

SENATE SUBSTITUTE TO HB 419

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
 2 drivers' licenses, so as to change certain provisions relating to driver's license requirement,
 3 surrender of prior licenses, and prohibition of local licenses; to provide that suspensions by
 4 operation of law run consecutively to any other suspension imposed by the department; to
 5 change certain provisions relating to driving while license suspended or revoked; to specify
 6 punishments for driving without being licensed; to provide for definitions of certain terms;
 7 to change provisions relating to issuance of commercial drivers' licenses and permits; to
 8 provide for expiration of commercial drivers' licenses; to provide for disqualifications,
 9 revocations, and suspensions of commercial drivers' licenses; to provide penalties for
 10 violations; to amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia
 11 Annotated, relating to serious traffic offenses, so as to change provisions relating to
 12 punishment for the offense of fleeing or attempting to elude a pursuing police vehicle or
 13 police officer; to amend Code Section 40-16-4 of the Official Code of Georgia Annotated,
 14 relating to duties of the commissioner of driver services, so as to give the commissioner the
 15 power to hire investigators; to amend Code Section 42-4-14 of the Official Code of Georgia
 16 Annotated, relating to determination of nationality of person charged with felony or driving
 17 under the influence and confined in a jail facility, so as to provide for determination of
 18 nationality of person convicted of driving without being licensed; to provide for related
 19 matters; to provide for effective dates and applicability; to repeal conflicting laws; and for
 20 other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

22 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
 23 is amended by revising subsection (a) of Code Section 40-5-20, relating to driver's license
 24 requirement, surrender of prior licenses, and prohibition of local licenses, as follows:
 25

26 "(a) No person, except those expressly exempted in this chapter, shall drive any motor
 27 vehicle upon a highway in this state unless such person has a valid driver's license under

1 this chapter for the type or class of vehicle being driven. Any person who is a resident of
 2 this state for 30 days shall obtain a Georgia driver's license before operating a motor
 3 vehicle in this state. Violations of this subsection shall be punished as provided in Code
 4 Section 40-5-121."

5 SECTION 2.

6 Said chapter is further amended by revising Code Section 40-5-75, relating to suspension
 7 of licenses by operation of law, by adding a new subsection (i) as follows:

8 "(i) Notwithstanding any other provision of this chapter to the contrary, the suspension
 9 imposed pursuant to this Code section shall be in addition to and run consecutively to any
 10 other suspension imposed by the department at the time of the conviction that results in
 11 said suspension. If the person has never been issued a driver's license, the person shall not
 12 be eligible for a driver's license for the applicable period of suspension following his or her
 13 submission of an application for issuance thereof."

14 SECTION 3.

15 Said chapter is further amended by revising Code Section 40-5-121, relating to driving while
 16 license suspended or revoked, as follows:

17 "40-5-121.

18 (a) Except when a license has been revoked under Code Section 40-5-58 as a habitual
 19 violator, any person who drives a motor vehicle on any public highway of this state without
 20 being licensed as required by subsection (a) of Code Section 40-5-20 or at a time when his
 21 or her privilege to do so drive is suspended, disqualified, or revoked shall be guilty of a
 22 misdemeanor for a first conviction thereof and, upon a first conviction thereof or plea of
 23 nolo contendere within five years, as measured from the dates of previous arrests for which
 24 convictions were obtained to the date of the current arrest for which a conviction is
 25 obtained, shall be punished by imprisonment for not less than two days nor more than 12
 26 months, and there may be imposed in addition thereto a fine of not less than \$500.00 nor
 27 more than \$1,000.00; provided, however, that the court may suspend the period of
 28 imprisonment if at the time of the offense the person convicted had newly established
 29 residency in this state within the 60 days immediately prior to the offense, had in his or her
 30 possession a valid driver's license issued by another state, and, for good cause shown, had
 31 not yet obtained a driver's license issued by this state as required. For the second ~~or~~
 32 ~~subsequent~~ conviction within five years, as measured from the dates of previous arrests for
 33 which convictions were obtained or pleas of nolo contendere were accepted to the date of
 34 the current arrest for which a conviction is obtained or a plea of nolo contendere is
 35 accepted, such person shall be guilty of a high and aggravated misdemeanor and shall be

1 punished by imprisonment for not less than ten days nor more than 12 months, and there
 2 may be imposed in addition thereto a fine of not less than \$1,000.00 nor more than
 3 \$2,500.00. For the third or subsequent conviction within five years, as measured from the
 4 dates of previous arrests for which convictions were obtained or pleas of nolo contendere
 5 were accepted to the date of the current arrest for which a conviction is obtained or a plea
 6 of nolo contendere is accepted, such person shall be guilty of a felony and shall be
 7 punished by imprisonment for not less than one year nor more than five years, and there
 8 may be imposed in addition thereto a fine of not less than \$2,500.00 nor more than
 9 \$5,000.00.

