

The House Committee on Judiciary Non-civil offers the following substitute to HB 1222:

A BILL TO BE ENTITLED  
AN ACT

1 To provide a comprehensive revision, modernization, and reform of the laws of this state  
2 relating to operating motor vehicles while under the influence of alcohol, drugs, or other  
3 substances; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor  
4 vehicles and traffic, so as to provide legislative intent; to prohibit the operation of motor  
5 vehicles in this state while under the influence of alcohol, drugs, or other substances; to  
6 provide for implied consent to chemical testing; to provide definitions; to provide for  
7 chemical testing of persons suspected of driving under the influence of alcohol, drugs, or  
8 other substances; to provide for the procedures to obtain and perform such tests; to provide  
9 for the administration of certain warnings with regard to such tests; to provide for  
10 independent tests under certain circumstances; to provide for certain qualifications of persons  
11 performing such tests and certain instruments used in such tests; to provide for the admission  
12 into evidence of the results of such tests and such certifications of testing instruments; to  
13 provide for certain immunities; to provide for certain disclosures; to provide for the taking  
14 of the driver's license of a person suspected of operating a motor vehicle while under the  
15 influence of alcohol, drugs, or other substances in certain circumstances; to provide for  
16 temporary driving permits under certain circumstances; to provide for certain reports by law  
17 enforcement officers and courts; to provide for the suspension and revocation of drivers'  
18 licenses under certain circumstances; to provide for procedures for such suspensions and  
19 revocations; to provide for hearings in certain circumstances; to provide for reinstatement of  
20 drivers' licenses under certain circumstances; to provide for compensation for law  
21 enforcement officers for attending hearings; to provide for sanctions and penalties for  
22 operating motor vehicles in this state while under the influence of alcohol, drugs, or other  
23 substances; to prohibit the operation of a school bus while under the influence of alcohol,  
24 drugs, or other substances; to prohibit the operation of a motor vehicle while under the  
25 influence of alcohol, drugs, or other substances when transporting a child under the age of  
26 14 years; to provide for the admissibility of certain evidence; to provide that legal entitlement  
27 to use alcohol, marijuana, or other drugs shall not constitute a defense; to provide that certain  
28 pleas shall constitute prior convictions for sentencing purposes; to provide for the adoption

1 of such laws by ordinance by political subdivisions; to provide for the discretion of the court  
 2 to accept certain pleas; to provide for the publication of the photographs and fact of  
 3 conviction for certain offenders; to provide for the seizure and forfeiture of certain vehicles  
 4 operated by certain violators; to provide for related matters; to amend various provisions of  
 5 the Official Code of Georgia Annotated, so as to conform such provisions to the provisions  
 6 of this Act; to provide for the applicability and effect of this Act; to provide an effective date;  
 7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **PART I.**

10 **SECTION 1-1.**

11 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
 12 amended by adding a new Code Section 40-1-8 to read as follows:

13 "40-1-8.

14 (a) The State of Georgia considers that any person who drives or is in actual physical  
 15 control of any vehicle in violation of the laws of this state by consuming a prohibited level  
 16 of alcohol or by consuming any other drug constitutes a direct and immediate threat to the  
 17 welfare and safety of the general public.

18 (b) Any person who operates a motor vehicle upon the highways or elsewhere throughout  
 19 this state shall be deemed to have given consent to a chemical test or tests of his or her  
 20 blood, breath, urine, or other bodily substance for the purpose of determining the presence  
 21 of alcohol or any other drug.

22 (c) Any person who is dead, unconscious, or otherwise in a condition rendering such  
 23 person incapable of refusal shall be deemed not to have withdrawn the consent provided  
 24 by subsection (b) of this Code section, and the chemical test or tests of his or her blood,  
 25 breath, urine, or other bodily substance may be administered as provided in Article 9 of  
 26 Chapter 5 of this title."

27 **SECTION 1-2.**

28 Said title is further amended by adding a new Article 9 to Chapter 5, relating to drivers'  
 29 licenses, to read as follows:

## "ARTICLE 9

40-5-200.

As used in this article, the term:

(1) 'Adequate breath sample' means a breath sample sufficient to cause the breath-testing instrument to produce a printed alcohol concentration analysis.

(2) 'Law enforcement officer' means any peace officer, jail officer, juvenile correctional officer, or law enforcement support personnel, as such terms are defined by Code Section 35-8-2, or any individual possessing a valid permit issued by the Division of Forensic Sciences of the Georgia Bureau of Investigation to administer breath tests.

(3) 'Medical facility' means a hospital, clinical laboratory, medical clinic, or similar medical institution.

40-5-201.

A law enforcement officer is authorized to obtain one or more chemical tests of a person's blood, breath, urine, or other bodily substance for the purpose of determining the presence of alcohol or any other drug if there is probable cause to believe that such person operated or was in actual physical control of a motor vehicle in violation of any of the provisions of Part 2 of Article 15 of Chapter 6 of this title. The law enforcement officer shall designate which test or tests shall be administered.

40-5-202.

(a) Prior to the administration of chemical tests to a person pursuant to this article, the implied consent notice as provided in subsection (c) of this Code section shall be read to such person.

(b) The notices provided in subsections (c) and (d) of this Code section shall be read in their entirety but need not be read exactly so long as the substance of the notice remains unchanged. If such notice is used to advise a person of his or her rights regarding the administration of chemical testing, such person shall be deemed to have been properly advised of his or her rights under this Code section. The informing of or failure to inform the accused person concerning the implied consent law shall not affect the admissibility of such results in any case, including a prosecution for a violation of Part 2 of Article 15 of Chapter 6 of this title. The informing of an accused person concerning the implied consent law shall only have application to and be relevant at a hearing concerning suspension of the driver's license of said person for a violation of the implied consent law.

(c) At the time a chemical test or tests are requested, the following implied consent notice shall be read to the person:

1 'Georgia law requires you to submit to state administered chemical tests of your blood,  
2 breath, urine, or other bodily substance for the purpose of determining if you are  
3 operating a motor vehicle under the influence of alcohol or drugs or with a prohibited  
4 substance in your body. If you submit to this testing, the results may be used against you  
5 in a court of law or in an administrative proceeding. If you refuse to submit to this  
6 testing, your Georgia driver's license or privilege to drive on the highways of this state  
7 may be suspended for a minimum period of one year and your refusal may be used as  
8 evidence against you. If you submit to the state's testing, you are entitled to additional  
9 chemical tests of your blood, breath, urine, or other bodily substance at your own expense  
10 and from qualified personnel of your own choosing. Will you submit to the state  
11 administered testing under the implied consent law?'

12 (d) In addition to the implied consent notice, if the person is driving, operating, or in  
13 physical control of a commercial motor vehicle, the following notice shall be read:

14 'If you submit to testing and the results indicate the presence of any alcohol, you will also  
15 be issued an out-of-service order and will be prohibited from operating a commercial  
16 motor vehicle for 24 hours. If the results indicate an alcohol concentration of 0.02 grams  
17 or more, you will be disqualified from operating a commercial motor vehicle for a  
18 minimum period of one year.'

19 (e) If the person submits to the state administered test or tests, such person may have a  
20 qualified person of such person's choosing administer chemical tests in addition to any  
21 tests administered at the direction of a law enforcement officer. The justifiable failure or  
22 inability to obtain an additional test shall not preclude the admission of evidence relating  
23 to the test or tests taken at the direction of a law enforcement officer.

24 (f) Nothing in this article shall be deemed to preclude the acquisition or admission of such  
25 evidence if obtained by voluntary consent or a search warrant as authorized by the  
26 Constitution or laws of this state or of the United States.

27 (g) Upon the request of the person who shall submit to a chemical test or tests designated  
28 by a law enforcement officer, a copy of the results of the test or tests shall be made  
29 available to such person or such person's attorney.

30 40-5-203.

31 (a) Any test authorized by Code Section 40-5-201 shall be performed according to  
32 methods approved by the Division of Forensic Sciences of the Georgia Bureau of  
33 Investigation.

34 (b) Any test of a person's breath shall be performed on a machine approved by the  
35 Division of Forensic Sciences of the Georgia Bureau of Investigation which machine shall  
36 be operated with all its electronic and operating components prescribed by its manufacturer

1 properly attached and in good working order. Such test shall be performed by an  
2 individual possessing a valid permit issued by the Division of Forensic Sciences for such  
3 purpose.

4 (c) The Division of Forensic Sciences of the Georgia Bureau of Investigation shall approve  
5 satisfactory techniques or methods to ascertain the qualifications and competence of  
6 individuals to conduct analyses and to issue permits, along with requirements for properly  
7 operating and maintaining any testing instruments, and to issue certificates certifying that  
8 instruments have met those requirements, which certificates and permits shall be subject  
9 to termination or revocation at the discretion of the Division of Forensic Sciences.

10 (d) In all cases where a law enforcement officer designates breath testing, two sequential  
11 breath samples shall be requested for the testing of alcohol concentration. For either or  
12 both of these sequential samples to be admissible in the state's or plaintiff's case-in-chief,  
13 the readings shall not differ from each other by an alcohol concentration of greater than  
14 0.020 grams and the lower of the two results shall be determinative for accusation and  
15 indictment purposes and administrative license suspension purposes. No more than two  
16 sequential series of a total of two adequate breath samples each shall be requested by the  
17 law enforcement officer. A refusal to give an adequate sample or samples on any  
18 subsequent breath, blood, urine, or other bodily substance test shall not affect the  
19 admissibility of the results of any prior samples.

20 40-5-204.

21 (a) Each time an approved breath-testing instrument is inspected, the inspector shall  
22 prepare a certificate which shall be signed under oath by the inspector and which shall  
23 include the following language:

24 'This breath-testing instrument (serial no. \_\_\_\_\_) was thoroughly inspected,  
25 tested, and standardized by the undersigned on (date \_\_\_\_\_) and all of its  
26 electronic and operating components prescribed by its manufacturer are properly attached  
27 and are in good working order.'

28 (b) When properly prepared and executed, as prescribed in this Code section, the  
29 certificate shall, notwithstanding any other provision of law, be self-authenticating, shall  
30 be admissible in any court of law, and shall satisfy the requirements of this Code section  
31 and Code Section 40-5-203.

32 40-5-205.

33 (a) In all cases where a law enforcement officer designates blood testing pursuant to Code  
34 Section 40-5-202 for the purpose of determining the alcohol or other drug content, the  
35 sample may be drawn by a physician, physician's assistant, qualified technician, chemist,

1 registered nurse, licensed practical nurse, medical technologist, medical laboratory  
2 technician, emergency medical technician, certified paramedic, phlebotomist, or other  
3 personnel trained to draw blood.

4 (b) For the purpose of establishing that a person was qualified to draw blood at the time  
5 the blood was drawn, the following shall be admissible as evidence:

6 (1) Certification by the office of the Secretary of State or by the Department of Human  
7 Resources that a person who drew blood was licensed or certified in accordance with the  
8 laws, rules, or regulations of this state;

9 (2) Records of a medical facility or employer, which records are duly certified by the  
10 custodian of such records as provided by Code Section 24-7-8, that certify that the person  
11 who drew the blood was properly trained and authorized to draw blood as an employee  
12 of the medical facility or employer;

13 (3) Testimony, under oath, of the person who drew the blood; or

14 (4) Testimony, under oath, of the supervisor of the person who drew the blood or the  
15 medical records custodian that the person who drew the blood was properly trained and  
16 authorized to draw blood as an employee of the medical facility or employer.

17 (c) A medical facility, physician, physician's assistant, qualified technician, chemist,  
18 registered nurse, licensed practical nurse, medical technologist, medical laboratory  
19 technician, emergency medical technician, certified paramedic, phlebotomist, or other  
20 personnel trained to draw blood; or a duly licensed clinical laboratory director, supervisor,  
21 technologist, technician, or employer thereof; or other person assisting a law enforcement  
22 officer shall not incur any civil, criminal, or administrative liability as a result of the  
23 withdrawal of a blood specimen requested in writing by a law enforcement officer with the  
24 consent of the accused as provided in subsection (d) of Code Section 40-5-202 or when  
25 ordered by a court of competent jurisdiction. Notwithstanding any other provision of law,  
26 obtaining a blood sample pursuant to this article shall not constitute the practice of  
27 medicine or any other profession relating to health care which is regulated, licensed, or  
28 certified by the state.

29 40-5-206.

30 (a) Whenever any resident or nonresident person is charged with a violation of Part 2 of  
31 Article 15 of Chapter 6 of this title, the law enforcement officer shall take the driver's  
32 license of the person so charged. The driver's license shall be attached to the court's copy  
33 of the uniform traffic citation and complaint form and shall be forwarded to the court  
34 having jurisdiction of the offense unless the law enforcement officer is required to submit  
35 a report to the department pursuant to Code Section 40-5-207. Taking the driver's license

1 as required in this Code section shall not prohibit any law enforcement officer or agency  
2 from requiring any cash bond authorized by Article 1 of Chapter 6 of Title 17.

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

5 (1) If the driver refuses to submit to a test or tests to determine the presence of alcohol  
6 or drugs as required by this article, the officer shall issue a 30 day temporary driving  
7 permit;

8 (2) If the driver's license is required to be suspended under Code Section 40-5-208, the  
9 officer shall issue a 30 day temporary driving permit; or

10 (3) If the test or tests administered pursuant to this article indicate an alcohol  
11 concentration less than the level for an administrative suspension of the license pursuant  
12 to Code Section 40-5-208 but there are reasonable grounds to believe that the person  
13 violated Code Section 40-6-410, the officer shall issue a 180 day temporary driving  
14 permit.

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

22 (d)(1) If the person is convicted of violating or enters a plea of nolo contendere to a  
23 violation of any of the provisions of Part 2 of Article 15 of Chapter 6 of this title, the  
24 court shall, within ten days, forward the person's driver's license and the record of the  
25 disposition of the case to the department. If such person is in possession of a temporary  
26 driving permit issued pursuant to subsection (b) of this Code section, the court shall also  
27 require the person to surrender such temporary driving permit instanter.

28 (2) If the person is not convicted of violating or does not enter a plea of nolo contendere  
29 to a violation of any of the provisions of Part 2 of Article 15 of Chapter 6 of this title and  
30 the court is in possession of the driver's license, the court shall return the driver's license  
31 to the person unless the license is in suspension for any other offense, in which case the  
32 court shall forward the license to the department for disposition.

1 40-5-207.

2 (a) A law enforcement officer shall submit a report to the department if:

3 (1) A person submits to a chemical test upon the request of a law enforcement officer  
4 and the test results indicate that a suspension or disqualification is required under this  
5 article; or

6 (2) A person refuses to submit to a chemical test designated by a law enforcement officer  
7 as provided in this article.

8 (b) A report submitted pursuant to subsection (a) of this Code section shall be in writing,  
9 signed by a law enforcement officer and in such form as the department shall prescribe.

10 Such report may be submitted electronically in accordance with Chapter 12 of Title 10, the  
11 'Georgia Electronic Records and Signatures Act.' The signature of the officer, whether  
12 actual or electronic, shall be considered an attestation of the officer that the facts contained  
13 therein are true and correct.

14 (c) A law enforcement officer, acting on behalf of the department, shall personally serve  
15 the notice of intention to suspend or disqualify the license of the arrested person or other  
16 person refusing such test on such person at the time of the person's refusal to submit to a  
17 test or at the time at which such a test indicates that suspension or disqualification is  
18 required under Code Section 40-5-208.

19 (d) The law enforcement officer shall forward the person's driver's license to the  
20 department along with the notice of intent to suspend or disqualify and the report required  
21 by subsections (a) and (b) of this Code section within ten calendar days after the date of the  
22 arrest of such person. This subsection shall not apply to any person issued a 180 day  
23 temporary permit pursuant to subsection (b) of Code Section 40-5-206. The failure of the  
24 officer to transmit the report required by this Code section within ten calendar days shall  
25 not prevent the department from accepting such report and utilizing it in the suspension of  
26 a driver's license as provided in this article.

27 40-5-208.

28 (a) Upon the receipt of the report of the law enforcement officer, the department shall  
29 suspend the person's driver's license, permit, or nonresident operating privilege pursuant  
30 to Code Section 40-5-209 if:

31 (1) The person submitted to a chemical test at the request of a law enforcement officer  
32 and the test results indicated that:

33 (A) The person had an alcohol concentration of 0.08 grams or more;

34 (B) The person had an alcohol concentration of 0.02 grams or more and the person was  
35 under the age of 21; or



1 (C) The person had an alcohol concentration of 0.02 grams or more and the person was  
2 operating or was in actual physical control of a moving commercial motor vehicle; or

3 (2) The person refused to submit to the chemical test requested by a law enforcement  
4 officer.

5 (b) If notice has not been given by a law enforcement officer pursuant to Code Section  
6 40-5-207, the department, upon receipt of the report of such officer, shall suspend the  
7 person's driver's license, permit, or nonresident operating privilege or disqualify such  
8 person from operating a motor vehicle and, by regular mail, at the last known address,  
9 notify such person of such suspension or disqualification. The notice shall inform the  
10 person of the grounds of suspension or disqualification, the effective date of the suspension  
11 or disqualification, and the right to review. The notice shall be deemed received three days  
12 after mailing.

13 (c) The period of suspension provided for in this Code section shall be for a minimum  
14 period of one year; provided, however, that such suspension shall be subject to review as  
15 provided in this chapter. If the person was operating or in actual physical control of a  
16 commercial motor vehicle, the department shall disqualify the person from operating a  
17 commercial motor vehicle and shall suspend the person's driver's license, permit, or  
18 nonresident operating privilege, subject to review as provided for in this chapter.

19 (d) If the person is a resident without a driver's license, commercial driver's license, or  
20 permit to operate a motor vehicle in this state, the department shall deny issuance of a  
21 license or permit to such person for the same period provided in subsection (c) of this Code  
22 section for suspension of a license or permit or disqualification to operate a commercial  
23 motor vehicle, subject to review as provided for in this chapter.

