

The House Committee on Judiciary Non-civil offers the following substitute to SB 180:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated,
2 relating to cancellation, suspension, and revocation of drivers' licenses, so as to provide for
3 matters relative to drivers' licenses of persons convicted of driving under the influence; to
4 allow certain drivers with suspended licenses to be issued limited driving permits; to provide
5 for the issuance of a limited driving permit to a person convicted of driving under the
6 influence subject to certain conditions; to amend Article 7 of Chapter 8 of Title 42 of the
7 Official Code of Georgia Annotated, relating to ignition interlock devices as probation
8 condition, so as to provide the courts with more authority with regard to the availability of
9 ignition interlock device limited driving permits or probationary licenses and habitual
10 violator probationary licenses for drivers convicted of a second DUI; to provide a court the
11 ability to issue a certificate for such permits and licenses; to change provisions relating to
12 proof of compliance with Code Section 42-8-111; to provide for revocation of probation
13 under certain circumstances; to provide for related matters; to repeal conflicting laws; and
14 for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
18 cancellation, suspension, and revocation of drivers' licenses, is amended by revising
19 subsection (b) of Code Section 40-5-57.1, relating to suspensions of licenses of persons
20 under age 21, as follows:

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

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

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

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

31 (2)(A) If the driver's license was suspended upon conviction for violation of Code
 32 Section 40-6-391, be subject to the provisions of Code Section 40-5-63.

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

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

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

43 (C) Upon a second conviction for a violation of Code Section 40-6-391 within five
 44 years, as measured from the dates of previous arrests for which convictions were
 45 obtained or pleas of nolo contendere were accepted to the date of the current arrest for
 46 which a conviction is obtained or a plea of nolo contendere is accepted, such driver
 47 shall not be eligible for license reinstatement until the end of 18 months."

48 SECTION 2.

49 Said article is further amended by revising subsections (a) and (e) of Code Section 40-5-64,
 50 relating to the issuance of limited driving permits for certain offenders, as follows:

51 "(a) *To whom issued.*

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

61 paragraph (1) of subsection (a) of Code Section 40-5-67.2, or Code Section 40-5-57.1 if
 62 the person is 18 years of age or older.

63 (2) Any person whose driver's license has been suspended pursuant to subparagraph
 64 (b)(2)(C) of Code Section 40-5-57.1 or paragraph (2) of subsection (a) of Code Section
 65 40-5-63 and who is ~~subject to a court order for installation and use of an ignition interlock~~
 66 ~~device as a condition of probation pursuant to the provisions Article 7 of Chapter 8 of~~
 67 ~~Title 42~~ has been granted a certificate of eligibility by the court that imposed the second
 68 conviction may apply for a limited driving permit an ignition interlock device limited
 69 driving permit subject to the provisions of Article 7 of Chapter 8 of Title 42."

70 "(e) *Fees, duration, renewal, and replacement of permit.* A permit issued pursuant to this
 71 Code section shall be \$25.00 and shall become invalid upon the driver's eighteenth birthday
 72 in the case of a suspension under paragraph (2) of subsection (a.1) of Code Section
 73 40-5-22, upon the expiration of one year following issuance thereof in the case of a
 74 suspension for an offense listed in Code Section 40-5-54 or a suspension under Code
 75 Section 40-5-57, or a suspension in accordance with paragraph (1) of subsection (a) of
 76 Code Section 40-5-63 for a violation of Code Section 40-6-391, upon the expiration of 30
 77 days in the case of an administrative license suspension in accordance with paragraph (1)
 78 of subsection (a) of Code Section 40-5-67.2, ~~or~~ upon the expiration of ~~six~~ 14 months
 79 following proof of installation of an ignition interlock device in the case of a ~~limited~~
 80 ~~driving permit issued to a person subject to a court order for installation and use of such~~
 81 ~~a device pursuant to Article 7 of Chapter 8 of Title 42~~ an ignition interlock device limited
 82 driving permit, or upon the expiration of one year in the case of a suspension under Code
 83 Section 40-5-57.1 for any offense other than a second conviction for a violation of Code
 84 Section 40-6-391 within five years; except that such limited driving permit shall expire
 85 upon any earlier reinstatement of the driver's license. A person may apply to the
 86 department for a limited driving permit immediately following such conviction if he or she
 87 has surrendered his or her driver's license to the court in which the conviction was adjudged
 88 or to the department if the department has processed the citation or conviction. Upon the
 89 applicant's execution of an affidavit attesting to such facts and to the fact that the court had
 90 not imposed a suspension or revocation of his or her driver's license or driving privileges
 91 inconsistent with the driving privileges to be conferred by the limited driving permit
 92 applied for, the department may issue such person a limited driving permit. Permits issued
 93 pursuant to this Code section ~~are~~ shall be renewable upon payment of a renewal fee of
 94 \$5.00. Permits may be renewed until the person has his or her license reinstated for the
 95 violation that was the basis of the issuance of the permit. Upon payment of a fee in an
 96 amount the same as that provided by Code Section 40-5-25 for issuance of a Class C

97 driver's license, a person may be issued a replacement for a lost or destroyed ~~probationary~~
 98 ~~driver's license~~ limited driving permit issued to him or her."