10 (b) The department, upon receiving a record of the conviction of any person under this
 11 Code section upon a charge of driving a vehicle while the license of such person was
 12 suspended, disqualified, or revoked, including suspensions under subsection (f) of Code
 13 Section 40-5-75, shall extend the period of suspension or disqualification for six months.
 14 The court shall be required to confiscate the license, if applicable, and attach it to the
 15 uniform citation and forward it to the department within ten days of conviction. The period
 16 of suspension or disqualification provided for in this Code section shall begin on the date
 17 the person is convicted of violating this Code section.

18 (c) For purposes of pleading nolo contendere, only one nolo contendere plea will be
 19 accepted to a charge of driving without being licensed or with a suspended or disqualified
 20 license within a five-year period as measured from date of arrest to date of arrest. All other
 21 nolo contendere pleas in this period will be considered convictions. For the purpose of
 22 imposing a sentence under this subsection, a plea of nolo contendere shall constitute a
 23 conviction. There shall be no limited driving permit available for a suspension or
 24 disqualification under this Code section.

25 (d) Notwithstanding the limits set forth in Code Section 40-5-124 and in any municipal
 26 charter, any municipal court of any municipality shall be authorized to impose the
 27 punishment for a misdemeanor or misdemeanor of a high and aggravated nature as
 28 applicable and provided for in this Code section upon a conviction of a nonfelony charge
 29 of violating this Code section or upon conviction of violating any ordinance adopting the
 30 provisions of this Code section."

31 SECTION 4.

32 Said chapter is further amended by revising Code Section 40-5-142, relating to definitions
 33 of terms, as follows:

34 "40-5-142.

35 As used in this article, the term:

36 (1) 'Alcohol' means:

- 1 (A) Beer, ale, port, or stout and other similar fermented beverages, including sake or
2 similar products, of any name or description containing one-half of 1 percent or more
3 of alcohol by volume, brewed or produced from malt, wholly or in part, or from any
4 substitute therefor;
- 5 (B) Wine of not less than one-half of 1 percent of alcohol by volume;
- 6 (C) Distilled spirits which means that substance known as ethyl alcohol, ethanol, or
7 spirits of wine in any form, including all dilutions and mixtures thereof from whatever
8 source or by whatever process produced; or
- 9 (D) Any substance containing any form of alcohol, including, but not limited to,
10 ethanol, methanol, propanol, and isopropanol.
- 11 (2) 'Alcohol concentration' means:
- 12 (A) The number of grams of alcohol per 100 milliliters of blood;
- 13 (B) The number of grams of alcohol per 210 liters of breath; or
- 14 (C) The number of grams of alcohol per 67 milliliters of urine.
- 15 (3) 'Commerce' means:
- 16 (A) Trade, traffic, and transportation within the jurisdiction of the United States
17 between locations in a state and between a location in a state and a location outside
18 such state including a location outside the United States; and
- 19 (B) Trade, traffic, and transportation in the United States which affects any trade,
20 traffic, and transportation described in subparagraph (A) of this paragraph.
- 21 (4) 'Commercial Driver License Information System' (CDLIS) means the information
22 system established pursuant to the Commercial Motor Vehicle Safety Act of 1986, Title
23 XII, Public Law 99-570, to serve as a clearing-house for locating information related to
24 the licensing and identification of commercial motor vehicle drivers.
- 25 (5) 'Commercial driver's instruction permit' means a permit issued pursuant to
26 subsection (c) of Code Section 40-5-147.
- 27 (6) 'Commercial driver's license' (CDL) means a license issued in accordance with the
28 requirements of this article to an individual which authorizes the individual to drive a
29 class of commercial motor vehicle.
- 30 (7) 'Commercial motor vehicle' means a motor vehicle designed or used to transport
31 passengers or property:
- 32 (A) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such
33 lesser rating as determined by federal regulation;
- 34 (B) If the vehicle is designed to transport 16 or more passengers, including the driver;
35 or
- 36 (C) If the vehicle is transporting hazardous materials as designated under 49 U.S.C.
37 Section 5103 and is required to be placarded in accordance with the Motor Carrier