24 (e) Any driver's license required to be suspended under the provisions of this Code section  
25 shall be suspended subject to the following terms and conditions:

26 (1) Upon the first suspension pursuant to this Code section or former Code Section  
27 40-5-67.1 within the previous five years, as measured from the dates of previous arrests  
28 for which a suspension was obtained to the date of the current arrest for which a  
29 suspension is obtained, the period of suspension shall be for one year. Not sooner than  
30 30 days following the effective date of suspension, the person may apply to the  
31 department for reinstatement of his or her driver's license. Such license shall be  
32 reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk  
33 Reduction Program and pays a restoration fee of \$210.00, or \$200.00 when such  
34 reinstatement is processed by mail, unless such conviction was a recidivist conviction in  
35 which case the restoration fee shall be \$510.00, or \$500.00 when processed by mail. A  
36 driver's license suspended pursuant to this Code section shall not become valid and shall

1 remain suspended until such person submits proof of completion of a DUI Alcohol or  
2 Drug Use Risk Reduction Program and pays the prescribed restoration fee;

3 (2) Upon the second suspension pursuant to this Code section within five years or a  
4 suspension imposed pursuant to this Code section within five years of a suspension  
5 imposed pursuant to former Code Section 40-5-67.1, as measured from the dates of  
6 previous arrests for which suspensions were obtained to the date of the current arrest for  
7 which a suspension is obtained, the period of suspension shall be for three years. The  
8 person shall be eligible to apply to the department for license reinstatement not sooner  
9 than 18 months following the effective date of suspension. Such license shall be  
10 reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk  
11 Reduction Program and pays a restoration fee of \$210.00, or \$200.00 when such  
12 reinstatement is processed by mail, unless such conviction was a recidivist conviction in  
13 which case the restoration fee shall be \$510.00, or \$500.00 when processed by mail. A  
14 driver's license suspended pursuant to this Code section shall not become valid and shall  
15 remain suspended until such person submits proof of completion of a DUI Alcohol or  
16 Drug Use Risk Reduction Program and pays the prescribed restoration fee; and

17 (3) Upon the third or subsequent suspension pursuant to this Code section singularly or  
18 in combination with any suspension or suspensions imposed pursuant to former Code  
19 Section 40-5-67.1 within five years, as measured from the dates of previous arrests for  
20 which suspensions were obtained to the date of the current arrest for which a suspension  
21 is obtained, the period of suspension shall be for five years. A driver's license suspended  
22 pursuant to this Code section shall not become valid and shall remain suspended until  
23 such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction  
24 Program and pays the prescribed restoration fee. The driver may apply for a probationary  
25 license pursuant to Code Section 40-5-58 after the expiration of two years from the  
26 effective date of suspension.

27 (f) An administrative license suspension pursuant to this Code section shall be counted  
28 toward fulfillment of any period of suspension subsequently imposed as a result of a  
29 conviction of violating Code Section 40-6-410, 40-6-411, 40-6-412, or 40-6-413 which  
30 arises out of the same violation for which the administrative license suspension was  
31 imposed. An administrative license suspension pursuant to this Code section shall run  
32 concurrently with any revocation of such driver's license pursuant to a subsequent  
33 determination that such person is a habitual violator.

34 (g) In all cases in which the department may return a license to a driver prior to the  
35 termination of the full period of suspension, the department may require such tests of  
36 driving skill and knowledge as it determines to be proper, and the department's discretion

1 shall be guided by the driver's past driving record and performance. The driver shall pay  
2 a restoration fee of \$210.00, or \$200.00 when processed by mail.

3 (h) Any other provision of law to the contrary notwithstanding, a driver with no previous  
4 conviction for a violation of Code Section 40-6-410, 40-6-411, 40-6-412, or 40-6-413 or  
5 former Code Section 40-6-391 within the previous five years, as measured from the dates  
6 of previous arrests for which convictions were obtained to the date of the current arrest,  
7 during the period of administrative suspension contemplated under this article, shall be  
8 entitled to a limited driving permit as provided in Code Section 40-5-64.

9 40-5-209.

10 (a)(1) A person whose driver's license is suspended or a person who is disqualified from  
11 operating a commercial motor vehicle pursuant to this article shall request, in writing, a  
12 hearing within ten business days from the date of personal notice or receipt of notice sent  
13 by certified mail or statutory overnight delivery, return receipt requested, or the right to  
14 said hearing shall be deemed waived. Within 30 days after receiving a written request  
15 for a hearing, the department shall hold a hearing as provided in Chapter 13 of Title 50,  
16 the 'Georgia Administrative Procedure Act.' The hearing shall be recorded.

17 (2) The scope of the hearing shall be limited to the following issues:

18 (A) Whether the law enforcement officer had reasonable grounds to believe the person  
19 was driving or in actual physical control of a moving motor vehicle while under the  
20 influence of alcohol, a drug, or any combination thereof or had a prohibited substance  
21 in his or her body;

22 (B) Whether the law enforcement officer requested the person to submit to a state  
23 administered chemical test;

24 (C) Whether at the time of the request for the test or tests the officer informed the  
25 person of the person's implied consent rights and the consequence of submitting or  
26 refusing to submit to such test; and

27 (D)(i) Whether the person refused the test; or

28 (ii)(I) Whether a test or tests were administered and the results indicated an alcohol  
29 concentration of 0.08 grams or more or, for a person under the age of 21, an alcohol  
30 concentration of 0.02 grams or more or, for a person operating or having actual  
31 physical control of a commercial motor vehicle, an alcohol concentration of 0.02  
32 grams or more; and

33 (II) Whether the test or tests were properly administered by an individual  
34 possessing a valid permit issued by the Division of Forensic Sciences of the Georgia  
35 Bureau of Investigation on an instrument approved by the Division of Forensic  
36 Sciences or a test conducted by the Division of Forensic Sciences, including

1 whether the machine at the time of the test was operated with all its electronic and  
2 operating components prescribed by its manufacturer properly attached and in good  
3 working order. A copy of the operator's permit showing that the operator has been  
4 trained on the particular type of instrument used and one of the original copies of  
5 the test results or, where the test is performed by the Division of Forensic Sciences,  
6 a copy of the crime lab report shall satisfy the requirements of this subparagraph.

7 (3) The hearing officer shall, within five calendar days after such hearing, forward a  
8 decision to the department to rescind or sustain the driver's license suspension or  
9 disqualification. If no hearing is requested within ten business days as specified in  
10 paragraph (1) of this subsection, and the failure to request such hearing is due in whole  
11 or in part to the reasonably avoidable fault of the person, the right to a hearing shall have  
12 been waived. The request for a hearing shall not stay the suspension of the driver's  
13 license; provided, however, that if the hearing is timely requested and is not held before  
14 the expiration of the temporary permit and the delay is not due in whole or in part to the  
15 reasonably avoidable fault of the person, the suspension shall be stayed until such time  
16 as the hearing is held and the hearing officer's decision is made.

17 (4) In the event the person is acquitted of a violation of Code Section 40-6-410,  
18 40-6-411, 40-6-412, or 40-6-413 or such charge is initially disposed of other than by a  
19 conviction or plea of nolo contendere, then the suspension shall be terminated and deleted  
20 from the driver's license record. An accepted plea of nolo contendere shall be entered  
21 on the driver's license record and shall be considered and counted as a conviction for  
22 purposes of any future violations of Code Section 40-6-410, 40-6-411, 40-6-412, or  
23 40-6-413. In the event of an acquittal or other disposition other than by a conviction or  
24 plea of nolo contendere, the driver's license restoration fee shall be promptly returned by  
25 the department to the licensee.

26 (b) If the suspension is sustained after such a hearing, the person whose license has been  
27 suspended under this Code section shall have a right to file for a judicial review of the  
28 department's final decision, as provided in Chapter 13 of Title 50, the 'Georgia  
29 Administrative Procedure Act.' While such appeal is pending, the order of the department  
30 shall not be stayed.

31 40-5-210.

32 (a) Subject to the limitations of this subsection, any law enforcement officer who attends  
33 a hearing provided for by Code Section 40-5-209 for the purpose of giving testimony  
34 relative to the subject of such hearing shall be compensated in the same amount as is  
35 authorized as per diem for law enforcement officers pursuant to Code Section 24-10-27 for  
36 each day's attendance at such hearing. In the event a law enforcement officer gives

1 testimony at two or more different hearings on the same day, such officer shall receive only  
2 \$20.00 for attendance at all hearings.

3 (b) The compensation provided for in this Code section shall not be paid to any law  
4 enforcement officer who is on regular duty or who is on a lunch or other break from regular  
5 duty at the time the officer attends any such hearing. The compensation provided for by  
6 this Code section shall be paid to the law enforcement officer by the department from  
7 department funds at such time and in such manner as the commissioner shall provide by  
8 rule.

9 (c) A law enforcement officer requesting compensation pursuant to this Code section shall  
10 submit a request for payment in such form as the commissioner shall prescribe by rule.

11 Such form shall be signed by the officer, attesting that the officer:

12 (1) Appeared at the implied consent hearing as a witness or complainant on the date and  
13 time shown in the request;

14 (2) Was not on regular duty at the time of attending the hearing; and

15 (3) Has not received and will not receive compensation from such officer's regular  
16 employer for attending the hearing.

17 (d) A request for compensation shall be certified by the hearing officer who presided at the  
18 hearing for which compensation is requested."

19 **SECTION 1-3.**

20 Said title is further amended by redesignating the existing provisions of Article 15 of  
21 Chapter 6, relating to serious traffic offenses, as Part 1 and inserting a new Part 2 to read as  
22 follows:

23 "Part 2

24 40-6-410.

25 A person commits the offense of driving under the influence if such person drives or is in  
26 actual physical control of any moving vehicle while:

27 (1) Under the influence of alcohol to the extent that it is less safe for the person to drive;

28 (2) Under the influence of any drug or marijuana to the extent that it is less safe for the  
29 person to drive;

30 (3) Under the intentional influence of any glue, aerosol, or other toxic vapor to the extent  
31 that it is less safe for the person to drive; or

32 (4) Under the combined influence of any two or more of the substances specified in  
33 paragraphs (1) through (3) of this Code section to the extent that it is less safe for the  
34 person to drive.

1 40-6-411.

2 A person commits the offense of driving with a prohibited substance in his or her body if  
3 such person drives or is in actual physical control of any moving vehicle and such person  
4 has:

5 (1) At any time within three hours after having driven or been in actual physical control  
6 of any moving vehicle, an alcohol concentration of 0.08 grams or more in such person's  
7 blood, breath, urine, or other bodily substance from alcohol consumed before or while  
8 driving or being in actual physical control of such motor vehicle; or

9 (2) Any amount of a Schedule I controlled substance, as defined in Code Section  
10 16-13-25, present in such person's blood, urine, or other bodily substance, including the  
11 metabolites and derivatives of such controlled substances, without regard to whether any  
12 alcohol is present in the person's breath or blood.

13 40-6-412.

14 A person commits the offense of driving a commercial motor vehicle with a prohibited  
15 substance in his or her body if such person drives or is in actual physical control of a  
16 commercial motor vehicle and has, at any time within three hours after having driven or  
17 been in actual physical control of such commercial motor vehicle, an alcohol concentration  
18 of 0.02 grams or more in such person's blood, breath, urine, or other bodily substance.

19 40-6-413.

20 A person commits the offense of underage driving with a prohibited substance in his or her  
21 body if a person under 21 years of age drives or is in actual physical control of any moving  
22 vehicle and has, at any time within three hours of driving or being in physical control of  
23 such motor vehicle, an alcohol concentration of 0.02 grams or more in such person's blood,  
24 breath, urine, or other bodily substance from alcohol consumed before or while driving or  
25 being in actual physical control of such motor vehicle.

26 40-6-414.

27 (a) Unless otherwise provided in this part, any person convicted of any violation of Code  
28 Sections 40-6-410 through 40-6-413 shall be punished as follows:

29 (1) For a first conviction with no conviction of and no plea of nolo contendere accepted  
30 to a charge of violating this Code section within the previous five years, as measured  
31 from the dates of previous arrests for which convictions were obtained or pleas of nolo  
32 contendere were accepted to the date of the current arrest for which a conviction is  
33 obtained or a plea of nolo contendere is accepted, such person shall be guilty of a  
34 misdemeanor and shall be punished as follows:

1 (A) A fine of not less than \$300.00 nor more than \$1,000.00, which fine shall not,  
2 except as provided in subsection (f) of this Code section, be subject to suspension, stay,  
3 or probation;

4 (B) A period of imprisonment of not less than ten days nor more than 12 months,  
5 which period of imprisonment may, at the sole discretion of the judge, be suspended,  
6 stayed, or probated; provided, however, that, if the offender's alcohol concentration at  
7 the time of the offense was 0.08 grams or more, the judge may suspend, stay, or probate  
8 all but 24 hours of any term of imprisonment imposed under this subparagraph;

9 (C) Not less than 40 hours of community service; provided, however, that, for a  
10 conviction for violation of Code Section 40-6-413 where the person's alcohol  
11 concentration at the time of the offense was less than 0.08 grams, the period of  
12 community service shall be not less than 20 hours;

13 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by  
14 the Department of Driver Services. The sponsor of any such program shall provide  
15 written notice of such approval to the person upon enrollment in the program; and

16 (E) If the defendant is sentenced to a period of imprisonment for less than 12 months,  
17 a period of probation of 12 months less any days during which the defendant is actually  
18 incarcerated;

19 (2) For the second conviction within a five-year period of time, as measured from the  
20 dates of previous arrests for which convictions were obtained or pleas of nolo contendere  
21 were accepted to the date of the current arrest for which a conviction is obtained or a plea  
22 of nolo contendere is accepted, such person shall be guilty of a misdemeanor and shall  
23 be punished as follows:

24 (A) A fine of not less than \$600.00 nor more than \$1,000.00, which fine shall not,  
25 except as provided in subsection (f) of this Code section, be subject to suspension, stay,  
26 or probation;

27 (B) A period of imprisonment of not less than 90 days nor more than 12 months. The  
28 judge shall probate at least a portion of such term of imprisonment, in accordance with  
29 subparagraph (F) of this paragraph, thereby subjecting the offender to the provisions  
30 of Article 7 of Chapter 8 of Title 42 and to such other terms and conditions as the judge  
31 may impose; provided, however, that the offender shall be required to serve not less  
32 than 72 hours of actual incarceration;

33 (C) Not less than 240 hours of community service;

34 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by  
35 the Department of Driver Services. The sponsor of any such program shall provide  
36 written notice of such approval to the person upon enrollment in the program;

1 (E) Undergoing a clinical evaluation as defined in Code Section 40-5-1 and, if  
2 indicated by such evaluation, completion of a substance abuse treatment program as  
3 defined in Code Section 40-5-1; and

4 (F) A period of probation of 12 months less any days during which the defendant is  
5 actually incarcerated; or

6 (3) For the third or subsequent conviction within a five-year period of time, as measured  
7 from the dates of previous arrests for which convictions were obtained or pleas of nolo  
8 contendere were accepted to the date of the current arrest for which a conviction is  
9 obtained or a plea of nolo contendere is accepted, such person shall be guilty of a  
10 misdemeanor of a high and aggravated nature and shall be punished as follows:

11 (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall  
12 not, except as provided in subsection (f) of this Code section, be subject to suspension,  
13 stay, or probation;

14 (B) A mandatory period of imprisonment of not less than 120 days nor more than 12  
15 months. The judge shall probate at least a portion of such term of imprisonment, in  
16 accordance with subparagraph (F) of this paragraph, thereby subjecting the offender to  
17 the provisions of Article 7 of Chapter 8 of Title 42 and to such other terms and  
18 conditions as the judge may impose; provided, however, that the offender shall be  
19 required to serve not less than 15 days of actual incarceration;

20 (C) Not less than 30 days of community service;

21 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by  
22 the Department of Driver Services. The sponsor of any such program shall provide  
23 written notice of such approval to the person upon enrollment in the program;

24 (E) Undergoing a clinical evaluation as defined in Code Section 40-5-1 and, if  
25 indicated by such evaluation, completion of a substance abuse treatment program as  
26 defined in Code Section 40-5-1; and

27 (F) A period of probation of 12 months less any days during which the defendant is  
28 actually incarcerated.

29 (b) For the purpose of imposing a sentence under subsection (a) of this Code section, a  
30 plea of nolo contendere or an adjudication of delinquency based on a violation of Code  
31 Sections 40-6-410 through 40-6-413 shall constitute a conviction.

32 (c) When a defendant has been convicted of violating, by a single transaction, more than  
33 one of the provisions of Code Sections 40-6-410 through 40-6-413, the court shall merge  
34 such offenses for the purpose of sentencing and such offenses shall be treated as a single  
35 conviction for the purposes of this Code section and Code Section 40-5-58.

36 (d)(1) If the payment of the fine required under subsection (a) of this Code section will  
37 impose an economic hardship on the defendant, the judge, at his or her sole discretion,



1 may order the defendant to pay such fine in installments and such order may be enforced  
2 through a contempt proceeding or a revocation of any probation otherwise authorized by  
3 this Code section.

4 (2) In the sole discretion of the judge, he or she may suspend up to one-half of the fine  
5 imposed under paragraph (2) or (3) of subsection (a) of this Code section for a second or  
6 subsequent conviction conditioned upon the defendant's undergoing treatment in a  
7 substance abuse treatment program as defined in Code Section 40-5-1.

8 (e) Any person convicted of violating Code Section 40-6-412 shall, in addition to any  
9 disqualification resulting under Article 7 of Chapter 5 of this title, the 'Uniform  
10 Commercial Driver's License Act,' be fined as provided in subsection (a) of this Code  
11 section.

12 (f)(1) In any case where a person is sentenced to a period of imprisonment pursuant to  
13 this Code section for a violation of Code Section 40-6-413, it is within the authority and  
14 discretion of the sentencing judge in cases involving the first such violation to allow the  
15 sentence to be served on weekends by weekend confinement or during the nonworking  
16 hours of the defendant. A weekend shall commence and shall end in the discretion of the  
17 sentencing judge, and the nonworking hours of the defendant shall be determined in the  
18 discretion of the sentencing judge; provided, however, that the judge shall retain plenary  
19 control of the defendant at all times during the sentence period. Confinement during the  
20 nonworking hours of a defendant during any day may be counted as serving a full day of  
21 the sentence.

22 (2) Any confinement of a person pursuant to a sentence to a period of imprisonment for  
23 a violation of Code Section 40-6-413 shall be served in a county jail; provided, however,  
24 that, for the first such violation, such person shall be kept segregated from all offenders  
25 other than those confined for violating such Code section.

26 40-6-415.

27 (a) A person commits the offense of endangering a child by driving under the influence  
28 of alcohol or drugs if such person drives or is in actual physical control of any moving  
29 vehicle while in violation of Code Section 40-6-410, 40-6-411, 40-6-412, or 40-6-413  
30 while transporting a child under the age of 14 years.

31 (b) Any person convicted of a violation of this Code section shall be punished as provided  
32 in subsection (d) of Code Section 16-12-1, relating to the offense of contributing to the  
33 delinquency, unruliness, or deprivation of a child.

34 (c) Any violation of this Code section shall be considered a separate offense.

