

House Bill 414

By: Representatives Floyd of the 147th, Rice of the 51st, Parrish of the 156th, Powell of the 29th, and Bearden of the 68th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 40-6-391 of the Official Code of Georgia Annotated, relating to
2 driving under the influence of alcohol, drugs, or other intoxicating substances, so as to direct
3 an offender to complete the DUI Alcohol or Drug Use Risk Reduction Program within 120
4 days of conviction or release from incarceration; to provide for related matters; to provide
5 for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 40-6-391 of the Official Code of Georgia Annotated, relating to driving under
9 the influence of alcohol, drugs, or other intoxicating substances, is amended by revising
10 subsection (c) as follows:

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

14 (1) First conviction with no conviction of and no plea of nolo contendere accepted to a
15 charge of violating this Code section within the previous five years, as measured from the
16 dates of previous arrests for which convictions were obtained or pleas of nolo contendere
17 were accepted to the date of the current arrest for which a conviction is obtained or a plea
18 of nolo contendere is accepted:

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

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

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

5 (D) ~~Completion of~~ Within 120 days of conviction or release from incarceration,
 6 complete a DUI Alcohol or Drug Use Risk Reduction Program approved by the
 7 Department of Driver Services. The sponsor of any such program shall provide written
 8 notice of such approval to the person upon enrollment in the program; and

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

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

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

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

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

26 (D) ~~Completion of~~ Within 120 days of conviction or release from incarceration,
 27 complete a DUI Alcohol or Drug Use Risk Reduction Program approved by the
 28 Department of Driver Services. The sponsor of any such program shall provide written
 29 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