1 Safety Rules prescribed by the United States Department of Transportation, Title 49
 2 C.F.R. Part 172, subpart F or is transporting any quantity of a material listed as a select
 3 agent or toxin in Title 42 C.F.R. Part 73;

4 provided, however, that for the purposes of this article, no agricultural vehicle,
 5 commercial vehicle operated by military personnel for military purposes, recreational
 6 vehicle, or fire-fighting or emergency equipment vehicle shall be considered a
 7 commercial vehicle. As used in this paragraph, the term 'fire-fighting or emergency
 8 equipment vehicle' means an authorized emergency vehicle as defined in paragraph (5)
 9 of Code Section 40-1-1; provided, however, that the vehicle must be equipped with
 10 audible and visible signals and shall be subject to traffic regulations in accordance with
 11 the requirements of Code Section 40-6-6. As used in this paragraph, the term 'agricultural
 12 vehicle' means a farm vehicle which is controlled and operated by a farmer, including
 13 operation by employees or family members; used to transport agricultural products, farm
 14 machinery, or farm supplies to or from a farm; and operated within 150 miles of such
 15 person's farm; which vehicle is not used in the operations of a common or contract
 16 carrier. Any other waiver by the Federal Motor Carrier Safety Administration pursuant
 17 to Federal Law 49 C.F.R. Parts 383 and 384 of the United States Department of
 18 Transportation shall supersede state law in authorizing the Department of Driver Services
 19 to exempt said classes.

20 (8) 'Controlled substance' means any substance so defined under Code Section 16-13-21
 21 and includes all substances listed in Schedules I through V of 21 C.F.R. Part 1308, as
 22 they may be revised from time to time.

23 (9) 'Conviction' means an unvacated adjudication of guilt, or a determination that a
 24 person has violated or failed to comply with the law in a court of original jurisdiction or
 25 by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral
 26 deposited to secure the person's appearance in court, a plea of guilty or nolo contendere
 27 accepted by the court, the payment of a fine or court cost, or violation of a condition of
 28 release without bail, regardless of whether the penalty is rebated, suspended, or probated.

29 (10) 'Disqualification' means any of the following:

30 (A) The suspension, revocation, or cancellation of a commercial driver's license by any
 31 state or jurisdiction of issuance;

32 (B) The withdrawal of a person's privilege to drive a commercial motor vehicle by any
 33 state or by any other jurisdiction as the result of a violation of any state or local law
 34 relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle
 35 defect violations; or

36 (C) A determination by the Federal Motor Carrier Safety Administration that a person
 37 is not qualified to operate a commercial motor vehicle.

1 (11) 'Drive' means to operate or be in actual physical control of a motor vehicle in any
 2 place open to the general public for purposes of vehicular traffic. For purposes of Code
 3 Sections 40-5-151 and 40-5-152, 'drive' includes operation or actual physical control of
 4 a motor vehicle anywhere in this state, in any other state, or in any foreign jurisdiction.

5 (12) 'Driver' means any person who drives, operates, or is in actual physical control of
 6 a commercial motor vehicle in any place open to the general public for purposes of
 7 vehicular traffic or who is required to hold a commercial driver's license.

8 (13) 'Driver's license' means a license issued by a state to any individual which
 9 authorizes the individual to drive a motor vehicle.

10 (13.1) 'Driving a ~~commercial~~ vehicle ~~while~~ under the ~~influence of alcohol~~ influence
 11 means committing any one or more of the following acts while a person is driving or in
 12 actual physical control of a moving commercial ~~motor~~ or noncommercial vehicle:

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

15 (B) Driving under the influence of alcohol, as prescribed by Code Section 40-6-391 or
 16 any law or ordinance equivalent thereto in this state, in any other state, or in any foreign
 17 jurisdiction; or

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

20 (14) 'Employer' means any person, including the United States, a state, or a political
 21 subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person
 22 to drive a commercial motor vehicle on its behalf.

23 (14.1) 'Fatality' means the death of a person as a result of a motor vehicle crash.

24 (15) 'Felony' means any offense under state or federal law that is punishable by death,
 25 by imprisonment for life, or by imprisonment for more than 12 months.

26 (16) 'Foreign jurisdiction' means any jurisdiction other than a state of the United States.