1 40-6-416.

2 (a) A school bus driver licensed pursuant to Article 7 of Chapter 5 of this title shall, upon  
3 a conviction of a violation of Code Section 40-6-410, 40-6-411, 40-6-412, or 40-6-413  
4 while driving a school bus, be punished by imprisonment for a period of not less than one  
5 year nor more than five years or by a fine of not less than \$1,000.00 nor more than  
6 \$5,000.00, or both.

7 (b) Any violation of this Code section shall be considered a separate offense.

8 40-6-417.

9 (a) Except as provided in subsection (b) of this Code section, upon the trial of any civil or  
10 criminal action or proceeding arising out of acts alleged to have been committed by any  
11 person in violation of this part, the amount of alcohol in the person's blood at the time  
12 alleged, as shown by chemical analysis of the person's blood, urine, breath, or other bodily  
13 substance, may give rise to inferences as follows:

14 (1) If there was at that time an alcohol concentration of 0.05 grams or less, the trier of  
15 fact in its discretion may infer therefrom that the person was not under the influence of  
16 alcohol, as prohibited by paragraphs (1) and (4) of Code Section 40-6-410;

17 (2) If there was at that time an alcohol concentration in excess of 0.05 grams but less  
18 than 0.08 grams, such fact shall not give rise to any inference that the person was or was  
19 not under the influence of alcohol, as prohibited by paragraphs (1) and (4) of Code  
20 Section 40-6-410, but such fact may be considered by the trier of fact with other  
21 competent evidence in determining whether the person was under the influence of  
22 alcohol, as prohibited by paragraphs (1) and (4) of Code Section 40-6-410; or

23 (3) If there was at that time an alcohol concentration of 0.08 grams or more, the trier of  
24 fact in its discretion may infer therefrom that the person was under the influence of  
25 alcohol, as prohibited by paragraphs (1) and (4) of Code Section 40-6-410.

26 (b)(1) In any civil or criminal action or proceeding arising out of acts alleged to have  
27 been committed in violation of paragraph (1) of Code Section 40-6-411, if there was at  
28 that time or within three hours after driving or being in actual physical control of a  
29 moving vehicle from alcohol consumed before such driving or being in actual physical  
30 control ended an alcohol concentration of 0.08 or more grams in the person's blood,  
31 breath, urine, or other bodily substance, the person shall be in violation of paragraph (1)  
32 of Code Section 40-6-411.

33 (2) In any civil or criminal action or proceeding arising out of acts alleged to have been  
34 committed by any person in violation of Code Section 40-6-412, if there was at that time  
35 or within three hours after driving or being in actual physical control of a moving vehicle  
36 from alcohol consumed before such driving or being in actual physical control ended an

1 alcohol concentration of 0.02 grams or more in the person's blood, breath, urine, or other  
2 bodily substance, the person shall be in violation of Code Section 40-6-412.

3 (3) In any civil or criminal action or proceeding arising out of acts alleged to have been  
4 committed by any person in violation of Code Section 40-6-413, if there was at that time  
5 or within three hours after driving or being in actual physical control of a moving vehicle  
6 from alcohol consumed before such driving or being in actual physical control ended an  
7 alcohol concentration of 0.02 grams or more in the person's blood, breath, urine, or other  
8 bodily substance, the person shall be in violation of Code Section 40-6-413.

9 (c) In any civil or criminal action or proceeding arising out of acts alleged to have been  
10 committed by any person in violation of Code Section 40-6-410, the refusal of the  
11 defendant to submit to a chemical analysis of his or her blood, breath, urine, or other bodily  
12 substance, or the failure to provide an adequate sample, shall be admissible in evidence  
13 against the person. The trier of fact, in its discretion, may infer from such refusal that any  
14 test given would have shown the presence of alcohol, drugs, or other prohibited substances.

15 40-6-418.

16 The fact that any person charged with violating any of the provisions of this part is or has  
17 been legally entitled to use alcohol, marijuana, or a drug shall not constitute a defense  
18 against any charge of violating this part.

19 40-6-419.

20 (a) Any conviction of or plea of nolo contendere to a violation of any local ordinance  
21 adopted pursuant to Article 14 of this chapter, which ordinance adopts the provisions of  
22 this part, shall be deemed to be a prior conviction under this part.

23 (b) Any conviction of or plea of nolo contendere to a violation of former Code Section  
24 40-6-391, or any local ordinance adopted pursuant to Article 14 of this chapter, which  
25 ordinance adopted the provisions of former Code Section 40-6-391, shall be deemed to be  
26 a prior conviction under this part.

27 (c) Any conviction of or plea of nolo contendere to a violation of any previously or  
28 currently existing law of this state or its political subdivisions or authorities; of the United  
29 States or its territories, dominions, and possessions; or of the several states or the political  
30 subdivisions of such states which, at the time such violation occurred, was the same or  
31 substantially conformed to the laws of this state shall be deemed to be a prior conviction  
32 under this part. For the purposes of this part, a conviction or plea of nolo contendere in a  
33 tribal court shall be deemed to be conviction by a court of the United States.

1 40-6-420.

2 (a) The decision to accept a plea of nolo contendere to a charge of violating the provisions  
3 of this part shall be at the sole discretion of the judge; but, if such plea is accepted, the  
4 penalties provided for in Code Section 40-6-414 shall be imposed; provided, however, that  
5 no such plea of nolo contendere shall be accepted if the person is charged with violating  
6 the provisions of Code Section 40-6-410, 40-6-411, 40-6-412, or 40-6-413 and had an  
7 alcohol concentration of more than 0.15 grams at any time within three hours after driving  
8 or being in control of any moving vehicle from alcohol consumed before such driving or  
9 being in control ended.

10 (b) If the defendant has not been convicted of or had a plea of nolo contendere accepted  
11 to a charge of violating the provisions of Code Section 40-6-410, 40-6-411, 40-6-412, or  
12 40-6-413 within the previous five years and if the plea of nolo contendere shall be used as  
13 provided in paragraph (1) of subsection (a) of Code Section 40-5-63, no such plea shall be  
14 accepted unless, at a minimum, the following conditions are met:

15 (1) The defendant has filed a verified petition with the court requesting that such plea be  
16 accepted and setting forth the facts and special circumstances necessary to enable the  
17 judge to determine that accepting such plea is in the best interest of justice; and

18 (2) The judge has reviewed the defendant's driving records that are on file with the  
19 Department of Driver Services.

20 (c) The judge, as part of the record of the disposition of the charge, shall set forth, under  
21 seal of the court, his or her reasons for accepting the plea of nolo contendere.

22 (d) The record of the disposition of the case, including the ruling required in subsection (c)  
23 of this Code section, shall be forwarded to the Department of Driver Services within ten  
24 days after disposition.

25 (e) If a plea of nolo contendere is accepted under the conditions set forth in subsection (b)  
26 of this Code section, the defendant's driver's license shall be forwarded to the Department  
27 of Driver Services as provided in subsection (d) of Code Section 40-5-206.

28 40-6-421.

29 The provisions of Code Section 17-10-3, relating to general punishment for misdemeanors  
30 including traffic offenses, and the provisions of Article 3 of Chapter 8 of Title 42, relating  
31 to probation of first offenders, shall not apply to any person convicted or adjudicated of  
32 violating any provision of this article.

33 40-6-422.

34 (a) Notwithstanding the limits set forth in any municipal charter, any municipal court of  
35 any municipality shall be authorized to impose the punishments provided for in Code

1 Section 40-6-414 upon a conviction of violating Code Sections 40-6-410 through 40-6-413  
2 or upon a conviction of violating any ordinance adopting the provisions of this article.

3 (b) Any court authorized to hear cases involving violations of Code Sections 40-6-410  
4 through 40-6-413 shall be authorized to exercise the power to probate, suspend, or stay any  
5 sentence imposed. Such power shall, however, be limited to the conditions and limitations  
6 imposed by Code Section 40-6-414.

7 40-6-423.

8 (a) In addition to any other provisions of law, the clerk of the court in which a person is  
9 convicted a second or subsequent time of a violation of this article within five years, as  
10 measured from the dates of previous arrests for which convictions were obtained or pleas  
11 of nolo contendere were accepted to the date of the current arrest for which a conviction  
12 is obtained or a plea of nolo contendere is accepted, shall cause to be published a notice of  
13 conviction for each such person convicted. Such notices of conviction shall be published  
14 in the manner of legal notices in the legal organ of the county in which such person resides  
15 or, in the case of nonresidents, in the legal organ of the county in which the person was  
16 convicted. Such notice of conviction shall be one column wide by two inches long and  
17 shall contain the photograph taken by the arresting law enforcement agency at the time of  
18 arrest, name and address of the convicted person, and the date, time, place of arrest, and  
19 disposition of the case and shall be published once in the legal organ of the appropriate  
20 county in the second week following such conviction or as soon thereafter as publication  
21 may be made.

22 (b) The convicted person for which a notice of conviction is published pursuant to this  
23 Code section shall be assessed \$25.00 for the cost of publication of such notice and such  
24 assessment shall be imposed at the time of conviction in addition to any other fine imposed  
25 pursuant to this Code section.

26 (c) The clerk of the court, the publisher of any legal organ which publishes a notice of  
27 conviction, and any other person involved in the publication of an erroneous notice of  
28 conviction shall be immune from civil or criminal liability for such erroneous publication,  
29 provided that such publication was made in good faith.

30 40-6-424.

31 Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to  
32 have been committed by any person in violation of this part, evidence of the amount of  
33 alcohol or drug in a person's blood, urine, breath, or other bodily substance obtained in  
34 accordance with the provisions of this part shall be admissible.

1 40-6-425.

2 (a) Except as provided in this Code section, any motor vehicle operated by a person who  
3 has been declared a habitual violator for three violations of any of the provisions of this  
4 part and whose license has been revoked is declared to be contraband and subject to  
5 forfeiture to the state, as provided in this Code section.

6 (b) Any motor vehicle subject to forfeiture under subsection (a) of this Code section shall  
7 be seized upon determination by any peace officer or law enforcement agency of this state  
8 or any political subdivision thereof who has the power to make arrests and whose duty it  
9 is to enforce this part that said motor vehicle is contraband as provided in subsection (a)  
10 of this Code section. When a motor vehicle is seized pursuant to this Code section, the  
11 peace officer seizing the same shall report the fact of seizure, within 20 days thereof, to the  
12 district attorney of the judicial circuit having jurisdiction in the county where the seizure  
13 was made.

14 (c) In any action under this Code section, the court may enter such restraining orders or  
15 take other appropriate action, including acceptance of performance bonds, in connection  
16 with any interest in the motor vehicle that is subject to forfeiture.

17 (d) Within 60 days of the date of the seizure of a motor vehicle pursuant to this Code  
18 section, the district attorney shall initiate a forfeiture proceeding as provided in Code  
19 Section 16-13-49. If the state fails to initiate forfeiture proceedings against property seized  
20 for forfeiture by notice of pending forfeiture within the time limits specified in this  
21 subsection and subsection (b) of this Code section, the property must be released on the  
22 request of an owner or interest holder, pending further proceedings pursuant to this Code  
23 section, unless the property is being held as evidence.

24 (e) An owner or interest holder, as defined by subsection (a) of Code Section 16-13-49,  
25 may establish as a defense to the forfeiture of property which is subject to forfeiture under  
26 this Code section the applicable provisions of subsection (e) or (f) of Code Section  
27 16-13-49.

28 (f) Property which is forfeited pursuant to this Code section shall be disposed of as  
29 provided in Code Section 16-13-49.

30 (g) The proceeds arising from such sale shall be deposited into the general treasury of the  
31 state or any other governmental unit whose law enforcement agency it was that originally  
32 seized the motor vehicle. It is the intent of the General Assembly that, where possible,  
33 proceeds deposited into the state treasury should be used and that proceeds vested in any  
34 local governmental unit shall be applied to fund alcohol or drug treatment, rehabilitation,  
35 and prevention and education programs, after making the necessary expenditures for:

- 36 (1) Any cost incurred in the seizure;  
37 (2) The costs of the court and its officers; and

1 (3) Any costs incurred in the storage, advertisement, maintenance, or care of the motor  
2 vehicle.

3 (h) In any case where a motor vehicle which is the only family vehicle is determined to be  
4 subject to forfeiture, the court may, if it determines that the financial hardship to the family  
5 as a result of the forfeiture and sale outweighs the benefit to the state from such forfeiture,  
6 order the title to the vehicle transferred to such other family member who is a duly licensed  
7 operator and who requires the use of such vehicle for employment or family transportation  
8 purposes. Such transfer shall be subject to any valid liens and shall be granted only once."

9 **PART II**

10 **SECTION 2-1.**

11 Code Section 6-2-5.1 of the Official Code of Georgia Annotated, relating to operation or  
12 physical control of aircraft while under the influence of alcohol or drugs, is amended by  
13 striking subsection (b) and inserting in lieu thereof a new subsection (b) to read as follows:

14 "(b) Any person arrested for violation of this Code section shall, at the request of a law  
15 enforcement officer of the state or any political subdivision, be administered a test as  
16 provided by and subject to the restrictions of ~~subsection (a) of Code Section 40-6-392~~ Part  
17 2 of Article 15 of Chapter 6 of Title 40."

18 **SECTION 2-2.**

19 Code Section 12-3-315 of the Official Code of Georgia Annotated, relating to the exercise  
20 of police powers by the Lake Lanier Islands Development Authority, is amended by striking  
21 subsection (c) and inserting in lieu thereof a new subsection (c) to read as follows:

22 "(c) The maximum punishment for violation of such an ordinance shall be stated in the  
23 ordinance and shall not exceed a fine of \$500.00 or imprisonment for 60 days, or both,  
24 except that an ordinance adopting the provisions of ~~Code Section 40-6-391~~ Part 2 of Article  
25 15 of Chapter 6 of Title 40 shall provide the same punishment as provided by ~~Code Section~~  
26 ~~40-6-391~~ for violations of that ~~Code section~~ part."

27 **SECTION 2-3.**

28 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking  
29 subsection (b.1) of Code Section 15-11-66, relating to disposition of delinquent child, and  
30 inserting in lieu thereof a new subsection (b.1) to read as follows:

31 "(b.1) Notwithstanding the provisions of subsections (a) and (b) of this Code section, at  
32 the conclusion of the dispositional hearing provided in subsection (a) of Code Section  
33 15-11-65, if the child is found to have committed a delinquent offense which would be a

1 violation of ~~subsection (k)~~ of Code Section ~~40-6-391~~ 40-6-413 if committed by an adult,  
 2 the court shall make an order of disposition which, for purposes of the child's  
 3 rehabilitation, imposes the same penalty, period of confinement, and period of community  
 4 service provided in Code Section ~~40-6-391~~ 40-6-413 which are applicable to an adult  
 5 convicted of violating ~~subsection (k)~~ of Code Section ~~40-6-391~~ 40-6-413, with any such  
 6 period of confinement to be served in an institution, camp, or other facility for delinquent  
 7 children operated under the direction of the court or other local public authority or, if no  
 8 such facility is available, in a regional youth detention center, provided that such child shall  
 9 be kept segregated from all children other than those confined for violating ~~subsection (k)~~  
 10 ~~of Code Section 40-6-391~~ 40-6-413. A previous finding that the child committed such a  
 11 delinquent offense shall be deemed a previous conviction for purposes of this subsection.  
 12 The judge shall have the same authority and discretion regarding allowing service of  
 13 confinement on weekends or during nonworking hours as is provided under subsection (a)  
 14 of Code Section 17-10-3.1."

#### 15 SECTION 2-4.

16 Said title is further amended by striking subsection (a) of Code Section 15-21-112, relating  
 17 to additional penalty for violation of Code Section 40-6-391, and inserting in lieu thereof a  
 18 new subsection (a) to read as follows:

19 "(a) In every case in which any state court; probate court; juvenile court; municipal court,  
 20 whether known as mayor's, recorder's, or police court; or superior court in this state shall  
 21 impose a fine, which shall be construed to include costs, for a violation of ~~Code Section~~  
 22 ~~40-6-391~~ any of the provisions of Part 2 of Article 15 of Chapter 6 of Title 40, relating to  
 23 driving under the influence of alcohol or drugs, or a violation of an ordinance of a political  
 24 subdivision of this state which has adopted by reference ~~Code Section 40-6-391~~ said part  
 25 pursuant to Article 14 of Chapter 6 of Title 40, there shall be imposed as an additional  
 26 penalty a sum equal to the lesser of \$26.00 or 11 percent of the original fine."

#### 27 SECTION 2-5.

28 Said title is further amended by striking subsection (a) of Code Section 15-21-149, relating  
 29 to fines, and inserting in lieu thereof a new subsection (a) to read as follows:

30 "(a) In every case in which any court in this state shall impose a fine, which shall be  
 31 construed to include costs, for any violation of ~~Code Section 40-6-391~~ Part 2 of Article 15  
 32 of Chapter 6 of Title 40, relating to driving under the influence of alcohol or drugs, or for  
 33 violations of ordinances of political subdivisions which have adopted by reference ~~Code~~  
 34 ~~Section 40-6-391~~ Part 2 of Article 15 of Chapter 6 of Title 40, there shall be imposed as  
 35 an additional penalty a sum equal to 10 percent of the original fine."



**SECTION 2-6.**

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by striking subparagraph (c)(2)(S) of Code Section 16-10-51, relating to bail jumping, and inserting in lieu thereof a new subparagraph (c)(2)(S) to read as follows:

"(S) ~~Driving under the influence of alcohol or drugs, as provided in Code Section 40-6-391~~ Operating a motor vehicle in violation of Part 2 of Article 15 of Chapter 6 of Title 40;"

**SECTION 2-7.**

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by striking subparagraph (b)(2)(A) of Code Section 17-6-1, relating to where offenses are bailable, procedure, schedule of bails, and appeal bonds, and inserting in lieu thereof a new subparagraph (b)(2)(A) to read as follows:

"(A) A person charged with violating ~~Code Section 40-6-391~~ any of the provisions of Part 2 of Article 15 of Chapter 6 of Title 40, relating to operating a motor vehicle while under the influence of alcohol or drugs, whose alcohol concentration at the time of arrest, as determined by any method authorized by law, violates that provided in paragraph (5) of subsection (a) (1) of Code Section ~~40-6-391~~ 40-6-411 may be detained for a period of time up to six hours after booking and prior to being released on bail or on recognizance; and"

**SECTION 2-8.**

Said title is further amended by striking paragraph (2) of subsection (a) of Code Section 17-6-2, relating to acceptance of bail in misdemeanor cases, and inserting in lieu thereof a new paragraph (2) to read as follows:

"(2) The individual posting a license as collateral pursuant to this subsection shall execute an acknowledgment and agreement between the individual and the State of Georgia as bond wherein the individual agrees to appear in court to answer the charges made against the individual and acknowledges that failure to appear in court when the case is scheduled for hearing, trial, or plea shall result in a forfeiture of the individual's license through suspension by operation of law effective upon the date of the individual's scheduled appearance. The individual shall also be notified that failure to appear in court as required may result in criminal prosecution for bail jumping as provided in Code Section 16-10-51. After execution of the agreement, except as otherwise provided by law, the license shall be returned to the individual and the original agreement shall be delivered to the prosecuting attorney for filing with the accusation, citation, or dismissal. Whenever an individual has been charged with a violation of ~~Code Section 40-6-391~~ Part

1 2 of Article 15 of Chapter 6 of Title 40, relating to driving under the influence of alcohol  
 2 or drugs, then the provisions of Code Section ~~40-5-67~~ 40-5-206 shall apply."