99 **SECTION 3.**

100 Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to
 101 ignition interlock devices as probation condition, is amended by revising subsections (a), (b),
 102 and (c) of Code Section 42-8-111, relating to court ordered installation of ignition interlock
 103 devices, as follows:

104 "~~(a) In addition to any other provision of probation, upon~~ Upon a second or subsequent
 105 conviction of a resident of this state for violating Code Section 40-6-391 within five years,
 106 as measured from the dates of previous arrests for which convictions were obtained to the
 107 date of the current arrest for which a conviction is obtained, for which such person is
 108 granted probation, the court shall ~~order as conditions of probation that~~ issue a certificate
 109 of eligibility for an ignition interlock device limited driving permit or probationary license,
 110 subject to the following conditions:

111 (1) Such person shall have installed and shall maintain in each motor vehicle registered
 112 in such person's name ~~throughout the applicable six-month period prescribed by~~
 113 ~~subsection (b) of Code Section 42-8-112~~ for a period of not less than 14 months a
 114 functioning, certified ignition interlock device, ~~unless the court exempts the person from~~
 115 ~~the requirements of this paragraph based upon the court's determination that such~~
 116 ~~requirements would subject the person to undue financial hardship; and~~

117 (2) Such person shall have installed and shall maintain in any other motor vehicle to be
 118 driven by such person ~~during the applicable six-month period prescribed by subsection~~
 119 ~~(b) of Code Section 42-8-112~~ for a period of not less than 14 months a functioning,
 120 certified ignition interlock device, and such person shall not ~~during such six-month period~~
 121 drive any motor vehicle whatsoever that is not so equipped: during such period;

122 (3) Such person shall participate in a substance abuse treatment program as defined in
 123 paragraph (16.2) of Code Section 40-5-1 or a drug court program in compliance with
 124 Code Section 15-1-15 for a period of not less than 120 days;

125 For the purposes of this subsection, a plea of nolo contendere shall constitute a conviction;
 126 and a conviction of any offense under the law of another state or territory substantially
 127 conforming to any offense under Code Section 40-6-391 shall be deemed a conviction of
 128 violating said Code section.

129 (b) The court may, in its discretion, decline to issue a certificate of eligibility for an
 130 ignition interlock device limited driving permit or probationary license for any reason or
 131 exempt a person from any or all ignition interlock device requirements upon a
 132 determination that such requirements would subject such person to undue financial

133 hardship. Notwithstanding any contrary provision of Code Section 40-13-32 or 40-13-33,
 134 a determination of financial hardship may be made at the time of conviction or anytime
 135 thereafter. Any resident of this state who is ordered to use an ignition interlock device, as
 136 a condition of probation, shall complete the DUI Alcohol or Drug Use Risk Reduction
 137 Program and submit to the court or probation department a certificate of completion of the
 138 DUI Alcohol or Drug Use Risk Reduction Program and certification of installation of a
 139 certified ignition interlock device to the extent required by subsection (a) of this Code
 140 section.

141 (c) In the case of any person subject to the provisions of subsection (a) of this Code
 142 section, the court shall include in the record of conviction or violation submitted to the
 143 Department of Driver Services ~~notice of the requirement for, and the period of the~~
 144 ~~requirement for, the use of a certified ignition interlock device~~ a copy of the certificate of
 145 eligibility for an ignition interlock device limited driving permit or probationary license
 146 issued by the court or documentation of the court's decision to decline to issue such
 147 certificate. Such ~~notice~~ certificate shall specify any exemption from the installation
 148 requirements of paragraph (1) of subsection (a) of this Code section and any vehicles
 149 subject to the installation requirements of paragraph (2) of ~~said~~ such subsection. The
 150 records of the Department of Driver Services shall contain a record reflecting ~~mandatory~~
 151 ~~use of such device~~ certificate, and the person's driver's license ~~or,~~ limited driving permit,
 152 or probationary license shall contain a notation that the person may only operate a motor
 153 vehicle equipped with a functioning, certified ignition interlock device."

154 SECTION 4.

155 Said article is further amended by revising subsections (a) and (b) of Code Section 42-8-112,
 156 relating to proof of compliance required for reinstatement of certain drivers' licenses and for
 157 obtaining probationary license, as follows:

158 "(a)(1) In any case where the court grants a certificate of eligibility for an ignition
 159 interlock device limited driving permit or probationary license pursuant to Code Section
 160 42-8-111 to a person whose driver's license is suspended pursuant to subparagraph
 161 (b)(2)(C) of Code Section 40-5-57.1 or paragraph (2) of subsection (a) of Code Section
 162 40-5-63, the Department of Driver Services shall not issue an ignition interlock device
 163 limited driving permit until after the expiration of 120 days from the date of the
 164 conviction for which such certificate was granted. In any case where the court imposes
 165 the use of an ignition interlock device as a condition of probation on a resident of this
 166 state whose driving privilege is not suspended or revoked, the court shall require the
 167 person to surrender his or her driver's license to the court immediately and provide proof
 168 of compliance with such order to the court or the probation officer and obtain an ignition