27 (17) 'Gross vehicle weight rating' (GVWR) means the value specified by the
 28 manufacturer or manufacturers as the maximum loaded weight of a single or a
 29 combination (articulated) vehicle, or registered gross weight, whichever is greater. The
 30 gross vehicle weight rating of a combination (articulated) vehicle, commonly referred to
 31 as the 'gross combination weight rating' (GCWR), is the gross vehicle weight rating of
 32 the power unit plus the gross vehicle weight rating of the towed unit or units. In the
 33 absence of a value specified for the towed unit or units by the manufacturer or
 34 manufacturers, the gross vehicle weight rating of a combination (articulated) vehicle is
 35 the gross vehicle weight rating of the power unit plus the total weight of the towed unit
 36 or units, including the loads on them.

1 (18) 'Hazardous materials' ~~has the meaning the term has under 49 U.S.C.A. Section 5101,~~
 2 ~~et seq.~~ means any material that has been designated as hazardous under 49 U.S.C. Section
 3 5103 and is required to be placarded in accordance with the Motor Carrier Safety Rules
 4 prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172,
 5 subpart F or any quantity of a material listed as a select agent or toxin in Title 42 C.F.R.
 6 Part 73.

7 (18.1) 'Imminent hazard' means the existence of a condition that presents a substantial
 8 likelihood that death, serious illness, severe personal injury, or a substantial
 9 endangerment to health, property, or the environment may occur before the reasonably
 10 foreseeable completion date of a formal proceeding begun to lessen the risk of that death,
 11 illness, injury, or endangerment.

12 (18.2) 'Major traffic violation' means a conviction of any of the following offenses or a
 13 conviction of any law or ordinance equivalent thereto in this state, in any other state, or
 14 in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless
 15 otherwise specified, a noncommercial motor vehicle:

16 (A) Driving a vehicle under the influence in violation of Code Section 40-6-391;

17 (B) Hit and run or leaving the scene of an accident in violation of Code Section
 18 40-6-270, failure to report striking an unattended vehicle in violation of Code Section
 19 40-6-271, failure to report striking a fixed object in violation of Code Section 40-6-272,
 20 or failure to report an accident in violation of Code Section 40-6-273;

21 (C) Except as provided in subsection (b) of Code Section 40-5-151, any felony in the
 22 commission of which a motor vehicle is used;

23 (D) Driving a commercial motor vehicle while the person's commercial driver's
 24 license or commercial driving privilege is revoked, suspended, canceled, or
 25 disqualified;

26 (E) Homicide by vehicle in violation of Code Section 40-6-393;

27 (F) Racing on highways or streets in violation of Code Section 40-6-186;

28 (G) Using a motor vehicle in fleeing or attempting to elude an officer in violation of
 29 Code Section 40-6-395;

30 (H) Fraudulent or fictitious use of or application for a license as provided in Code
 31 Section 40-5-120 or 40-5-125;

32 (I) Operating a motor vehicle with a revoked, canceled, or suspended registration in
 33 violation of Code Section 40-6-15;

34 (J) Violating Code Sections 16-8-2 through 16-8-9, if the property that was the subject
 35 of the theft was a vehicle engaged in commercial transportation of cargo or any
 36 appurtenance thereto or the cargo being transported therein or thereon, as set forth in
 37 paragraph (8) of subsection (a) of Code Section 16-8-12; or

1 (K) Refusing to submit to a state administered chemical test requested by a law
 2 enforcement officer pursuant to Code Section 40-5-55.

3 (19) 'Motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled
 4 or drawn by mechanical power used on highways, or any other vehicle required to be
 5 registered under the laws of this state, but does not include any vehicle, machine, tractor,
 6 trailer, or semitrailer operated exclusively on a rail.

7 (19.1) 'Noncommercial motor vehicle' means a motor vehicle or combination of vehicles
 8 not defined by the term 'commercial motor vehicle' in this Code section or in the
 9 regulations of the department for the purpose of licensure.

10 (20) 'Nonresident commercial driver's license' means a commercial driver's license
 11 issued by a state to any individual who resides in a foreign jurisdiction.

12 (21) ~~'Out of service~~ Out-of-service order' means a temporary prohibition against driving
 13 a commercial motor vehicle.

14 (21.1) 'School bus' means a commercial motor vehicle used to transport pre-primary,
 15 primary, or secondary school students from home to school, from school to home, or to
 16 and from school sponsored events. The term does not include a bus used as a common
 17 carrier.