3 **SECTION 2-9.**

4 Said title is further amended by striking Code Section 17-10-3.1, relating to punishment for  
 5 violations of Code Section 40-6-391, and inserting a new Code Section 17-10-3.1 to read as  
 6 follows:

7 "17-10-3.1.

8 (a) In any case where a person is sentenced to a period of imprisonment under Code  
 9 Section ~~40-6-391~~ 40-6-413 upon conviction for violating ~~subsection (k)~~ of said Code  
 10 section, it is within the authority and discretion of the sentencing judge in cases involving  
 11 the first such violation to allow the sentence to be served on weekends by weekend  
 12 confinement or during the nonworking hours of the defendant. A weekend shall commence  
 13 and shall end in the discretion of the sentencing judge, and the nonworking hours of the  
 14 defendant shall be determined in the discretion of the sentencing judge; provided, however,  
 15 that the judge shall retain plenary control of the defendant at all times during the sentence  
 16 period. Confinement during the nonworking hours of a defendant during any day may be  
 17 counted as serving a full day of the sentence.

18 (b) Any confinement of a person pursuant to a sentence to a period of imprisonment under  
 19 Code Section ~~40-6-391~~ 40-6-413 upon conviction for violating ~~subsection (k)~~ of said Code  
 20 section shall be served in a county jail, provided that for the first such violation such person  
 21 shall be kept segregated from all offenders other than those confined for violating  
 22 ~~subsection (k)~~ of Code Section ~~40-6-391~~ 40-6-413."

23 **SECTION 2-10.**

24 Said title is further amended by striking subsections (a) and (h) of Code Section 17-15-7,  
 25 relating to persons eligible for victim compensation awards, and inserting in lieu thereof new  
 26 subsections (a) and (h) to read as follows:

27 "(a) Except as otherwise provided in this Code section, the following persons are eligible  
 28 for awards pursuant to this chapter:

29 (1) A victim;

30 (2) A dependent spouse or child of a victim;

31 (2.1) For purposes of an award under subsection (k) of Code Section 17-15-8, any  
 32 member of the immediate family of a victim of homicide by vehicle caused by a violation  
 33 of ~~Code Section 40-6-391~~ Part 2 of Article 15 of Chapter 6 of Title 40;

34 (3) Any person who goes to the aid of another and suffers physical injury or death as a  
 35 direct result of acting, not recklessly, to prevent the commission of a crime, to apprehend

1 lawfully a person reasonably suspected of having committed a crime, or to aid the victim  
 2 of a crime or any person who is injured or killed while aiding or attempting to aid a law  
 3 enforcement officer in the prevention of crime or apprehension of a criminal at the  
 4 officer's request;

5 (4) Any person who is a victim of family violence as defined by Code Section 19-13-1  
 6 and anyone who is a victim as a result of a violation of ~~Code Section 40-6-391~~ Part 2 of  
 7 Article 15 of Chapter 6 of Title 40; or

8 (5) Any person who is not a direct service provider and who assumes the cost of an  
 9 eligible expense of a victim regardless of such person's relationship to the victim or  
 10 whether such person is a dependent of the victim."

11 "(h) A victim or claimant who has been convicted of a felony involving criminally  
 12 injurious conduct and who is currently serving a sentence therefor shall not be considered  
 13 eligible to receive an award under this chapter. For purposes of this subsection, 'criminally  
 14 injurious conduct' means an act which occurs or is attempted in this state that results in  
 15 personal injury or death to a victim, which act is punishable by fine, imprisonment, or  
 16 death. Such term shall not include acts arising out of the operation of motor vehicles,  
 17 boats, or aircraft unless the acts were committed with the intent to inflict injury or death  
 18 or unless the acts committed were in violation of ~~Code Section 40-6-391~~ Part 2 of Article  
 19 15 of Chapter 6 of Title 40. For the purposes of this subsection, a person shall be deemed  
 20 to have committed criminally injurious conduct notwithstanding that by reason of age,  
 21 insanity, drunkenness, or other reason, he or she was legally incapable of committing a  
 22 crime."

### 23 SECTION 2-11.

24 Said title is further amended by striking paragraph (1) of subsection (k) of Code Section  
 25 17-15-8, relating to amount of victim compensation award, and inserting in lieu thereof a  
 26 new paragraph (1) to read as follows:

27 "(k)(1) In addition to any other award authorized by this Code section, in any case where  
 28 a deceased was a victim of homicide by vehicle caused by a violation of ~~Code Section~~  
 29 ~~40-6-391~~ Part 2 of Article 15 of Chapter 6 of Title 40 on any road which is part of the  
 30 state highway system, upon request of the next of kin of the deceased, an award of  
 31 compensation in the form of a memorial sign erected by the Department of  
 32 Transportation as provided by this subsection shall be paid to an eligible claimant."



1 that the license plates of all motor vehicles registered in such person's name be surrendered  
 2 to the court. The court shall notify the commissioner within ten days after issuing any such  
 3 order, and the commissioner shall revoke each such license plate upon receiving such  
 4 notice. The court shall issue a receipt for the surrendered license plate or plates. The court  
 5 shall forward the surrendered license plate or plates to the local tag agent immediately upon  
 6 receipt. For purposes of this subsection, a plea of nolo contendere shall constitute a  
 7 conviction."

#### 8 SECTION 2-16.

9 Said title is further amended by striking paragraphs (4) and (9) of Code Section 40-5-1,  
 10 relating to definitions regarding drivers' licenses, and inserting in lieu thereof new  
 11 paragraphs (4), (9), and (13.1) to read as follows:

12 "~~(4) 'Code Section 40-6-391' means Code Section 40-6-391 of the Official Code of~~  
 13 ~~Georgia Annotated, as now or hereafter amended, any federal law or regulation~~  
 14 ~~substantially conforming to or parallel with the offense covered under Code Section~~  
 15 ~~40-6-391, any local ordinance adopted pursuant to Article 14 of Chapter 6 of this title,~~  
 16 ~~which ordinance adopts the provisions of Code Section 40-6-391, or any previously~~  
 17 ~~existing or existing law of this or any other state, which law was or is substantially~~  
 18 ~~conforming to or parallel with Code Section 40-6-391~~ Reserved."

19 "(9) 'DUI Alcohol or Drug Use Risk Reduction Program' means a program certified by  
 20 the Department of Driver Services which consists of two components: assessment and  
 21 intervention. In the case of a conviction or plea of nolo contendere to a violation of ~~Code~~  
 22 ~~Section 40-6-391~~ Part 2 of Article 15 of Chapter 6 of this title or in any other instance in  
 23 which a person may be referred to a DUI Alcohol or Drug Use Risk Reduction Program,  
 24 the program administers the assessment component and refers such offender to the  
 25 intervention component."

26 "(13.1) 'Part 2 of Article 15 of Chapter 6 of this title' means Part 2 of Article 15 of  
 27 Chapter 6 of Title 40 of the Official Code of Georgia Annotated, as now or hereafter  
 28 amended, any federal law or regulation substantially conforming to or parallel with the  
 29 offenses covered under Part 2 of Article 15 of Chapter 6 of this title, any local ordinance  
 30 adopted pursuant to Article 14 of Chapter 6 of this title, which ordinance adopts the  
 31 provisions of Part 2 of Article 15 of Chapter 6 of this title, or any previously existing or  
 32 existing law of this or any other state, which law was or is substantially conforming to  
 33 or parallel with Part 2 of Article 15 of Chapter 6 of this title."

**SECTION 2-17.**

Said title is further amended by striking subsections (a) and (c) of Code Section 40-5-2, relating to keeping of records of applications for licenses and information on licensees, and inserting in lieu thereof new subsections (a) and (c) to read as follows:

"(a) The department shall maintain records regarding the drivers' licenses and permits issued by the department under this chapter. The drivers' records maintained by the department shall include:

(1) A record of every application for a license received by it and suitable indexes containing:

(A) All applications granted; and

(B) The name of every licensee whose license has been canceled, suspended, or revoked by the department and after each such name shall note the reasons for such action;

(2) Drivers' records received from other jurisdictions. Upon receipt of such driver's record, it shall become a part of such driver's record in this state and shall have the same force and effect as though entered on the driver's record in this state in the original instance; and

(3) Records of all accident reports and abstracts of court records of convictions of any offense listed in subsection (a) of Code Section 40-5-54, Code Section 40-6-10, driving on a suspended license in violation of Code Section 40-5-121, administrative license suspension pursuant to ~~Code Sections 40-5-67 through 40-5-67.2~~ Article 9 of this chapter, Code Section 40-5-75, Chapter 9 of this title, the 'Motor Vehicle Safety Responsibility Act,' and Chapter 34 of Title 33, the 'Georgia Motor Vehicle Accident Reparations Act,' any felony offense under this title, any offense committed while operating a commercial motor vehicle, serious traffic offenses, or other offenses requiring the assessment of points on the driving record that are received by it under the laws of this state and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which such licensee has been involved shall be readily ascertainable and available for the consideration of the department upon any application for renewal of license and at other suitable times. For purposes of issuing a driver's operating record to the public as provided in this Code section, the period of calculation for compilation of such report shall be determined by the date of arrest."

"(c)(1) The driver's record provided by the department shall include an enumeration of any accidents in which the individual was convicted of a moving traffic violation, such moving traffic violation convictions, and information pertaining to financial

1 responsibility. The department shall furnish a driver's operating record or personal  
2 information from a driver's record under the following circumstances:

3 (A) With the written instructions and consent of the driver upon whom the operating  
4 record has been made and compiled;

5 (B)(i) Pursuant to a written request or a request made in accordance with a contract  
6 with the Georgia Technology Authority for immediate on-line electronic furnishing  
7 of information, for use by any insurer or insurance support organization, or by a  
8 self-insured entity, or its agents, employees, or contractors, in connection with claims  
9 investigation activities, antifraud activities, rating, or underwriting involving the  
10 driver; provided, however, that notwithstanding the definition of personal information  
11 under Code Section 40-5-1, personal information furnished under this division shall  
12 be limited to name, address, driver identification number, and medical or disability  
13 information. The person who makes a request for a driver's operating record shall  
14 identify himself or herself and shall have certified or affirmed that the information  
15 contained in the record will be used only for the purpose specified in the request.  
16 Further, the person making the request shall certify or affirm that he or she has on file  
17 an application for insurance or for the renewal or amendment thereof involving the  
18 driver or drivers; or

19 (ii) For the purpose of ascertaining necessary rating information by an insurance  
20 agent pursuant to an insurer's contract with the Georgia Technology Authority for the  
21 immediate on-line electronic furnishing of limited rating information to such insurer's  
22 agents. Limited rating information furnished under this division shall include only  
23 the number of violations of ~~Code Section 40-6-391~~ Part 2 of Article 15 of Chapter 6  
24 of this title, relating to driving under the influence of alcohol, drugs, or other  
25 intoxicating substances, and the number and type of other moving traffic violations  
26 which were committed by the proposed insured driver or drivers within the  
27 immediately preceding three or five years, which period shall be specified by the  
28 person making the request. The provisions of division (i) of this subparagraph  
29 notwithstanding, no other information concerning a driver's operating record shall be  
30 released to such agents for purposes of rating;

31 (B.1) The department shall implement a pilot program for 12 months to determine the  
32 revenue feasibility of supplying limited rating information to agents, insurers, and  
33 insurance support organizations. The department shall report the results of such pilot  
34 program to the Office of Planning and Budget. Unless the Office of Planning and  
35 Budget determines that the pilot program is not successful, the department shall  
36 continue the program on a year-to-year basis and furnish limited rating information to  
37 insurance support organizations for the same purposes as provided in division (ii) of

1 subparagraph (B) of this paragraph, pursuant to a contract with the Georgia Technology  
2 Authority, provided that all other necessary requirements of this subsection have been  
3 met;

4 (C) In accordance with Article 7 of this chapter, the 'Georgia Uniform Commercial  
5 Driver's License Act';

6 (D) To a judge, prosecuting official, or law enforcement agency for use in  
7 investigations or prosecutions of alleged criminal or unlawful activity, or to the driver's  
8 licensing agency of another state; provided, however, that notwithstanding the  
9 definition of personal information under Code Section 40-5-1, personal information  
10 furnished to the driver's licensing agency of another state shall be limited to name,  
11 address, driver identification number, and medical or disability information;

12 (E) Pursuant to a request from a public or private school system concerning any person  
13 currently employed or an applicant for employment as a school bus driver who agrees  
14 in writing to allow the department to release the information;

15 (F) With the written release of the driver, to a rental car company for use in the normal  
16 course of its business; provided, however, that notwithstanding the definition of  
17 personal information under Code Section 40-5-1, personal information furnished under  
18 this subparagraph shall be limited to name, address, driver identification number, and  
19 medical or disability information. Such access shall be provided and funded through  
20 the GeorgiaNet Division of the Georgia Technology Authority, and the department  
21 shall bear no costs associated with such access; and

22 (G) For use in the normal course of business by a legitimate business or its agents,  
23 employees, or contractors, but only:

24 (i) To verify the accuracy of personal information submitted by the individual to the  
25 business or its agents, employees, or contractors; and

26 (ii) If such information as so submitted is not correct or is no longer correct, to obtain  
27 the correct information, but only for the purposes of preventing fraud by, pursuing  
28 legal remedies against, or recovering on a debt or security interest against, the  
29 individual;

30 provided, however, that notwithstanding the definition of personal information under  
31 Code Section 40-5-1, personal information furnished under this subparagraph shall be  
32 limited to name, address, and driver identification number and shall not include  
33 photographs, fingerprints, computer images, or medical or disability information. The  
34 personal information obtained by a business under this subparagraph shall not be resold  
35 or redisclosed for any other purpose without the written consent of the individual.  
36 Furnishing of information to a business under this subparagraph shall be pursuant to a  
37 contract entered into by such business and the state which specifies, without limitation,



1 the consideration to be paid by such business to the state for such information and the  
2 frequency of updates.

3 (2) Nothing in this Code section shall preclude the department from confirming or  
4 verifying the status of a driver's license or permit."

### 5 SECTION 2-18.

6 Said title is further amended by striking subsections (a) and (b) of Code Section 40-5-24,  
7 relating to instruction permits, and inserting in lieu thereof new subsections (a) and (b) to  
8 read as follows:

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

18 (2) A person who has been issued an instruction permit under this subsection and has  
19 never been issued a Class D driver's license under subsection (b) of this Code section will  
20 become eligible for a Class D driver's license under subsection (b) of this Code section  
21 only if such person is at least 16 years of age, has a valid instruction permit which is not  
22 under suspension, and, for a period of not less than 12 consecutive months prior to  
23 making application for a Class D driver's license, has not been convicted of a violation  
24 of former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title, hit and  
25 run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on  
26 highways or streets, using a motor vehicle in fleeing or attempting to elude an officer,  
27 reckless driving, or convicted of any offense for which four or more points are assessable  
28 under subsection (c) of Code Section 40-5-57.

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

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

1 has at any age surrendered to the department a valid instruction permit or driver's license  
 2 issued by another state or the District of Columbia or who has submitted to the  
 3 department proof, to the satisfaction of the department, of a valid instruction permit or  
 4 driver's license issued by another state or the District of Columbia may apply his or her  
 5 driving record under such previously issued permit or driver's license toward meeting the  
 6 eligibility requirements for a Class D driver's license the same as if such previously  
 7 issued permit or driver's license were an instruction permit issued under subsection (a)  
 8 of this Code section.

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

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

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

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

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

27 (3) A person who has been issued a Class D driver's license under this subsection and  
 28 has never been issued a Class C driver's license under this chapter will become eligible  
 29 for a Class C driver's license under this chapter only if such person has a valid Class  
 30 D driver's license which is not under suspension and, for a period of not less than 12  
 31 consecutive months prior to making application for a Class C driver's license, has not  
 32 been convicted of a violation of former Code Section 40-6-391 or Part 2 of Article 15  
 33 of Chapter 6 of this title, hit and run or leaving the scene of an accident in violation of  
 34 Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing  
 35 or attempting to elude an officer, reckless driving, or convicted of any offense for  
 36 which four or more points are assessable under subsection (c) of Code Section 40-5-57  
 37 and is at least 18 years of age."



1 ~~provided a blood test with drug screen may be administered to any person operating a~~  
 2 ~~motor vehicle involved in a traffic accident resulting in serious injuries or fatalities.~~

3 ~~(b) Any person who is dead, unconscious, or otherwise in a condition rendering such~~  
 4 ~~person incapable of refusal shall be deemed not to have withdrawn the consent provided~~  
 5 ~~by subsection (a) of this Code section, and the test or tests may be administered, subject to~~  
 6 ~~Code Section 40-6-392 Reserved.~~"

## 7 **SECTION 2-21.**

8 Said title is further amended by striking Code Section 40-5-57.1, relating to suspension of  
 9 licenses of persons under age 21 for certain offenses and suspension of licenses of persons  
 10 under age 18 for certain point accumulations, and inserting in lieu thereof a new Code  
 11 Section 40-5-57.1 to read as follows:

12 "40-5-57.1.

