) Any person is disqualified from driving a commercial motor vehicle for a period of not
31 less than 60 days if it is determined, in a check of an applicant’s license status and record
32 prior to issuing a commercial driver’s license or at any time after the commercial driver’s
33 license is issued, that the applicant has falsified information on his or her application or any
34 related filing.”

SECTION 18.

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

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

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

SECTION 19.

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

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

SECTION 20.

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

"40-6-187.

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

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

SECTION 21.

This Act shall become effective on July 1, 2006.

1

SECTION 22.

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