18 (22) 'Serious traffic violation' means conviction of any of the following offenses or a
 19 conviction of any law or ordinance equivalent thereto in this state, in any other state, or
 20 in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless
 21 otherwise specified, a noncommercial motor vehicle:

22 (A) Speeding 15 or more miles per hour above the posted speed limit;

23 (B) Reckless driving, ~~as defined under state or local law;~~

24 (C) Following another vehicle too closely, ~~as defined under state or local law;~~

25 (D) Improper or erratic lane change ~~which presents a risk to any other vehicle,~~ but not
 26 including failure to signal a lane change;

27 (E) A violation, arising in connection with a fatal crash, of state law or a local
 28 ordinance, relating to motor vehicle traffic control, excluding parking, weight, length,
 29 height, and vehicle defect violations, and excluding homicide by vehicle as defined in
 30 Code Section 40-6-393;

31 (F) A railroad grade crossing violation ~~as defined under state law or local ordinance~~
 32 in a noncommercial motor vehicle;

33 (G) Driving a commercial motor vehicle without obtaining a commercial driver's
 34 license;

35 (H) Driving a commercial motor vehicle without a ~~valid~~ commercial driver's license
 36 in the driver's immediate possession, and excluding such violations when the person's

1 commercial driver's license or commercial driving privilege is suspended, revoked,
 2 canceled, or disqualified; or

3 (I) Driving a commercial motor vehicle without a commercial driver's license of the
 4 proper class ~~and/or~~ and endorsements for the specific vehicle being operated or for the
 5 passengers or type of cargo transported.

6 (23) 'State' means a state of the United States and the District of Columbia.

7 (24) 'Tank vehicle' means any commercial motor vehicle designed to transport any liquid
 8 or gaseous materials within a tank that is either permanently or temporarily attached to
 9 the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and
 10 portable tanks as defined by federal law. However, the term 'tank vehicle' shall not
 11 include a portable tank having a rated capacity under 1,000 gallons.

12 (25) 'United States' means the 50 states and the District of Columbia."

13 SECTION 5.

14 Said chapter is further amended by revising paragraph (1) of subsection (a) and adding a new
 15 subsection (e) of Code Section 40-5-147, relating to the requirements for issuing a
 16 commercial driver's license or instruction permit, as follows:

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

27 "(e) The department is authorized to promulgate rules necessary to grant a waiver or
 28 exemption of the physical requirements for a commercial driver's license or a commercial
 29 driver's instruction permit in 49 C.F.R. Part 391, Subpart E; provided, however, that the
 30 person who is applying for a commercial driver's license or a commercial driver's
 31 instruction permit or who has previously been issued a commercial driver's license and
 32 who is granted the waiver or exemption shall only be authorized to drive a commercial
 33 motor vehicle in this state. Notwithstanding this subsection, the department shall not grant
 34 any type of waiver or exemption of said physical requirements unless such type of waiver
 35 or exemption has previously been granted by the Federal Motor Carrier Safety
 36 Administration."

1 (b) Any person is disqualified from driving a commercial motor vehicle for a period of ~~not~~
 2 ~~less than~~ three years if convicted of a first violation of using a commercial motor vehicle
 3 in the commission of a felony or for ~~offenses~~ a major traffic violation specified in
 4 subsection (a) of this Code section, provided that the vehicle being operated or used in
 5 connection with such violation or commission of such felony is transporting a hazardous
 6 material required to be placarded under Section 105 of the Hazardous Material
 7 Transportation Act.

8 (c) Any person is disqualified from driving a commercial motor vehicle for life if
 9 convicted of ~~two or more violations of any of the offenses specified in subsection (a) of~~
 10 ~~Code Section 40-5-54, paragraph (1) of subsection (b) of Code Section 40-5-146, or Code~~
 11 ~~Section 40-6-391, the refusal to submit to state administered chemical testing as prescribed~~
 12 ~~by Code Section 40-5-55; a second or subsequent major traffic violation as defined in~~
 13 ~~paragraph (18.2) of Code Section 40-5-142 or any combination of those offenses or~~
 14 ~~refusals; such violations~~ arising from two or more separate incidents.

15 (d) The department may issue regulations establishing guidelines, including conditions,
 16 under which a disqualification for life under subsection (c) of this Code section may be
 17 reduced to a period of not less than ten years. The department is not authorized to make
 18 any other reduction in a term of disqualification or to issue a limited or other permit or
 19 license that would allow the operation of a commercial motor vehicle during the term of
 20 disqualification mandated by this Code section.