13 (a) Notwithstanding any other provision of this chapter, the driver's license of any person  
 14 under 21 years of age convicted of hit and run or leaving the scene of an accident in  
 15 violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle  
 16 in fleeing or attempting to elude an officer, reckless driving, any offense for which four or  
 17 more points are assessable under subsection (c) of Code Section 40-5-57, purchasing an  
 18 alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23,  
 19 or violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23, or violation  
 20 of ~~Code Section 40-6-391~~ Part 2 of Article 15 of Chapter 6 of this title shall be suspended  
 21 by the department as provided by this Code section; and the driver's license of any person  
 22 under 18 years of age who has accumulated a violation point count of four or more points  
 23 under Code Section 40-5-57 in any consecutive 12 month period shall be suspended by the  
 24 department as provided by this Code section. A plea of nolo contendere shall be  
 25 considered a conviction for purposes of this subsection. Notice of suspension shall be  
 26 given by certified mail or statutory overnight delivery, return receipt requested; or, in lieu  
 27 thereof, notice may be given by personal service upon such person. Such license shall be  
 28 surrendered within ten days of notification of such suspension. Notice given by certified  
 29 mail or statutory overnight delivery, return receipt requested, mailed to the person's last  
 30 known address shall be prima-facie evidence that such person received the required notice.

31 (b) A person whose driver's license has been suspended under subsection (a) of this Code  
 32 section shall:

33 (1) Subject to the requirements of subsection (c) of this Code section and except as  
 34 otherwise provided by paragraph (2) of this subsection:

1 (A) Upon a first such suspension, be eligible to apply for license reinstatement and,  
 2 subject to payment of required fees, have his or her driver's license reinstated after six  
 3 months; and

4 (B) Upon a second or subsequent such suspension, be eligible to apply for license  
 5 reinstatement and, subject to payment of required fees, have his or her driver's license  
 6 reinstated after 12 months; or

7 (2)(A) If the driver's license was suspended upon conviction for violation of former  
 8 Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title, be subject to the  
 9 provisions of Code Section 40-5-63.

10 (B) If such driver was convicted of driving under the influence of alcohol or of having  
 11 an unlawful alcohol concentration and is otherwise subject to the provisions of  
 12 paragraph (1) of subsection (a) of Code Section 40-5-63, then such person shall not be  
 13 eligible for a limited driving permit under Code Section 40-5-64, and:

14 (i) If the driver's alcohol concentration at the time of the offense was less than 0.08  
 15 grams, he or she shall not be eligible for license reinstatement until the end of six  
 16 months; or

17 (ii) If the driver's alcohol concentration at the time of the offense was 0.08 grams or  
 18 more, he or she shall not be eligible for license reinstatement until the end of 12  
 19 months.

20 (b.1) In any case where a person's driver's license was administratively suspended as a  
 21 result of the offense for which the person's driver's license has been suspended pursuant  
 22 to this Code section, the administrative license suspension period and the license  
 23 suspension period provided by this Code section may run concurrently, and any completed  
 24 portion of such administrative license suspension period shall apply toward completion of  
 25 the license suspension period provided by this Code section.

26 (c) Any driver's license suspended under subsection (a) of this Code section for  
 27 commission of any offense other than violation of former Code Section 40-6-391 or Part  
 28 2 of Article 15 of Chapter 6 of this title shall not become valid and shall remain suspended  
 29 until such person submits proof of completion of a defensive driving program approved by  
 30 the department and pays a fee equivalent to that required for restoration of a suspended  
 31 driver's license under paragraph (1) of subsection (a) of Code Section 40-5-63; provided,  
 32 however, that such fee shall not be required under this subsection if such person's driver's  
 33 license was administratively suspended as a result of the offense for which the person's  
 34 driver's license has been suspended pursuant to this Code section and the restoration fee  
 35 was paid for such administratively suspended driver's license.

36 (d) A suspension provided for in this Code section shall be imposed based on the person's  
 37 age on the date of the conviction giving rise to the suspension."



1 forth in this subsection, the sentencing judge or prosecutor in a conviction which  
2 conviction classifies the defendant as a habitual violator may, at the time of sentencing,  
3 declare such defendant to be a habitual violator. The judge or prosecutor shall, when  
4 declaring a defendant to be a habitual violator, then give personal notice to such defendant  
5 on forms provided by the department that henceforth it shall be unlawful for such habitual  
6 violator to operate a motor vehicle in this state unless otherwise provided in this Code  
7 section. The judge or prosecutor, as the case may be, shall within three days forward to the  
8 department the order declaring that the defendant is a habitual violator, the notice of  
9 service, with the defendant's driver's license or a sworn affidavit of the defendant declaring  
10 that the driver's license has been lost, and the department's copy of the uniform citation or  
11 the official notice of conviction attached thereto.

12 (c)(1) Except as provided in paragraph (2) of this subsection or in subsection (e) of this  
13 Code section, it shall be unlawful for any person to operate any motor vehicle in this state  
14 after such person has received notice that his or her driver's license has been revoked as  
15 provided in subsection (b) of this Code section, if such person has not thereafter obtained  
16 a valid driver's license. Any person declared to be a habitual violator and whose driver's  
17 license has been revoked under this Code section and who is thereafter convicted of  
18 operating a motor vehicle before the department has issued such person a driver's license  
19 or before the expiration of five years from such revocation, whichever occurs first, shall  
20 be punished by a fine of not less than \$750.00 or by imprisonment in the penitentiary for  
21 not less than one nor more than five years, or both. Any person declared to be a habitual  
22 violator and whose driver's license has been revoked and who is convicted of operating  
23 a motor vehicle after the expiration of five years from such revocation but before the  
24 department has issued such person a driver's license shall be guilty of a misdemeanor.

25 (2) Any person declared to be a habitual violator as a result of three or more convictions  
26 of violations of former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this  
27 title within a five-year period of time, as measured from the dates of previous arrests for  
28 which convictions were obtained to the date of the most recent arrest for which a  
29 conviction was obtained, and who is thereafter convicted of operating a motor vehicle  
30 during such period of revocation, prior to the issuance of a probationary license under  
31 subsection (e) of this Code section or before the expiration of five years, shall be guilty  
32 of the felony of habitual impaired driving and shall be punished by a fine of not less than  
33 \$1,000.00 or by imprisonment in the penitentiary for not less than one nor more than five  
34 years, or both.

35 (d) Notwithstanding any contrary provisions of Code Section 17-7-95, for the purposes of  
36 this Code section, any plea of nolo contendere entered and accepted after January 1, 1976,  
37 shall be considered a conviction.

1 (e)(1) Notwithstanding any contrary provisions of this Code section or any other Code  
2 section of this chapter, any person who has been declared a habitual violator and who has  
3 had his or her driver's license revoked under subsection (b) of this Code section for a  
4 period of five years and two years have expired since the date on which such person's  
5 license was surrendered or an affidavit was accepted as provided in subsection (e) of  
6 Code Section 40-5-61, such person may be issued a probationary driver's license for a  
7 period of time not to exceed three years upon compliance with the following conditions:

8 (A) Such person has not been convicted, or pleaded nolo contendere to a charge, of  
9 violating any provision of this chapter or any local ordinance relating to the movement  
10 of vehicles for a period of two years immediately preceding the application for a  
11 probationary driver's license;

12 (B) Such person has not been convicted, or pleaded nolo contendere to a charge, of a  
13 violation of any provision of this chapter which resulted in the death or injury of any  
14 individual;

15 (C) Such person has successfully completed, prior to the issuance of the probationary  
16 driver's license, a defensive driving course or a DUI Alcohol or Drug Use Risk  
17 Reduction Program as designated by the department;

18 (D) Such person has not been convicted, or pleaded nolo contendere to a charge, of  
19 violating any provision of Title 3, relating to alcoholic beverages, or of violating any  
20 provision of Chapter 13 of Title 16, relating to controlled substances;

21 (E) Such person shall submit a sworn affidavit that such person does not excessively  
22 use alcoholic beverages and does not illegally use controlled substances or marijuana.  
23 It shall be a misdemeanor to falsely swear on such affidavit and, upon conviction, the  
24 probationary license shall be revoked. No probationary license shall be issued during  
25 the remainder of the revocation period, and no driver's license shall be issued for the  
26 remainder of the original revocation period or for a period of two years from the date  
27 of conviction under this subparagraph;

28 (F) Such person submits proof of financial responsibility as provided in Chapter 9 of  
29 this title; and

30 (G) Refusal to issue a probationary driver's license would cause extreme hardship to  
31 the applicant. For the purposes of this subsection, the term 'extreme hardship' means  
32 that the applicant cannot reasonably obtain other transportation, and, therefore, the  
33 applicant would be prohibited from:

34 (i) Going to his or her place of employment or performing the normal duties of his  
35 or her occupation;

36 (ii) Receiving scheduled medical care or obtaining prescription drugs;



1 (iii) Attending a college or school at which he or she is regularly enrolled as a  
2 student;

3 (iv) Attending regularly scheduled sessions or meetings of support organizations for  
4 persons who have addiction or abuse problems related to alcohol or other drugs,  
5 which organizations are recognized by the commissioner; or

6 (v) Attending under court order any driver education or improvement school or  
7 alcohol or drug treatment program or course approved by the court which entered the  
8 judgment of conviction resulting in revocation of his or her driver's license or by the  
9 commissioner.

10 (2) Application for a probationary driver's license shall be made upon such forms as the  
11 commissioner may prescribe. Such forms shall require such information as is necessary  
12 for the department to determine the need for such license. All applications shall be  
13 signed by the applicant before a person authorized to administer oaths.

14 (3) Upon compliance with the above conditions and the payment of a fee of \$210.00, or  
15 \$200.00 when processed by mail, such person may be issued a probationary driver's  
16 license by the department. Upon payment of a fee in an amount the same as that provided  
17 by Code Section 40-5-25 for issuance of a Class C driver's license, a person may be  
18 issued a replacement for a lost or destroyed probationary driver's license issued to him  
19 or her.

20 (4) A probationary driver's license shall be endorsed with such conditions as the  
21 commissioner deems necessary to ensure that such license will be used by the licensee  
22 only to avoid the conditions of extreme hardship. Such conditions may include the  
23 following restrictions:

24 (A) Specific places between which the licensee may be allowed to operate a motor  
25 vehicle;

26 (B) Routes to be followed by the licensee;

27 (C) Times of travel;

28 (D) The specific vehicles which the licensee may operate; and

29 (E) Such other restrictions as the department may require.

30 (5) A probationary driver's license issued pursuant to this Code section shall become  
31 invalid upon the expiration of the period of the suspension or revocation of the driver's  
32 license of such person.

33 (6)(A)(i) Any probationary licensee violating the provisions of paragraph (4) of this  
34 subsection or operating a vehicle in violation of any conditions specified in this  
35 subsection shall be guilty of a misdemeanor.

36 (ii) Except as provided in division (iii) of this subparagraph, any probationary  
37 licensee violating any state law or local ordinance involving an offense listed in Code

1 Section 40-5-54 or ~~Code Section 40-6-391~~ Part 2 of Article 15 of Chapter 6 of this  
 2 title shall be guilty of a felony and shall be punished by a fine of not less than  
 3 \$1,000.00 or by imprisonment in the penitentiary for not less than one nor more than  
 4 five years, or both.

5 (iii) Any probationary licensee violating any state law or local ordinance involving  
 6 a felony offense listed in Code Section 40-5-54 shall be guilty of a felony and shall  
 7 be punished as is provided for conviction of such felony.

8 (B) Any probationary licensee who is convicted of violating, or who pleads nolo  
 9 contendere to a charge of violating, any state law or local ordinance involving an  
 10 offense listed in Code Section 40-5-54 or former Code Section 40-6-391 or Part 2 of  
 11 Article 15 of Chapter 6 of this title or any probationary licensee who is convicted of  
 12 violating, or who pleads nolo contendere to a charge of violating, the conditions  
 13 endorsed on his or her license, shall have his or her license revoked by the department.  
 14 Any court in which such conviction is had or in which said nolo contendere plea is  
 15 accepted shall require the licensee to surrender the license to the court. The court shall  
 16 forward the license to the department within ten days after the conviction or acceptance  
 17 of the plea, with a copy of the conviction. Any person whose probationary license is  
 18 revoked for committing an offense listed in Code Section 40-5-54 or former Code  
 19 Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title shall not be eligible  
 20 to apply for a regular driver's license until the expiration of the original five-year  
 21 revocation period during which the probationary license was originally issued or for a  
 22 period of two years following the conviction, whichever is greater.

23 (C) If the commissioner has reason to believe or makes a preliminary finding that the  
 24 requirements of the public safety or welfare outweigh the individual needs of a person  
 25 for a probationary license, the commissioner, in his or her discretion, after affording the  
 26 person notice and an opportunity to be heard, may refuse to issue the license under this  
 27 subsection.

28 (D) Any person whose probationary driver's license has been revoked shall not be  
 29 eligible to apply for a subsequent probationary license under this Code section for a  
 30 period of five years.

31 (7) Any person whose probationary license has been revoked or who has been refused  
 32 a probationary license by the department may make a request in writing for a hearing to  
 33 be provided by the department. Such hearing shall be provided by the department within  
 34 30 days after the receipt of such request and shall follow the procedures required by  
 35 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Appeal from such  
 36 hearing shall be in accordance with Chapter 13 of Title 50.

1 (f) If a person's license was revoked for a violation of former Code Section 40-6-391 or  
 2 Part 2 of Article 15 of Chapter 6 of this title resulting from a motor vehicle collision in  
 3 which any person lost his or her life, the person whose license was revoked shall not be  
 4 entitled to a probationary license as set forth in this Code section."

### 5 SECTION 2-23.

6 Said title is further amended by striking subsection (b) of Code Section 40-5-62, relating to  
 7 periods of suspension, and inserting in lieu thereof a new subsection (b) to read as follows:

8 "(b) The department shall not issue a new license nor restore a person's suspended license  
 9 or nonresident's operating privilege unless and until it is satisfied after investigation of the  
 10 character, habits, and driving ability of such person that it will be safe to grant the privilege  
 11 of driving a motor vehicle on the public highways. Notwithstanding subsection (a) of this  
 12 Code section or any other provision of this title, the department shall not issue a new  
 13 license to any person whose license was revoked as a habitual violator for three violations  
 14 of former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title within a  
 15 five-year period unless and until such person submits proof of completion of an approved  
 16 DUI Alcohol or Drug Use Risk Reduction Program. The department may issue rules and  
 17 regulations providing for reinstatement hearings. In the case of a revocation pursuant to  
 18 Code Section 40-5-58, the department shall charge a fee of \$210.00<sub>2</sub> or \$200.00 if  
 19 processed by mail<sub>2</sub> in addition to the fee prescribed by Code Section 40-5-25 to issue a new  
 20 driver's license to a person whose driver's license has been revoked."

### 21 SECTION 2-24.

22 Said title is further amended by striking subsections (a), (b), and (c) of Code Section 40-5-63,  
 23 relating to periods of revocation, and inserting in lieu thereof new subsections (a), (b), and  
 24 (c) to read as follows:

25 "(a) The driver's license of any person convicted of an offense listed in Code Section  
 26 40-5-54 or of violating former Code Section 40-6-391 or Part 2 of Article 15 of Chapter  
 27 6 of this title, unless the driver's license has been previously suspended pursuant to former  
 28 Code Sections 40-5-67.1 and 40-5-67.2 or Article 9 of this chapter, shall by operation of  
 29 law be suspended and such suspension shall be subject to the following terms and  
 30 conditions; provided, however, that any person convicted of a drug related offense pursuant  
 31 to former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title shall be  
 32 governed by the suspension requirements of Code Section 40-5-75:

33 (1) Upon the first conviction of any such offense, with no arrest and conviction of and  
 34 no plea of nolo contendere accepted to such offense within the previous five years, as  
 35 measured from the dates of previous arrests for which convictions were obtained to the

1 date of the current arrest for which a conviction is obtained, the period of suspension shall  
 2 be for 12 months. At the end of 120 days, the person may apply to the department for  
 3 reinstatement of said driver's license. Such license shall be reinstated if such person  
 4 submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and  
 5 pays a restoration fee of ~~\$210~~ \$210.00, or ~~\$200~~ \$200.00 when such reinstatement is  
 6 processed by mail, unless such conviction was a recidivist conviction in which case the  
 7 restoration fee shall be \$510.00, or \$500.00 when such reinstatement is processed by  
 8 mail, provided that, if such license was suspended as a result of a conviction of an offense  
 9 listed in Code Section 40-5-54, such license shall be reinstated if such person submits  
 10 proof of completion of either a defensive driving program approved by the department  
 11 or a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed  
 12 restoration fee. A driver's license suspended as a result of a conviction of a violation of  
 13 former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title shall not  
 14 become valid and shall remain suspended until such person submits proof of completion  
 15 of a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed  
 16 restoration fee. For purposes of this paragraph, an accepted plea of nolo contendere to  
 17 an offense listed in Code Section 40-5-54 by a person who is under 18 years of age at the  
 18 time of arrest shall constitute a conviction. For the purposes of this paragraph only, an  
 19 accepted plea of nolo contendere by a person 21 years of age or older, with no conviction  
 20 of and no plea of nolo contendere accepted to a charge of violating former Code Section  
 21 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title within the previous five years,  
 22 as measured from the dates of previous arrests for which convictions were obtained or  
 23 pleas of nolo contendere accepted to the date of the current arrest for which a plea of nolo  
 24 contendere is accepted, shall be considered a conviction, and the court having jurisdiction  
 25 shall forward, as provided in ~~Code Section 40-6-391.~~ Part 2 of Article 15 of Chapter 6  
 26 of this title, the record of such disposition of the case to the department and the record of  
 27 such disposition shall be kept on file for the purpose of considering and counting such  
 28 accepted plea of nolo contendere as a conviction under paragraphs (2) and (3) of this  
 29 subsection;

30 (2) Upon the second conviction of any such offense within five years, as measured from  
 31 the dates of previous arrests for which convictions were obtained to the date of the  
 32 current arrest for which a conviction is obtained, the period of suspension shall be for  
 33 three years. At the end of 120 days, the person may apply to the department for  
 34 reinstatement of said driver's license; except that if such license was suspended as a result  
 35 of a second conviction of a violation of former Code Section 40-6-391 or Part 2 of Article  
 36 15 of Chapter 6 of this title within five years, the person shall not be eligible to apply for  
 37 license reinstatement until the end of 18 months. Such license shall be reinstated if such

1 person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction  
2 Program and pays a restoration fee of ~~\$210~~ \$210.00, or ~~\$200~~ \$200.00 when such  
3 reinstatement is processed by mail, unless such conviction was a recidivist conviction in  
4 which case the restoration fee shall be \$510.00, or \$500.00 when processed by mail,  
5 provided that, if such license was suspended as a result of a conviction of an offense  
6 listed in Code Section 40-5-54, such license shall be reinstated if such person submits  
7 proof of completion of either a defensive driving program approved by the department  
8 or a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed  
9 restoration fee. A driver's license suspended as a result of a conviction of a violation of  
10 former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title shall not  
11 become valid and shall remain suspended until such person submits proof of completion  
12 of a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed  
13 restoration fee. For purposes of this paragraph, a plea of nolo contendere and all previous  
14 accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within  
15 such five-year period of time shall constitute a conviction. For the purposes of this  
16 paragraph, a plea of nolo contendere to a charge of violating former Code Section  
17 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title and all prior accepted pleas of  
18 nolo contendere within five years, as measured from the dates of previous arrests for  
19 which convictions were obtained or pleas of nolo contendere were accepted to the date  
20 of the current arrest for which a plea of nolo contendere is accepted, shall be considered  
21 and counted as convictions; or

22 (3) Upon the third conviction of any such offense within five years, as measured from  
23 the dates of previous arrests for which convictions were obtained to the date of the  
24 current arrest for which a conviction is obtained, such person shall be considered a  
25 habitual violator, and said license shall be revoked as provided for in paragraph (1) of  
26 subsection (a) of Code Section 40-5-62. For purposes of this paragraph, a plea of nolo  
27 contendere and all previous accepted pleas of nolo contendere to an offense listed in Code  
28 Section 40-5-54 within such five-year period shall constitute a conviction. For the  
29 purposes of this paragraph, a plea of nolo contendere and all prior accepted pleas of nolo  
30 contendere to a charge of violating former Code Section 40-6-391 or Part 2 of Article 15  
31 of Chapter 6 of this title within five years, as measured from the dates of previous arrests  
32 for which convictions were obtained or pleas of nolo contendere were accepted to the  
33 date of the current arrest for which a plea of nolo contendere is accepted, shall be  
34 considered and counted as convictions.

