

**ADOPTED SENATE**

1 Senator Pearson of the 51st offered the following amendment:

2 *Amend the committee substitute to HB 419 by adding in the title after the phrase "to provide*  
 3 *penalties for violations;" and before the phrase "to amend Code Section 40-16-4 of the*  
 4 *Official Code of Georgia Annotated," the following:*

5 to amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,  
 6 relating to serious traffic offenses, so as to change provisions relating to punishment for  
 7 the offense of fleeing or attempting to elude a pursuing police vehicle or police officer;

8 *By striking from the title "to provide effective dates;" and inserting "to provide for effective*  
 9 *dates and applicability;"*

10 *By inserting between Section 8 and Section 9 a new section as follows:*

**SECTION 8A.**

11 Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to  
 12 serious traffic offenses, is amended by revising Code Section 40-6-395, relating to fleeing  
 13 or attempting to elude a pursuing police vehicle or police officer, as follows:  
 14

15 "40-6-395.

16 (a) It shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or  
 17 her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or  
 18 police officer when given a visual or an audible signal to bring the vehicle to a stop. The  
 19 signal given by the police officer may be by hand, voice, emergency light, or siren. The  
 20 officer giving such signal shall be in uniform prominently displaying his or her badge of  
 21 office, and his or her vehicle shall be appropriately marked showing it to be an official  
 22 police vehicle.

23 (b)(1)(A) Except as otherwise provided in this Code section, any Any person violating  
 24 the provisions of subsection (a) of this Code section shall be guilty of a high and  
 25 aggravated misdemeanor and:

26 (A) ~~Upon~~ upon conviction shall be fined not less than \$500.00 nor more than  
 27 \$5,000.00, which fine shall not be subject to suspension, stay, or probation, and  
 28 imprisoned for not less than ten days nor more than 12 months. Any period of such  
 29 imprisonment in excess of ten days may, in the sole discretion of the judge, be  
 30 suspended, stayed, or probated;

31 (B) ~~Upon the~~ Any person committing a violation of the provisions of subsection (a) of  
 32 this Code section, upon a second or subsequent conviction within a ten-year period of

1 time, as measured from the dates of previous arrests for which convictions were  
 2 obtained to the date of the current arrest for which a conviction is obtained, shall be  
 3 ~~fined not less than \$1,000.00 nor more than \$5,000.00, which fine shall not be subject~~  
 4 ~~to suspension, stay, or probation and imprisoned for not less than 30 days nor more than~~  
 5 ~~12 months. Any period of such imprisonment in excess of 30 days may, in the sole~~  
 6 ~~discretion of the judge, be suspended, stayed, or probated, and for purposes of this~~  
 7 ~~paragraph, previous pleas of nolo contendere accepted within such ten-year period shall~~  
 8 ~~constitute convictions; and guilty of a felony punishable by a fine of \$5,000.00 or~~  
 9 ~~imprisonment for not less than one year nor more than five years or both. Following~~  
 10 ~~adjudication of guilt or imposition of sentence for a violation of this subparagraph, the~~  
 11 ~~sentence shall not be suspended, probated, deferred, or withheld, and the charge shall~~  
 12 ~~not be reduced to a lesser offense, merged with any other offense, or served~~  
 13 ~~concurrently with any other offense.~~

14 ~~(C) Upon the third or subsequent conviction within a ten-year period of time, as~~  
 15 ~~measured from the dates of previous arrests for which convictions were obtained to the~~  
 16 ~~date of the current arrest for which a conviction is obtained, shall be fined not less than~~  
 17 ~~\$2,500.00 nor more than \$5,000.00, which fine shall not be subject to suspension, stay,~~  
 18 ~~or probation and imprisoned for not less than 90 days nor more than 12 months. Any~~  
 19 ~~period of such imprisonment in excess of 90 days may, in the sole discretion of the~~  
 20 ~~judge, be suspended, stayed, or probated; and for purposes of this paragraph, previous~~  
 21 ~~pleas of nolo contendere accepted within such ten-year period shall constitute~~  
 22 ~~convictions.~~

23 (2) For the purpose of imposing a sentence under this subsection, a plea of nolo  
 24 contendere shall constitute a conviction.

25 (3) If the payment of the fine required under paragraph (1) of this subsection will impose  
 26 an economic hardship on the defendant, the judge, at his or her sole discretion, may order  
 27 the defendant to pay such fine in installments and such order may be enforced through  
 28 a contempt proceeding or a revocation of any probation otherwise authorized by this  
 29 subsection.

30 (4) Notwithstanding the limits set forth in any municipal charter, any municipal court of  
 31 any municipality shall be authorized to impose the punishments provided for in ~~this~~  
 32 ~~subsection~~ subparagraph (b)(1)(A) of this Code section upon a conviction of violating ~~this~~  
 33 ~~subsection~~ (a) of this Code section or upon conviction of violating any ordinance  
 34 adopting the provisions of this subsection.

35 (5)(A) Any person ~~violating~~ who commits a first offense violation of the provisions of  
 36 ~~subsection (a) of this Code section~~ or who is otherwise not eligible for sentencing under  
 37 subparagraph (b)(1)(B) of this Code section and who, while fleeing or attempting to

1 elude a pursuing police vehicle or police officer in an attempt to escape arrest for any  
2 offense other than a violation of this chapter, operates his or her vehicle in excess of 30  
3 miles an hour above the posted speed limit, strikes or collides with another vehicle or  
4 a pedestrian, flees in traffic conditions which place the general public at risk of  
5 receiving serious injuries, or leaves the state shall be guilty of a felony punishable by  
6 a fine of \$5,000.00 or imprisonment for not less than one year nor more than five years  
7 or both.

8 (B) Following adjudication of guilt or imposition of sentence for a violation of  
9 subparagraph (A) of this paragraph, the sentence shall not be suspended, probated,  
10 deferred, or withheld, and the charge shall not be reduced to a lesser offense, merged  
11 with any other offense, or served concurrently with any other offense.

12 (c) It shall be unlawful for a person:

13 (1) To impersonate a sheriff, deputy sheriff, state trooper, agent of the Georgia Bureau  
14 of Investigation, agent of the Federal Bureau of Investigation, police officer, or any other  
15 authorized law enforcement officer by using a motor vehicle or motorcycle designed,  
16 equipped, or marked so as to resemble a motor vehicle or motorcycle belonging to any  
17 federal, state, or local law enforcement agency; or

18 (2) Otherwise to impersonate any such law enforcement officer in order to direct, stop,  
19 or otherwise control traffic."

20 *By deleting Section 11 and inserting a new section as follows:*

21 **SECTION 11.**

22 Sections 1, 3, and 10 of this Act shall become effective on July 1, 2007. Sections 2, 4, 5, 6,  
23 7, 8, and 9 of this Act shall become effective on January 1, 2008. Section 8A of this Act  
24 shall become effective on July 1, 2007, and shall apply with respect to offenses committed  
25 on or after that effective date. Offenses committed prior to that effective date shall continue  
26 to be governed by, and shall be punishable as provided by, prior law.