21 (e) Any person is disqualified from driving a commercial motor vehicle for life who
 22 knowingly uses a commercial motor vehicle in the commission of any felony involving the
 23 manufacture, distribution, cultivation, sale, transfer of, trafficking in, or dispensing of a
 24 controlled substance or marijuana, or possession with intent to manufacture, distribute,
 25 cultivate, sell, transfer, traffic in, or dispense a controlled substance or marijuana.

26 (f)(1) ~~Except as otherwise provided by paragraph (2) of this subsection, any Any person~~
 27 ~~is disqualified from driving a commercial motor vehicle for a period of:~~

28 (1) Not not less than 60 days if convicted of two serious traffic violations or 120 days if
 29 convicted of three serious traffic violations committed in a commercial motor vehicle or
 30 a noncommercial motor vehicle as defined in paragraph (22) of Code Section 40-5-142
 31 arising from separate incidents occurring within a three-year period as measured from the
 32 dates of arrests for which convictions were obtained; or

33 ~~(2) If the serious traffic violation committed in a commercial motor vehicle is a railroad~~
 34 ~~grade crossing violation, the person shall be disqualified from driving a commercial~~
 35 ~~motor vehicle for a period of not less than 60 days upon the first conviction within a~~
 36 ~~three-year period as measured from the dates of arrests for which convictions were~~
 37 ~~obtained, for not less than 120 days if convicted of two railroad grade crossing violations~~

1 ~~arising from separate incidents within a three-year period as measured from the dates of~~
 2 ~~arrests for which convictions were obtained, or for not less than one year if convicted of~~
 3 ~~three railroad grade crossing violations arising from separate incidents within a three-year~~
 4 ~~period as measured from the dates of arrests for which convictions were obtained~~ Not less
 5 than 120 days if convicted of a third or subsequent serious traffic violation as defined in
 6 paragraph (22) of Code Section 40-5-142 arising from separate incidents occurring within
 7 a three-year period as measured from the dates of arrests for which convictions were
 8 obtained.

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

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

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

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

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

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

(4) In addition to any other penalty imposed pursuant to this article, any driver who is convicted of ~~a railroad grade crossing violation in a commercial vehicle~~ violating an out-of-service order shall be subject to a civil penalty of not less than \$1,100.00 and not to exceed \$2,750.00.

(h) After suspending, revoking, or canceling a commercial driver's license, the department shall update its records to reflect that action within ten days. After suspending, revoking, or canceling a nonresident commercial driver's privileges, the department shall notify the licensing authority of the state which issued the commercial driver's license within ten days.

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

(j)(1) Any person is disqualified from driving a commercial vehicle for a period of not less than 30 days if the department receives notification from the Federal Motor Carrier Safety Administration that the person poses an imminent hazard.

(2) If the Federal Motor Carrier Safety Administration notifies the department that a person's driving constitutes an imminent hazard and imposes a disqualification greater than 30 days, the person shall be disqualified from driving a commercial vehicle for the period designated by the Federal Motor Carrier Safety Administration, not to exceed one year.

(k)(1) Any person is disqualified from operating a commercial motor vehicle if convicted of any of the following railroad grade crossing offenses while operating a commercial motor vehicle:

(A) Failing to slow down and check the tracks are clear of an approaching train before proceeding;

(B) Failing to stop before reaching the crossing if the tracks are not clear;

(C) Failing to stop before driving onto the crossing;

(D) Failing to leave sufficient space to drive completely through a railroad crossing without stopping;

(E) Failing to obey a traffic-control device or the directions of an enforcement official at a railroad crossing; or

(F) Failing to negotiate a crossing because of insufficient undercarriage clearance.

(2)(A) Upon a first conviction for an offense listed in paragraph (1) of this subsection, the period of disqualification shall be 60 days.

1 (B) Upon a second conviction within a three-year period for an offense listed in
 2 paragraph (1) of this subsection arising from a separate incident within a three-year
 3 period, the period of disqualification shall be 120 days.

4 (C) Upon a third or subsequent conviction within a three-year period for an offense
 5 listed in paragraph (1) of this subsection arising from a separate incident, the period of
 6 disqualification shall be one year.