35 (4) For the purpose of determining whether a person was previously convicted of an  
36 offense subject to suspension under this Code section, convictions for violations of  
37 former Code Section 40-6-391 shall be given the same effect as convictions for violations

1 of Part 2 of Article 15 of Chapter 6 of this title for the purpose of this Code section if the  
 2 arrest or arrests for such violations occurred on or before June 30, 2006.

3 (b) The periods of suspension provided for in this Code section shall begin on the date the  
 4 person is convicted of an offense listed in Code Section 40-5-54 or of violating former  
 5 Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title.

6 (c) In all cases in which the department may return a license to a driver prior to the  
 7 termination of the full period of suspension, the department may require such tests of  
 8 driving skill and knowledge as it determines to be proper, and the department's discretion  
 9 shall be guided by the driver's past driving record and performance, and the driver shall  
 10 pay the applicable restoration fee. In addition to any other requirement the department may  
 11 impose, a driver's license suspended as a result of a conviction of a violation of former  
 12 Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title shall not become  
 13 valid, shall remain suspended, and shall not be returned to such driver or otherwise  
 14 reinstated until such person submits proof of completion of a DUI Alcohol or Drug Use  
 15 Risk Reduction Program."

#### 16 **SECTION 2-25.**

17 Said title is further amended by striking Code Section 40-5-63.1, relating to clinical  
 18 evaluation and substance abuse treatment programs for certain offenders, and inserting in lieu  
 19 thereof a new Code Section 40-5-63.1 to read as follows:

20 "40-5-63.1.

21 In addition to any and all other conditions of license reinstatement, issuance, or restoration  
 22 under Code Section 40-5-58, 40-5-62, or 40-5-63, any person with two or more convictions  
 23 of violation of former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this  
 24 title within five years, as measured from the dates of previous arrests for which convictions  
 25 were obtained to the date of the current arrest for which a conviction is obtained, shall be  
 26 required to undergo a clinical evaluation and, if indicated by such evaluation, must  
 27 complete a substance abuse treatment program, provided that such evaluation and treatment  
 28 shall be at such person's expense except as otherwise provided by Code Section 37-7-120.  
 29 Acceptable proof of completion of such a program must be submitted to the department  
 30 prior to license reinstatement, issuance, or restoration. For purposes of this Code section,  
 31 a plea of nolo contendere to a charge of violating former Code Section 40-6-391 or Part 2  
 32 of Article 15 of Chapter 6 of this title and all prior accepted pleas of nolo contendere within  
 33 five years, as measured from the dates of previous arrests for which convictions were  
 34 obtained or pleas of nolo contendere were accepted to the date of the current arrest for  
 35 which a plea of nolo contendere is accepted, shall be considered and counted as  
 36 convictions."

**SECTION 2-26.**

Said title is further amended by striking subsections (a) and (e) of Code Section 40-5-64, relating to limited driving permits for certain offenders, and inserting in lieu thereof new subsections (a) and (e) to read as follows:

"(a) *To whom issued.*

(1) Notwithstanding any contrary provision of Code Section 40-5-57 or 40-5-63 or any other Code section of this chapter, any person who has not been previously convicted or adjudicated delinquent for a violation of former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, may apply for a limited driving permit when and only when that person's driver's license has been suspended in accordance with paragraph (2) of subsection (a.1) of Code Section 40-5-22, subsection (d) of Code Section 40-5-57, paragraph (1) of subsection (a) of Code Section 40-5-63, or paragraph (1) of subsection (a) of former Code Section 40-5-67.2, or subsection (e) of Code Section 40-5-208.

(2) Any person whose driver's license has been suspended and who is subject to a court order for installation and use of an ignition interlock device as a condition of probation pursuant to the provisions Article 7 of Chapter 8 of Title 42 may apply for a limited driving permit."

"(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 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 a suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-63 for a violation of former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title, upon the expiration of 30 days in the case of an administrative license suspension in accordance with paragraph (1) of subsection ~~(a)~~ (e) of Code Section ~~40-5-67.2~~ 40-5-208, 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

1 department if the department has processed the citation or conviction. Upon the applicant's  
 2 execution of an affidavit attesting to such facts and to the fact that the court had not  
 3 imposed a suspension or revocation of his or her driver's license or driving privileges  
 4 inconsistent with the driving privileges to be conferred by the limited driving permit  
 5 applied for, the department may issue such person a limited driving permit."

#### 6 SECTION 2-27.

7 Said title is further amended by striking subsection (a) of Code Section 40-5-66, relating to  
 8 appeals from decisions of the department, and inserting in lieu thereof a new subsection (a)  
 9 to read as follows:

10 "(a) Except as provided in subsection (h) of Code Section ~~40-5-67.1~~ 40-5-64 and  
 11 subsection ~~(h)~~ (b) of Code Section ~~40-5-64~~ 40-5-209, any decision rendered by the  
 12 department shall be final unless the aggrieved person shall desire an appeal. In such case,  
 13 such person shall have the right to enter an appeal in the superior court of the county of his  
 14 or her residence or in the Superior Court of Fulton County. Such appeal shall name the  
 15 commissioner as defendant and must be filed within 30 days from the date the department  
 16 enters its decision or order. The person filing the appeal shall not be required to post any  
 17 bond nor to pay the costs in advance."

#### 18 SECTION 2-28.

19 Said title is further amended by striking Code Section 40-5-67, relating to seizure and  
 20 disposition of driver's license of persons charged with driving under the influence, and  
 21 inserting in lieu thereof a new Code Section 40-5-67 to read as follows:

22 "40-5-67.

23 ~~(a) Whenever any resident or nonresident person is charged with violating Code Section~~  
 24 ~~40-6-391, the law enforcement officer shall take the driver's license of the person so~~  
 25 ~~charged. The driver's license shall be attached to the court's copy of the uniform traffic~~  
 26 ~~citation and complaint form and shall be forwarded to the court having jurisdiction of the~~  
 27 ~~offense. A copy of the uniform traffic citation and complaint form shall be forwarded,~~  
 28 ~~within ten days of issue, to the department. Taking the driver's license as required in this~~  
 29 ~~Code section shall not prohibit any law enforcement officer or agency from requiring any~~  
 30 ~~cash bond authorized by Article 1 of Chapter 6 of Title 17.~~

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

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



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

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

7 ~~This temporary driving permit shall be valid for the stated period or until the person's~~  
 8 ~~driving privilege is suspended or revoked under any provision of this title. The department,~~  
 9 ~~at its sole discretion, may delay the expiration date of the temporary driving permit, but in~~  
 10 ~~no event shall this delay extend beyond the date when such person's driving privilege is~~  
 11 ~~suspended or revoked under any provision of this title. The department shall by rules and~~  
 12 ~~regulations establish the conditions under which the expiration of the temporary permit~~  
 13 ~~may be delayed.~~

14 ~~(c)(1) If the person is convicted of violating or enters a plea of nolo contendere to a~~  
 15 ~~charge of violating Code Section 40-6-391, the court shall, within ten days, forward the~~  
 16 ~~person's driver's license and the record of the disposition of the case to the department.~~  
 17 ~~At this time, the court shall also require the person to surrender the temporary driving~~  
 18 ~~permit issued pursuant to subsection (b) of this Code section.~~

19 ~~(2) If the person is not convicted of violating and does not enter a plea of nolo~~  
 20 ~~contendere to a charge of violating Code Section 40-6-391, and the court is in possession~~  
 21 ~~of the driver's license, the court shall return the driver's license to the person unless the~~  
 22 ~~license is in suspension for any other offense, in which case the court shall forward the~~  
 23 ~~license to the department for disposition.~~

24 ~~(c) As used in this Code section, the term 'traffic accident resulting in serious injuries or~~  
 25 ~~fatalities' means any motor vehicle accident in which a person was killed or in which one~~  
 26 ~~or more persons suffered a fractured bone, severe burns, disfigurement, dismemberment,~~  
 27 ~~partial or total loss of sight or hearing, or loss of consciousness Reserved."~~

#### 28 **SECTION 2-29.**

29 Said title is further amended by repealing Code Section 40-5-67.1, relating to chemical tests.

#### 30 **SECTION 2-30.**

31 Said title is further amended by repealing Code Section 40-5-67.2, relating to terms and  
 32 conditions for suspension of license under subsection (c) of Code Section 40-5-67.1.

1 **SECTION 2-31.**

2 Said title is further amended by striking Code Section 40-5-69, relating to circumstances not  
3 affecting suspensions by operation of law, and inserting in lieu thereof a new Code Section  
4 40-5-69 to read as follows:

5 "40-5-69.

6 If a person's driver's license is suspended by operation of law as provided in former Code  
7 Section 40-5-67.1 or 40-5-67.2 or Code Section 40-5-63, 40-5-67.1, or 40-5-67.2 40-5-208,  
8 the fact that the person's driver's license was not physically surrendered to the law  
9 enforcement officer at the time the person was charged with violating former Code Section  
10 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title or that the person's driver's  
11 license was not retained by the court and forwarded to the department as provided in  
12 former Code Section 40-5-67 or Code Section 40-5-206 or that the person's driver's license  
13 was not forwarded as provided in Code Section 40-5-72 shall not affect such suspension."

14 **SECTION 2-32.**

15 Said title is further amended by striking subsections (a) and (b) of Code Section 40-5-75,  
16 relating to suspension of licenses by operation of law, and inserting in lieu thereof new  
17 subsections (a) and (b) to read as follows:

18 "(a) The drivers license of any person convicted of possession, distribution, manufacture,  
19 cultivation, sale, transfer of, the attempt or conspiracy to possess, distribute, manufacture,  
20 cultivate, sell, or transfer a controlled substance or marijuana, or driving or being in actual  
21 physical control of any moving vehicle while under the influence of such a substance in  
22 violation of subsection (b) of Code Section 16-13-2, subsection (a), (b), or (j) of Code  
23 Section 16-13-30, or Code Section 16-13-33; paragraph (2), (4), or (6) of subsection (a) of  
24 former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title; or the law  
25 of any other jurisdiction shall by operation of law be suspended and such suspension shall  
26 be subject to the following terms and conditions:

27 (1) Upon the first conviction of any such offense, with no arrest and conviction of and  
28 no plea of nolo contendere accepted to such offense within the previous five years, as  
29 measured from the dates of previous arrests for which convictions were obtained to the  
30 date of the current arrest for which a conviction is obtained, the period of suspension shall  
31 be for not less than 180 days. At the end of 180 days, the person may apply to the  
32 department for reinstatement of his or her driver's license. Such license shall be  
33 reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use  
34 Risk Reduction Program and pays to the Department of Driver Services a restoration fee  
35 of ~~\$210~~ \$210.00, or ~~\$200~~ \$200.00 when such reinstatement is processed by mail, unless  
36 such conviction was a recidivist conviction in which case the restoration fee shall be

1 \$510.00, or \$500.00 when such reinstatement is processed by mail. For purposes of this  
 2 paragraph, a plea of nolo contendere by a person to a charge of any drug related offense  
 3 listed in this subsection shall, except as provided in subsection (c) of this Code section,  
 4 constitute a conviction;

5 (2) Upon the second conviction of any such offense within five years, as measured from  
 6 the dates of previous arrests for which convictions were obtained to the date of the  
 7 current arrest for which a conviction is obtained, the period of suspension shall be for  
 8 three years, provided that after one year from the date of the conviction the person may  
 9 apply to the department for reinstatement of his or her driver's license by submitting  
 10 proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying  
 11 to the Department of Driver Services a restoration fee of ~~\$210~~ \$210.00, or ~~\$200~~ \$200.00  
 12 when such reinstatement is processed by mail, unless such conviction was a recidivist  
 13 conviction in which case the restoration fee shall be \$510.00, or \$500.00 when such  
 14 reinstatement is processed by mail. For purposes of this paragraph, a plea of nolo  
 15 contendere and all previous pleas of nolo contendere within such five-year period of time  
 16 shall constitute a conviction; and

17 (3) Upon the third conviction of any such offense within five years, as measured from  
 18 the dates of previous arrests for which convictions were obtained to the date of the  
 19 current arrest for which a conviction is obtained, such person's license shall be suspended  
 20 for a period of five years. At the end of two years, the person may apply to the  
 21 department for a three-year driving permit upon compliance with the following  
 22 conditions:

23 (A) Such person has not been convicted or pleaded nolo contendere to any drug related  
 24 offense, including driving under the influence, for a period of two years immediately  
 25 preceding the application for such permit;

26 (B) Such person submits proof of completion of a licensed drug treatment program.  
 27 Such proof shall be submitted within two years of the license suspension and prior to  
 28 the issuance of the permit. Such licensed drug treatment program shall be paid for by  
 29 the offender. The offender must pay a permit fee of \$25.00 to the department;

30 (C) Such person submits proof of financial responsibility as provided in Chapter 9 of  
 31 this title; and

32 (D) Refusal to issue such permit would cause extreme hardship to the applicant. For  
 33 the purposes of this subparagraph, the term 'extreme hardship' means that the applicant  
 34 cannot reasonably obtain other transportation, and, therefore, the applicant would be  
 35 prohibited from:

36 (i) Going to his or her place of employment or performing the normal duties of his  
 37 or her occupation;

1 (ii) Receiving scheduled medical care or obtaining prescription drugs;

2 (iii) Attending a college or school at which he or she is regularly enrolled as a  
3 student; or

4 (iv) Attending regularly scheduled sessions or meetings of support organizations for  
5 persons who have addiction or abuse problems related to alcohol or other drugs,  
6 which organizations are recognized by the commissioner.

7 (b) Whenever a person is convicted of possession, distribution, manufacture, cultivation,  
8 sale, transfer of, the attempt or conspiracy to possess, distribute, manufacture, cultivate,  
9 sell, or transfer a controlled substance or marijuana, or driving or being in actual physical  
10 control of any moving vehicle while under the influence of such substance in violation of  
11 subsection (b) of Code Section 16-13-2, subsection (a), (b), or (j) of Code Section  
12 16-13-30, or Code Section 16-13-33; paragraph (2), (4), or (6) of subsection (a) of former  
13 Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title; or the law of any  
14 other jurisdiction, the court in which such conviction is had shall require the surrender to  
15 it of any driver's license then held by the person so convicted and the court shall thereupon  
16 forward such license and a copy of its order to the department within ten days after the  
17 conviction. The periods of suspension provided for in this Code section shall begin on the  
18 date of surrender of the driver's license or on the date that the department processes the  
19 conviction or citation, whichever shall first occur."

20 **SECTION 2-33.**

21 Said title is further amended by striking Code Section 40-5-85, relating to reinstatement of  
22 licenses suspended for driving under influence of alcohol or drugs, and inserting in lieu  
23 thereof a new Code Section 40-5-85 to read as follows:

24 "40-5-85.

25 Notwithstanding any other provision of this chapter, any person convicted within five years  
26 of his or her first conviction as measured in paragraph (2) of subsection (c) of former Code  
27 Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title for a second time of the  
28 offense of driving under the influence of alcohol or drugs in violation of former Code  
29 Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title shall, upon compliance  
30 with all other requirements for reinstatement of his or her license as provided for in this  
31 chapter, be issued a driver's license which may bear a red stripe thereon. After seven years  
32 with no additional convictions for driving under the influence of alcohol or drugs any such  
33 person shall be issued a regular driver's license without such red stripe, provided that he  
34 or she is otherwise entitled to such license under the laws of this state."

**SECTION 2-34.**

Said title is further amended by striking paragraph (13.1) of Code Section 40-5-142, relating to definitions regarding commercial drivers' licenses, and inserting in lieu thereof a new paragraph (13.1) to read as follows:

"(13.1) 'Driving a commercial vehicle while under the influence of alcohol' means committing any one or more of the following acts while a person is driving or in actual physical control of a moving commercial motor vehicle:

(A) Driving while the person's alcohol concentration is ~~0.04~~ 0.02 percent or more by weight of alcohol in his or her blood, breath, or urine;

(B) Driving under the influence of alcohol, as prescribed by former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this title; or

(C) Refusal to submit to state-administered chemical testing when requested to do so by a law enforcement officer."

**SECTION 2-35.**

Said title is further amended by striking subsection (d) of Code Section 40-5-148.1, relating to restricted commercial licenses for persons in agricultural industry, and inserting in lieu thereof a new subsection (d) to read as follows:

"(d) All holders of restricted commercial drivers' licenses shall be subject to disqualifications and penalties under Code Sections 40-5-151 ~~through 40-5-153~~ and 40-5-152 and Article 9 of this chapter and shall be subject to all notices, verifications, and license checks otherwise required under this article."