7 (1)(1) All disqualifications as provided for in subsection (f) of this Code section shall
 8 become effective upon the date that the department processes the citation or conviction,
 9 provided that no such disqualification is in effect; if such disqualification is in effect the
 10 subsequent disqualification shall not take effect until the current disqualification expires.

11 (2) Notwithstanding paragraph (1) of this subsection, any other disqualification as
 12 provided for in this Code section shall become effective upon the date that the department
 13 processes the citation or conviction and may run concurrently to any other
 14 disqualifications in effect.

15 (m) All disqualifications provided for in this Code section shall be imposed based on
 16 offenses in state law or on offenses of any laws or ordinances equivalent thereto in this
 17 state, in any other state, or in any foreign jurisdiction."

18 SECTION 8.

19 Said chapter is further amended by revising Code Section 40-5-159, relating to the
 20 suspension of commercial driver's licenses and driving privileges, as follows:

21 "40-5-159.

22 (a) Any person who drives a commercial motor vehicle while in violation of the provisions
 23 of Code Section 40-5-143 or any employer who knowingly allows, requires, permits, or
 24 authorizes a driver to drive a commercial motor vehicle in violation of the provisions of
 25 subsection (b) of Code Section 40-5-145 shall be guilty of a felony and, upon conviction
 26 thereof, shall be punished as follows:

27 (1) Except as provided for in subsections (d) and (e) of this Code section, by By a civil
 28 penalty of \$2,500.00 for each offense; and

29 (2) By a fine of \$5,000.00, imprisonment for not more than 90 days, or both, for each
 30 offense.

31 (b) Any employer who reports fraudulent information to the department regarding an
 32 employee's employment or experience as required under 49 C.F.R. Part 383 shall be guilty
 33 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500.00.

34 (c)(†) Any person who drives a commercial motor vehicle while in violation of the
 35 provisions mandated under Code Section 40-5-146 shall be guilty of a misdemeanor and,
 36 upon conviction thereof, shall be fined not less than \$500.00. ~~The department shall~~

1 ~~suspend the commercial driver's license or commercial driving privilege of any driver~~
 2 ~~convicted of violating subsection (a) or paragraph (1) of subsection (b) of Code Section~~
 3 ~~40-5-146 for a period of six months.~~

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

7 (d) Any employer who knowingly allows, requires, permits, or authorizes a driver to drive
 8 a commercial motor vehicle in violation of any federal, state, or local law or regulation
 9 pertaining to ~~railroad grade crossings~~ an out-of-service order shall be subject to a civil
 10 penalty in an amount not less than \$2,750.00 and not to exceed \$11,000.00.

11 (e) Any employer who knowingly allows, requires, permits, or authorizes a driver to drive
 12 a commercial motor vehicle in violation of any federal, state, or local law or regulation
 13 pertaining to railroad grade crossings shall be subject to a civil penalty not to exceed
 14 \$10,000.00."

15 SECTION 8A.

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

19 "40-6-395.

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

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

30 (A) ~~Upon~~ upon conviction shall be fined not less than \$500.00 nor more than
 31 \$5,000.00, which fine shall not be subject to suspension, stay, or probation, and
 32 imprisoned for not less than ten days nor more than 12 months. Any period of such
 33 imprisonment in excess of ten days may, in the sole discretion of the judge, be
 34 suspended, stayed, or probated;

35 (B) ~~Upon the~~ Any person committing a violation of the provisions of subsection (a) of
 36 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 SECTION 9.

21 Code Section 40-16-4 of the Official Code of Georgia Annotated, relating to duties of the
 22 commissioner of driver services, is amended by revising subsection (e) in its entirety as
 23 follows:

24 "(e)(1) The commissioner shall have the authority to appoint and employ 30 investigators
 25 who shall be certified peace officers pursuant to the provisions of Chapter 8 of Title 35,
 26 the 'Georgia Peace Officer Standards and Training Act.'

27 (2) The investigators of the department shall have jurisdiction throughout this state with
 28 such duties and powers as are prescribed by law."

29 SECTION 10.

30 Code Section 42-4-14 of the Official Code of Georgia Annotated, relating to determination
 31 of nationality of person charged with felony or driving under the influence and confined in
 32 a jail facility, is amended by revising subsection (a) as follows:

33 "(a) When any person charged with a felony or with driving under the influence pursuant
 34 to Code Section 40-6-391 or convicted of driving without being licensed in violation of
 35 subsection (a) of Code Section 40-5-20 is confined, for any period, in the jail of the county,