**SECTION 2-36.**

Said title is further amended by striking subsections (a) and (c) of Code Section 40-5-151, relating to disqualification from driving, and inserting in lieu thereof new subsections (a) and (c) to read as follows:

"(a) Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year:

(1) If convicted of a first violation of:

(A) Any offense specified in Code Section 40-5-54 that occurs while the person is driving or being in actual physical control of a moving commercial motor vehicle or a moving noncommercial vehicle;

(B) Driving or being in actual physical control of a moving commercial motor vehicle while there is ~~0.04~~ 0.02 percent or more by weight of alcohol in his or her blood, breath, or urine; or

1 (C) Driving or being in actual physical control of a moving noncommercial vehicle in  
 2 violation of former Code Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of this  
 3 title; or

4 (2) For refusal to submit to a test as prescribed in former Code Section 40-5-55 or Article  
 5 9 of this chapter to determine the driver's alcohol concentration while driving a  
 6 commercial motor vehicle or a noncommercial motor vehicle."

7 "(c) Any person is disqualified from driving a commercial motor vehicle for life if  
 8 convicted of two or more violations of any of the offenses specified in subsection (a) of  
 9 Code Section 40-5-54 or former Code Section 40-6-391 or Part 2 of Article 15 of Chapter  
 10 6 of this title, the refusal to submit to state administered chemical testing as prescribed by  
 11 ~~Code Section 40-5-55~~ Article 9 of this chapter, or any combination of those offenses or  
 12 refusals, arising from two or more separate incidents."

### 13 SECTION 2-37.

14 Said title is further amended by striking subsection (b) of Code Section 40-5-152, relating  
 15 to operating a commercial vehicle while having measurable alcohol in system, and inserting  
 16 in lieu thereof a new subsection (b) to read as follows:

17 "(b) A person who drives, operates, or is in physical control of a commercial motor vehicle  
 18 while having any measurable alcohol in his or her system or who refuses to take a test  
 19 prescribed by ~~Code Section 40-5-55~~ Article 9 of this chapter to determine his or her alcohol  
 20 content must be placed out of service for 24 hours."

### 21 SECTION 2-38.

22 Said title is further amended by striking Code Section 40-5-153, relating to implied consent  
 23 to chemical test regarding commercial vehicles, and inserting in lieu thereof a new Code  
 24 Section 40-5-153 to read as follows:

25 "40-5-153.

26 ~~(a) Any person who drives a commercial motor vehicle anywhere in the state shall be~~  
 27 ~~deemed to have given consent, subject to the provisions of Code Sections 40-5-55 and~~  
 28 ~~40-6-392, to a test or tests of that person's blood, breath, or urine for the purpose of~~  
 29 ~~determining that person's alcohol concentration or the presence of other drugs.~~

30 ~~(b) A test or tests may be administered at the direction of a law enforcement officer who,~~  
 31 ~~after stopping or detaining the commercial motor vehicle driver, has probable cause to~~  
 32 ~~believe that driver was driving a commercial motor vehicle while having any measurable~~  
 33 ~~alcohol in his or her system.~~

34 ~~(c) A person requested to submit to a test as provided in subsection (a) of this Code section~~  
 35 ~~must be warned by the law enforcement officer requesting the test that a refusal to submit~~

1 to the test will result in that person's being disqualified from operating a commercial motor  
 2 vehicle for one year under Code Section 40-5-151 and from operating a private motor  
 3 vehicle as provided in Code Section 40-5-67.1.

4 (d) If the person refuses testing, the law enforcement officer must submit an affidavit to  
 5 the department within ten days of such refusal certifying that the test was requested  
 6 pursuant to subsection (a) of this Code section and that the person refused to submit to  
 7 testing.

8 (e) Upon receipt of the affidavit submitted by a law enforcement officer under subsection  
 9 (d) of this Code section, the department must disqualify the driver from driving a  
 10 commercial motor vehicle for a period of one year as provided under Code Section  
 11 40-5-151 and, if the driver refused testing, from operating a private motor vehicle as  
 12 provided under Code Section 40-5-67.1. If the driver is in possession of a driver's license,  
 13 the officer shall take possession of the license and attach it to the affidavit Reserved."

#### 14 SECTION 2-39.

15 Said title is further amended by striking paragraph (3) of subsection (a) of Code Section  
 16 40-6-3, relating to application of chapter to operation of vehicles on highways and  
 17 exceptions, and inserting in lieu thereof a new paragraph (3) to read as follows:

18 "(3) The provisions of this chapter relating to reckless driving, driving in violation of  
 19 Code Section 40-6-391 Part 2 of Article 15 of this chapter, and homicide by vehicle shall  
 20 apply to vehicles operated upon highways and elsewhere throughout the state;".

#### 21 SECTION 2-40.

22 Said title is further amended by striking Code Section 40-6-291, relating to traffic laws  
 23 applicable to bicycles, and inserting in lieu thereof a new Code Section 40-6-291 to read as  
 24 follows:

25 "40-6-291.

26 The provisions of this chapter that apply to vehicles, but not exclusively to motor vehicles,  
 27 shall apply to bicycles, except that the penalties prescribed in subsection (b) of Code  
 28 Section 40-6-390, ~~subsection (c) of Code Section 40-6-391, and subsection (a) of Code~~  
 29 ~~Section 40-6-393, and Code Section 40-6-414~~ shall not apply to persons riding bicycles."

#### 30 SECTION 2-41.

31 Said title is further amended by striking Code Section 40-6-391, relating to driving under the  
 32 influence of alcohol, drugs, or other intoxicating substances, and inserting in lieu thereof a  
 33 new Code Section 40-6-391 to read as follows:

1 ~~"40-6-391.~~

2 ~~(a) A person shall not drive or be in actual physical control of any moving vehicle while:~~

3 ~~(1) Under the influence of alcohol to the extent that it is less safe for the person to drive;~~

4 ~~(2) Under the influence of any drug to the extent that it is less safe for the person to~~  
5 ~~drive;~~

6 ~~(3) Under the intentional influence of any glue, aerosol, or other toxic vapor to the extent~~  
7 ~~that it is less safe for the person to drive;~~

8 ~~(4) Under the combined influence of any two or more of the substances specified in~~  
9 ~~paragraphs (1) through (3) of this subsection to the extent that it is less safe for the person~~  
10 ~~to drive;~~

11 ~~(5) The person's alcohol concentration is 0.08 grams or more at any time within three~~  
12 ~~hours after such driving or being in actual physical control from alcohol consumed before~~  
13 ~~such driving or being in actual physical control ended; or~~

14 ~~(6) Subject to the provisions of subsection (b) of this Code section, there is any amount~~  
15 ~~of marijuana or a controlled substance, as defined in Code Section 16-13-21, present in~~  
16 ~~the person's blood or urine, or both, including the metabolites and derivatives of each or~~  
17 ~~both without regard to whether or not any alcohol is present in the person's breath or~~  
18 ~~blood.~~

19 ~~(b) The fact that any person charged with violating this Code section is or has been legally~~  
20 ~~entitled to use a drug shall not constitute a defense against any charge of violating this~~  
21 ~~Code section, provided, however, that such person shall not be in violation of this Code~~  
22 ~~section unless such person is rendered incapable of driving safely as a result of using a drug~~  
23 ~~other than alcohol which such person is legally entitled to use.~~

24 ~~(c) Every person convicted of violating this Code section shall, upon a first or second~~  
25 ~~conviction thereof, be guilty of a misdemeanor and, upon a third or subsequent conviction~~  
26 ~~thereof, be guilty of a high and aggravated misdemeanor and shall be punished as follows:~~

27 ~~(1) First conviction with no conviction of and no plea of nolo contendere accepted to a~~  
28 ~~charge of violating this Code section within the previous five years, as measured from the~~  
29 ~~dates of previous arrests for which convictions were obtained or pleas of nolo contendere~~  
30 ~~were accepted to the date of the current arrest for which a conviction is obtained or a plea~~  
31 ~~of nolo contendere is accepted:~~

32 ~~(A) A fine of not less than \$300.00 nor more than \$1,000.00, which fine shall not,~~  
33 ~~except as provided in subsection (g) of this Code section, be subject to suspension, stay,~~  
34 ~~or probation;~~

35 ~~(B) A period of imprisonment of not less than ten days nor more than 12 months,~~  
36 ~~which period of imprisonment may, at the sole discretion of the judge, be suspended,~~  
37 ~~stayed, or probated, except that if the offender's alcohol concentration at the time of the~~



1 ~~offense was 0.08 grams or more, the judge may suspend, stay, or probate all but 24~~  
 2 ~~hours of any term of imprisonment imposed under this subparagraph;~~

3 ~~(C) Not less than 40 hours of community service, except that for a conviction for~~  
 4 ~~violation of subsection (k) of this Code section where the person's alcohol~~  
 5 ~~concentration at the time of the offense was less than 0.08 grams, the period of~~  
 6 ~~community service shall be not less than 20 hours;~~

7 ~~(D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by~~  
 8 ~~the Department of Driver Services. The sponsor of any such program shall provide~~  
 9 ~~written notice of such approval to the person upon enrollment in the program; and~~

10 ~~(E) If the defendant is sentenced to a period of imprisonment for less than 12 months,~~  
 11 ~~a period of probation of 12 months less any days during which the defendant is actually~~  
 12 ~~incarcerated;~~

13 ~~(2) For the second conviction within a five-year period of time, as measured from the~~  
 14 ~~dates of previous arrests for which convictions were obtained or pleas of nolo contendere~~  
 15 ~~were accepted to the date of the current arrest for which a conviction is obtained or a plea~~  
 16 ~~of nolo contendere is accepted:~~

17 ~~(A) A fine of not less than \$600.00 nor more than \$1,000.00, which fine shall not,~~  
 18 ~~except as provided in subsection (g) of this Code section, be subject to suspension, stay,~~  
 19 ~~or probation;~~

20 ~~(B) A period of imprisonment of not less than 90 days nor more than 12 months. The~~  
 21 ~~judge shall probate at least a portion of such term of imprisonment, in accordance with~~  
 22 ~~subparagraph (F) of this paragraph, thereby subjecting the offender to the provisions~~  
 23 ~~of Article 7 of Chapter 8 of Title 42 and to such other terms and conditions as the judge~~  
 24 ~~may impose; provided, however, that the offender shall be required to serve not less~~  
 25 ~~than 72 hours of actual incarceration;~~

26 ~~(C) Not less than 30 days of community service;~~

27 ~~(D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by~~  
 28 ~~the Department of Driver Services. The sponsor of any such program shall provide~~  
 29 ~~written notice of such approval to the person upon enrollment in the program; and~~

30 ~~(E) Undergoing a clinical evaluation as defined in Code Section 40-5-1 and, if~~  
 31 ~~indicated by such evaluation, completion of a substance abuse treatment program as~~  
 32 ~~defined in Code Section 40-5-1; and~~

33 ~~(F) A period of probation of 12 months less any days during which the defendant is~~  
 34 ~~actually incarcerated; or~~

35 ~~(3) For the third or subsequent conviction within a five-year period of time, as measured~~  
 36 ~~from the dates of previous arrests for which convictions were obtained or pleas of nolo~~

~~1     contendere were accepted to the date of the current arrest for which a conviction is  
2     obtained or a plea of nolo contendere is accepted:~~

~~3     (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall  
4     not, except as provided in subsection (g) of this Code section, be subject to suspension,  
5     stay, or probation;~~

~~6     (B) A mandatory period of imprisonment of not less than 120 days nor more than 12  
7     months. The judge shall probate at least a portion of such term of imprisonment, in  
8     accordance with subparagraph (F) of this paragraph, thereby subjecting the offender to  
9     the provisions of Article 7 of Chapter 8 of Title 42 and to such other terms and  
10    conditions as the judge may impose; provided, however, that the offender shall be  
11    required to serve not less than 15 days of actual incarceration;~~

~~12    (C) Not less than 30 days of community service;~~

~~13    (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by  
14    the Department of Driver Services. The sponsor of any such program shall provide  
15    written notice of such approval to the person upon enrollment in the program; and~~

~~16    (E) Undergoing a clinical evaluation as defined in Code Section 40-5-1 and, if  
17    indicated by such evaluation, completion of a substance abuse treatment program as  
18    defined in Code Section 40-5-1, and~~

~~19    (F) A period of probation of 12 months less any days during which the defendant is  
20    actually incarcerated.~~

~~21    For the purpose of imposing a sentence under this subsection, a plea of nolo contendere or  
22    an adjudication of delinquency based on a violation of this Code section shall constitute a  
23    conviction.~~

~~24    (d)(1) Notwithstanding the limits set forth in any municipal charter, any municipal court  
25    of any municipality shall be authorized to impose the punishments provided for in this  
26    Code section upon a conviction of violating this Code section or upon conviction of  
27    violating any ordinance adopting the provisions of this Code section.~~

~~28    (2) Notwithstanding any provision of this Code section to the contrary, any court  
29    authorized to hear cases involving violations of this Code section shall be authorized to  
30    exercise the power to probate, suspend, or stay any sentence imposed. Such power shall,  
31    however, be limited to the conditions and limitations imposed by subsection (c) of this  
32    Code section.~~

~~33    (e) The foregoing limitations on punishment also shall apply when a defendant has been  
34    convicted of violating, by a single transaction, more than one of the four provisions of  
35    subsection (a) of this Code section.~~

~~36    (f) The provisions of Code Section 17-10-3, relating to general punishment for  
37    misdemeanors including traffic offenses, and the provisions of Article 3 of Chapter 8 of~~

1 ~~Title 42, relating to probation of first offenders, shall not apply to any person convicted of~~  
 2 ~~violating any provision of this Code section.~~

3 ~~(g)(1) If the payment of the fine required under subsection (c) of this Code section will~~  
 4 ~~impose an economic hardship on the defendant, the judge, at his or her sole discretion,~~  
 5 ~~may order the defendant to pay such fine in installments and such order may be enforced~~  
 6 ~~through a contempt proceeding or a revocation of any probation otherwise authorized by~~  
 7 ~~this Code section.~~

8 ~~(2) In the sole discretion of the judge, he or she may suspend up to one-half of the fine~~  
 9 ~~imposed under paragraph (2) or (3) of subsection (c) of this Code section for a second or~~  
 10 ~~subsequent conviction conditioned upon the defendant's undergoing treatment in a~~  
 11 ~~substance abuse treatment program as defined in Code Section 40-5-1.~~

12 ~~(h) For purposes of determining under this chapter prior convictions of or pleas of nolo~~  
 13 ~~contendere to violating this Code section, in addition to the offense prohibited by this Code~~  
 14 ~~section, a conviction of or plea of nolo contendere to any of the following offenses shall~~  
 15 ~~be deemed to be a violation of this Code section:~~

16 ~~(1) Any federal law substantially conforming to or parallel with the offense covered~~  
 17 ~~under this Code section;~~

18 ~~(2) Any local ordinance adopted pursuant to Article 14 of this chapter, which ordinance~~  
 19 ~~adopts the provisions of this Code section; or~~

20 ~~(3) Any previously or currently existing law of this or any other state, which law was or~~  
 21 ~~is substantially conforming to or parallel with this Code section.~~

22 ~~(i) A person shall not drive or be in actual physical control of any moving commercial~~  
 23 ~~motor vehicle while there is 0.04 percent or more by weight of alcohol in such person's~~  
 24 ~~blood, breath, or urine. Every person convicted of violating this subsection shall be guilty~~  
 25 ~~of a misdemeanor and, in addition to any disqualification resulting under Article 7 of~~  
 26 ~~Chapter 5 of this title, the 'Uniform Commercial Driver's License Act,' shall be fined as~~  
 27 ~~provided in subsection (c) of this Code section.~~

28 ~~(j)(1) The clerk of the court in which a person is convicted a second or subsequent time~~  
 29 ~~under subsection (c) of this Code section within five years, as measured from the dates~~  
 30 ~~of previous arrests for which convictions were obtained or pleas of nolo contendere were~~  
 31 ~~accepted to the date of the current arrest for which a conviction is obtained or a plea of~~  
 32 ~~nolo contendere is accepted, shall cause to be published a notice of conviction for each~~  
 33 ~~such person convicted. Such notices of conviction shall be published in the manner of~~  
 34 ~~legal notices in the legal organ of the county in which such person resides or, in the case~~  
 35 ~~of nonresidents, in the legal organ of the county in which the person was convicted. Such~~  
 36 ~~notice of conviction shall be one column wide by two inches long and shall contain the~~  
 37 ~~photograph taken by the arresting law enforcement agency at the time of arrest, name and~~

1 ~~address of the convicted person, and the date, time, place of arrest, and disposition of the~~  
 2 ~~case and shall be published once in the legal organ of the appropriate county in the~~  
 3 ~~second week following such conviction or as soon thereafter as publication may be made.~~

4 ~~(2) The convicted person for which a notice of conviction is published pursuant to this~~  
 5 ~~subsection shall be assessed \$25.00 for the cost of publication of such notice and such~~  
 6 ~~assessment shall be imposed at the time of conviction in addition to any other fine~~  
 7 ~~imposed pursuant to this Code section.~~

8 ~~(3) The clerk of the court, the publisher of any legal organ which publishes a notice of~~  
 9 ~~conviction, and any other person involved in the publication of an erroneous notice of~~  
 10 ~~conviction shall be immune from civil or criminal liability for such erroneous publication,~~  
 11 ~~provided such publication was made in good faith.~~

12 ~~(k)(1) A person under the age of 21 shall not drive or be in actual physical control of any~~  
 13 ~~moving vehicle while the person's alcohol concentration is 0.02 grams or more at any~~  
 14 ~~time within three hours after such driving or being in physical control from alcohol~~  
 15 ~~consumed before such driving or being in actual physical control ended.~~

16 ~~(2) Every person convicted of violating this subsection shall be guilty of a misdemeanor~~  
 17 ~~for the first and second convictions and upon a third or subsequent conviction thereof be~~  
 18 ~~guilty of a high and aggravated misdemeanor and shall be punished and fined as provided~~  
 19 ~~in subsection (c) of this Code section, provided that any term of imprisonment served~~  
 20 ~~shall be subject to the provisions of Code Section 17-10-3.1, and any period of~~  
 21 ~~community service imposed on such person shall be required to be completed within 60~~  
 22 ~~days of the date of sentencing.~~

23 ~~(3) No plea of nolo contendere shall be accepted for any person under the age of 21~~  
 24 ~~charged with a violation of this Code section.~~

25 ~~(l) A person who violates this Code section while transporting in a motor vehicle a child~~  
 26 ~~under the age of 14 years is guilty of the separate offense of endangering a child by driving~~  
 27 ~~under the influence of alcohol or drugs. The offense of endangering a child by driving~~  
 28 ~~under the influence of alcohol or drugs shall not be merged with the offense of driving~~  
 29 ~~under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An~~  
 30 ~~offender who is convicted of a violation of this subsection shall be punished in accordance~~  
 31 ~~with the provisions of subsection (d) of Code Section 16-12-1, relating to the offense of~~  
 32 ~~contributing to the delinquency, unruliness, or deprivation of a child Reserved.~~"

### 33 **SECTION 2-42.**

34 Said title is further amended by repealing Code Section 40-6-391.1, relating to entry of plea  
 35 of nolo contendere.



1 ~~be determinative for accusation and indictment purposes and administrative license~~  
2 ~~suspension purposes. No more than two sequential series of a total of two adequate~~  
3 ~~breath samples each shall be requested by the state; provided, however, that after an~~  
4 ~~initial test in which the instrument indicates an adequate breath sample was given for~~  
5 ~~analysis, any subsequent refusal to give additional breath samples shall not be construed~~  
6 ~~as a refusal for purposes of suspension of a driver's license under Code Sections 40-5-55~~  
7 ~~and 40-5-67.1. Notwithstanding the above, a refusal to give an adequate sample or~~  
8 ~~samples on any subsequent breath, blood, urine, or other bodily substance test shall not~~  
9 ~~affect the admissibility of the results of any prior samples. An adequate breath sample~~  
10 ~~shall mean a breath sample sufficient to cause the breath-testing instrument to produce~~  
11 ~~a printed alcohol concentration analysis.~~

12 ~~(2) When a person shall undergo a chemical test at the request of a law enforcement~~  
13 ~~officer, only a physician, registered nurse, laboratory technician, emergency medical~~  
14 ~~technician, or other qualified person may withdraw blood for the purpose of determining~~  
15 ~~the alcoholic content therein, provided that this limitation shall not apply to the taking of~~  
16 ~~breath or urine specimens. No physician, registered nurse, or other qualified person or~~  
17 ~~employer thereof shall incur any civil or criminal liability as a result of the medically~~  
18 ~~proper obtaining of such blood specimens when requested in writing by a law~~  
19 ~~enforcement officer;~~

20 ~~(3) The person tested may have a physician or a qualified technician, chemist, registered~~  
21 ~~nurse, or other qualified person of his own choosing administer a chemical test or tests~~  
22 ~~in addition to any administered at the direction of a law enforcement officer. The~~  
23 ~~justifiable failure or inability to obtain an additional test shall not preclude the admission~~  
24 ~~of evidence relating to the test or tests taken at the direction of a law enforcement officer;~~  
25 ~~and~~

26 ~~(4) Upon the request of the person who shall submit to a chemical test or tests at the~~  
27 ~~request of a law enforcement officer, full information concerning the test or tests shall be~~  
28 ~~made available to him or his attorney. The arresting officer at the time of arrest shall~~  
29 ~~advise the person arrested of his rights to a chemical test or tests according to this Code~~  
30 ~~section.~~

31 ~~(b) Except as provided in subsection (c) of this Code section, upon the trial of any civil or~~  
32 ~~criminal action or proceeding arising out of acts alleged to have been committed by any~~  
33 ~~person in violation of Code Section 40-6-391, the amount of alcohol in the person's blood~~  
34 ~~at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or~~  
35 ~~other bodily substance, may give rise to inferences as follows:~~

36 ~~(1) If there was at that time an alcohol concentration of 0.05 grams or less, the trier of~~  
37 ~~fact in its discretion may infer therefrom that the person was not under the influence of~~

1 alcohol, as prohibited by paragraphs (1) and (4) of subsection (a) of Code Section  
2 40-6-391; or

3 (2) ~~If there was at that time an alcohol concentration in excess of 0.05 grams but less  
4 than 0.08 grams, such fact shall not give rise to any inference that the person was or was  
5 not under the influence of alcohol, as prohibited by paragraphs (1) and (4) of subsection  
6 (a) of Code Section 40-6-391, but such fact may be considered by the trier of fact with  
7 other competent evidence in determining whether the person was under the influence of  
8 alcohol, as prohibited by paragraphs (1) and (4) of subsection (a) of Code Section  
9 40-6-391.~~

10 (c)(1) ~~In any civil or criminal action or proceeding arising out of acts alleged to have  
11 been committed in violation of paragraph (5) of subsection (a) of Code Section 40-6-391,  
12 if there was at that time or within three hours after driving or being in actual physical  
13 control of a moving vehicle from alcohol consumed before such driving or being in actual  
14 physical control ended an alcohol concentration of 0.08 or more grams in the person's  
15 blood, breath, or urine, the person shall be in violation of paragraph (5) of subsection (a)  
16 of Code Section 40-6-391.~~

17 (2) ~~In any civil or criminal action or proceeding arising out of acts alleged to have been  
18 committed by any person in violation of subsection (i) of Code Section 40-6-391, if there  
19 was at that time or within three hours after driving or being in actual physical control of  
20 a moving vehicle from alcohol consumed before such driving or being in actual physical  
21 control ended an alcohol concentration of 0.04 grams or more in the person's blood,  
22 breath, or urine, the person shall be in violation of subsection (i) of Code Section  
23 40-6-391.~~

24 (3) ~~In any civil or criminal action or proceeding arising out of acts alleged to have been  
25 committed by any person in violation of subsection (k) of Code Section 40-6-391, if there  
26 was at that time or within three hours after driving or being in actual physical control of  
27 a moving vehicle from alcohol consumed before such driving or being in actual physical  
28 control ended an alcohol concentration of 0.02 grams or more in the person's blood,  
29 breath, or urine, the person shall be in violation of subsection (k) of Code Section  
30 40-6-391.~~

31 (d) ~~In any criminal trial, the refusal of the defendant to permit a chemical analysis to be  
32 made of his blood, breath, urine, or other bodily substance at the time of his arrest shall be  
33 admissible in evidence against him.~~

34 (e)(1) ~~A certification by the office of the Secretary of State or by the Department of  
35 Human Resources that a person who drew blood was a licensed or certified physician,  
36 physician's assistant, registered nurse, practical nurse, medical technologist, medical  
37 laboratory technician, or phlebotomist at the time the blood was drawn;~~

1 ~~(2) Testimony, under oath, of the blood drawer; or~~

2 ~~(3) Testimony, under oath, of the blood drawer's supervisor or medical records custodian~~  
 3 ~~that the blood drawer was properly trained and authorized to draw blood as an employee~~  
 4 ~~of the medical facility or employer~~

5 ~~shall be admissible into evidence for the purpose of establishing that such person was~~  
 6 ~~qualified to draw blood as required by this Code section.~~

7 ~~(f) Each time an approved breath-testing instrument is inspected, the inspector shall~~  
 8 ~~prepare a certificate which shall be signed under oath by the inspector and which shall~~  
 9 ~~include the following language:~~

10 ~~"This breath-testing instrument (serial no. \_\_\_\_\_) was thoroughly inspected,~~  
 11 ~~tested, and standardized by the undersigned on (date \_\_\_\_\_) and all of its~~  
 12 ~~electronic and operating components prescribed by its manufacturer are properly attached~~  
 13 ~~and are in good working order."~~

14 ~~When properly prepared and executed, as prescribed in this subsection, the certificate shall,~~  
 15 ~~notwithstanding any other provision of law, be self-authenticating, shall be admissible in~~  
 16 ~~any court of law, and shall satisfy the pertinent requirements of paragraph (1) of subsection~~  
 17 ~~(a) of this Code section and subparagraph (g)(2)(F) of Code Section 40-5-67.1 Reserved."~~

#### 18 **SECTION 2-46.**

19 Said title is further amended by striking subsections (a) and (b) of Code Section 40-6-393,  
 20 relating to homicide by vehicle, and inserting in lieu thereof new subsections (a) and (b) to  
 21 read as follows:

22 "(a) Any person who, without malice aforethought, causes the death of another person  
 23 through the violation of subsection (a) of Code Section 40-6-163 or subsection (b) of Code  
 24 Section 40-6-270 or Code Section 40-6-390 ~~or 40-6-391~~ or subsection (a) of Code Section  
 25 40-6-395 or Part 2 of Article 15 of this chapter commits the offense of homicide by vehicle  
 26 in the first degree and, upon conviction thereof, shall be punished by imprisonment for not  
 27 less than three years nor more than 15 years.

28 (b) Any person who causes the death of another person, without an intention to do so, by  
 29 violating any provision of this title other than subsection (a) of Code Section 40-6-163 or  
 30 subsection (b) of Code Section 40-6-270 or Code Section 40-6-390 ~~or 40-6-391~~ or  
 31 subsection (a) of Code Section 40-6-395 or Part 2 of Article 15 of this chapter commits the  
 32 offense of homicide by vehicle in the second degree when such violation is the cause of  
 33 said death and, upon conviction thereof, shall be punished as provided in Code Section  
 34 17-10-3."



**SECTION 2-47.**

Said title is further amended by striking Code Section 40-6-393.1, relating to feticide by vehicle, and inserting in lieu thereof a new Code Section 40-6-393.1 to read as follows:

"40-6-393.1.

(a)(1) A person commits the offense of feticide by vehicle in the first degree if he or she causes the death of an unborn child so far developed as to be ordinarily called 'quick' by any injury to the mother of such child through the violation of Code Section 40-6-390 or ~~40-6-391~~ Part 2 of Article 15 of this chapter, which would be homicide by vehicle in the first degree as provided in subsection (a) or (c) of Code Section 40-6-393 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vehicle in the first degree shall be punished by imprisonment for not less than two years nor more than 15 years.

(b)(1) A person commits the offense of feticide by vehicle in the second degree if he or she causes the death of an unborn child so far developed as to be ordinarily called 'quick' by any injury to the mother of such child by violating any provision of this title other than Code Section 40-6-390 or ~~40-6-391~~ Part 2 of Article 15 of this chapter, which would be homicide by vehicle in the second degree as provided in subsection (b) of Code Section 40-6-393 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vehicle in the second degree shall be punished as provided in Code Section 17-10-3."

**SECTION 2-48.**

Said title is further amended by striking Code Section 40-6-394, relating to serious injury by vehicle, and inserting in lieu thereof a new Code Section 40-6-394 to read as follows:

"40-6-394.

Whoever, without malice, shall cause bodily harm to another by depriving him or her of a member of his or her body, by rendering a member of his or her body useless, by seriously disfiguring his or her body or a member thereof, or by causing organic brain damage which renders the body or any member thereof useless through the violation of Code Section 40-6-390 or ~~40-6-391~~ Part 2 of Article 15 of this chapter shall be guilty of the crime of serious injury by vehicle. A person convicted under this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than one year nor more than 15 years."

**SECTION 2-49.**

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by striking paragraph (1) of subsection (b) of Code Section 42-4-7, relating to maintenance

1 of inmate record by sheriff and earned time allowances, and inserting in lieu thereof a new  
2 paragraph (1) to read as follows:

3 "(b)(1) The sheriff, chief jailer, warden, or other officer designated by the county as  
4 custodian of inmates confined as county inmates for probation violations of felony  
5 offenses or as provided in subsection (a) of Code Section 17-10-3 may award earned time  
6 allowances to such inmates based on institutional behavior. Earned time allowances shall  
7 not be awarded which exceed one-half of the period of confinement imposed, except that  
8 the sheriff or other custodian may authorize the award of not more than four days' credit  
9 for each day on which an inmate does work on an authorized work detail; provided,  
10 however, that such increased credit for performance on a work detail shall not apply to  
11 an inmate who is incarcerated for:

12 (A) A second or subsequent offense of driving under the influence under former Code  
13 Section 40-6-391 or Part 2 of Article 15 of Chapter 6 of Title 40 within a five-year  
14 period of time, as measured from the date of any previous arrest for which a conviction  
15 was obtained or a plea of nolo contendere was accepted to the date of the current arrest  
16 for which a conviction is obtained or a plea of nolo contendere is accepted;

17 (B) A misdemeanor of a high and aggravated nature; or

18 (C) A crime committed against a family member as defined in Code Section 19-13-1."

19 **SECTION 2-50.**

20 Said title is further amended by striking paragraph (2) of subsection (d) of Code Section  
21 42-8-34, relating to hearings and determinations regarding probation, and inserting in lieu  
22 thereof a new paragraph (2) to read as follows:

23 "(2) In addition to any other provision of law, any person convicted of a violation of  
24 ~~Code Section 40-6-391~~ or subsection (b) of Code Section 16-13-2 or Part 2 of Article 15  
25 of Chapter 6 of Title 40 who is sentenced to probation or a suspended sentence by a  
26 municipal, magistrate, probate, recorder's, mayor's, state, or superior court shall also be  
27 required by the court to pay a one-time fee of \$25.00. The clerk of court, or if there is no  
28 clerk the person designated to collect fines, fees, and forfeitures for such court, shall  
29 collect such fee and remit the same not later than the last day of the month after such fee  
30 is collected to the Georgia Superior Court Clerks' Cooperative Authority for deposit into  
31 the general fund of the state treasury."

32 **SECTION 2-51.**

33 Said title is further amended by striking subsection (a) of Code Section 42-8-111, relating  
34 to court ordered installation of ignition interlock devices, and inserting in lieu thereof a new  
35 subsection (a) to read as follows:

1 "(a) In addition to any other provision of probation, upon a second or subsequent  
 2 conviction of a resident of this state for violating former Code Section 40-6-391 or Part 2  
 3 of Article 15 of Chapter 6 of Title 40 within five years, as measured from the dates of  
 4 previous arrests for which convictions were obtained to the date of the current arrest for  
 5 which a conviction is obtained, for which such person is granted probation, the court shall  
 6 order as conditions of probation that:

7 (1) Such person shall have installed and shall maintain in each motor vehicle registered  
 8 in such person's name throughout the applicable six-month period prescribed by  
 9 subsection (b) of Code Section 42-8-112 a functioning, certified ignition interlock device,  
 10 unless the court exempts the person from the requirements of this paragraph based upon  
 11 the court's determination that such requirements would subject the person to undue  
 12 financial hardship; and

13 (2) Such person shall have installed and shall maintain in any other motor vehicle to be  
 14 driven by such person during the applicable six-month period prescribed by  
 15 subsection (b) of Code Section 42-8-112 a functioning, certified ignition interlock device,  
 16 and such person shall not during such six-month period drive any motor vehicle  
 17 whatsoever that is not so equipped.

18 For the purposes of this subsection, a plea of nolo contendere shall constitute a conviction;  
 19 and a conviction of any offense under the law of another state or territory substantially  
 20 conforming to any offense under former Code Section 40-6-391 or Part 2 of Article 15 of  
 21 Chapter 6 of Title 40 shall be deemed a conviction of violating said ~~Code section part.~~"

## 22 SECTION 2-52.

23 Said title is further amended by striking paragraphs (2) and (3) of subsection (b) of Code  
 24 Section 42-8-112, relating to proof of compliance required for reinstatement of certain  
 25 drivers' licenses and for obtaining probationary license, and inserting in lieu thereof new  
 26 paragraphs (2) and (3) to read as follows:

27 "(2) If the person subject to court ordered use of an ignition interlock device as a  
 28 condition of probation is authorized under Code Section 40-5-63 or former Code Section  
 29 40-5-67.2 or Article 9 of Chapter 5 of Title 40 to apply for reinstatement of his or her  
 30 driver's license during the period of suspension, such person shall, prior to applying for  
 31 reinstatement of the license, have an ignition interlock device installed and shall maintain  
 32 such ignition interlock device in a motor vehicle or vehicles to the extent required by  
 33 subsection (a) of Code Section 42-8-111 for a period of six months running concurrently  
 34 with that of an ignition interlock device limited driving permit, which permit shall not be  
 35 issued until such person submits to the department proof of completion of a DUI Alcohol  
 36 or Drug Use Risk Reduction Program, proof of having undergone any clinical evaluation

1 and of having enrolled in any substance abuse treatment program required by Code  
 2 Section 40-5-63.1, and proof of installation of an ignition interlock device on a vehicle  
 3 or vehicles to the extent required by subsection (a) of Code Section 42-8-111. Such a  
 4 person may apply for and be issued an ignition interlock device limited driving permit at  
 5 the end of 12 months after the suspension of the driver's license. At the expiration of  
 6 such six-month ignition interlock device limited driving permit, the driver may, if  
 7 otherwise qualified, apply for reinstatement of a regular driver's license upon payment  
 8 of the fee provided in Code Section 40-5-25.

9 (3) If the person subject to court ordered use of an ignition interlock device as a  
 10 condition of probation is authorized under Code Section 40-5-58 or under former Code  
 11 Section 40-5-67.2 or under Article 9 of Chapter 5 of Title 40 to obtain a habitual  
 12 violator's probationary license, such person shall, if such person is a habitual violator as  
 13 a result of two or more convictions for driving under the influence of alcohol or drugs,  
 14 have an ignition interlock device installed and maintained in a motor vehicle or vehicles  
 15 to the extent required by subsection (a) of Code Section 42-8-111 for a period of six  
 16 months following issuance of the probationary license, and such person shall not during  
 17 such six-month period drive any motor vehicle that is not so equipped, all as conditions  
 18 of such probationary license. Following expiration of such six-month period with no  
 19 violation of the conditions of the probationary license, the person may apply for a  
 20 habitual violator probationary license without such ignition interlock device condition."

### 21 **PART III**

#### 22 **SECTION 3-1.**

23 (a) The passage of this Act shall not abate or affect any prosecution or administrative  
 24 proceedings against any person for violations of the law as it existed immediately prior to the  
 25 effective date of this Act. Such prosecutions and administrative proceedings shall continue  
 26 to be governed by the provisions of law in effect immediately prior to the effective date of  
 27 this Act.

28 (b) The passage of this Act shall not affect any suspensions, revocations, or other  
 29 administrative sanctions regarding drivers' licenses and the ability to operate a motor vehicle  
 30 in this state that were in existence immediately prior to the effective date of this Act. Such  
 31 suspensions, revocations, and other administrative sanctions shall remain in full force and  
 32 effect.

33 (c) The passage of this Act shall not affect any sentence imposed by any court upon any  
 34 person for violations of the law as it existed immediately prior to the effective date of this  
 35 Act. Such sentences shall remain in full force and effect.

1 (d) Notwithstanding any other provision of law, any conviction of or plea of nolo contendere  
2 or adjudication of delinquency to a violation of former Code Section 40-6-391 or 40-6-391.3,  
3 or any local ordinance that incorporated the provisions of such former Code sections, shall  
4 be considered to be a conviction, plea of nolo contendere, or adjudication of delinquency  
5 under this Act for the purpose of sentencing or imposing any administrative sanctions  
6 authorized by this Act.

7 **SECTION 3-2.**

8 This Act shall become effective on July 1, 2006, and shall apply to all violations committed  
9 on and after such date.

10 **SECTION 3-3.**

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