169 ~~interlock device restricted driving license within 30 days. Upon expiration of the period~~
 170 ~~of time for which such person is required to use an ignition interlock device, the person~~
 171 ~~may apply for and receive a regular driver's license upon payment of the fee provided for~~
 172 ~~in Code Section 40-5-25. If such person fails to provide proof of installation to the extent~~
 173 ~~required by subsection (a) of Code Section 42-8-111 and receipt of the restricted driving~~
 174 ~~license within such period, absent a finding by the court of good cause for that failure,~~
 175 ~~which finding is entered in the court's record, the court shall revoke or terminate the~~
 176 ~~probation.~~

177 (2) The Department of Driver Services shall condition issuance of an ignition interlock
 178 limited driving permit for such person upon receipt of acceptable documentation of the
 179 following:

180 (A) That the person to whom such permit is to be issued has completed a DUI Alcohol
 181 or Drug Use Risk Reduction Program;

182 (B) That such person has completed a clinical evaluation as defined in Code Section
 183 40-5-1 and enrolled in a substance abuse treatment program approved by the
 184 Department of Human Services or is enrolled in a drug court program;

185 (C) That such person has installed an ignition interlock device in any vehicle that he
 186 or she will be operating; and

187 (D) A certificate of eligibility for an ignition interlock device limited driving permit
 188 or probationary license from the court that sentenced such person for the conviction that
 189 resulted in the suspension or revocation of his or her driver's license for which he or she
 190 is applying for a limited driving permit.

191 (b)(1) In any case where the court grants a certificate of eligibility for an ignition
 192 interlock device limited driving permit or probationary license pursuant to Code Section
 193 42-8-111 to a person whose driver's license is revoked as a habitual violator pursuant to
 194 Code Section 40-5-58, the Department of Driver Services shall not issue a habitual
 195 violator probationary license until after the expiration of two years from the date of the
 196 conviction for which such certificate was granted. In any case where the court imposes
 197 the use of an ignition interlock device as a condition of probation on a resident of this
 198 state whose driving privilege is suspended or revoked, the court shall require the person
 199 to provide proof of compliance with such order to the court or the probation officer and
 200 the Department of Driver Services not later than ten days after the date on which such
 201 person first becomes eligible to apply for an ignition interlock device limited driving
 202 permit in accordance with paragraph (2) of this subsection or a habitual violator's
 203 probationary license in accordance with paragraph (3) of this subsection, whichever is
 204 applicable. If such person fails to provide proof of installation to the extent required by
 205 subsection (a) of Code Section 42-8-111 within the period required by this subsection,

206 ~~absent a finding by the court of good cause for that failure, which finding is entered on~~
 207 ~~the court's record, the court shall revoke or terminate the probation if such is still~~
 208 ~~applicable.~~

209 ~~(2) The Department of Driver Services shall condition issuance of a habitual violator~~
 210 ~~probationary license for such person upon receipt of acceptable documentation of the~~
 211 ~~following: If the person subject to court ordered use of an ignition interlock device as a~~
 212 ~~condition of probation is authorized under Code Section 40-5-63 or 40-5-67.2 to apply~~
 213 ~~for reinstatement of his or her driver's license during the period of suspension, such~~
 214 ~~person shall, prior to applying for reinstatement of the license, have an ignition interlock~~
 215 ~~device installed and shall maintain such ignition interlock device in a motor vehicle or~~
 216 ~~vehicles to the extent required by subsection (a) of Code Section 42-8-111 for a period~~
 217 ~~of six months running concurrently with that of an ignition interlock device limited~~
 218 ~~driving permit, which permit shall not be issued until such person submits to the~~
 219 ~~department proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program,~~
 220 ~~proof of having undergone any clinical evaluation and of having enrolled in any~~
 221 ~~substance abuse treatment program required by Code Section 40-5-63.1, and proof of~~
 222 ~~installation of an ignition interlock device on a vehicle or vehicles to the extent required~~
 223 ~~by subsection (a) of Code Section 42-8-111. Such a person may apply for and be issued~~
 224 ~~an ignition interlock device limited driving permit at the end of 12 months after the~~
 225 ~~suspension of the driver's license. At the expiration of such six-month ignition interlock~~
 226 ~~device limited driving permit, the driver may, if otherwise qualified, apply for~~
 227 ~~reinstatement of a regular driver's license upon payment of the fee provided in Code~~
 228 ~~Section 40-5-25.~~

229 ~~(A) That the person to whom such permit is to be issued has completed a DUI Alcohol~~
 230 ~~or Drug Use Risk Reduction Program;~~

231 ~~(B) That such person has completed a clinical evaluation as defined in Code Section~~
 232 ~~40-5-1 and enrolled in a substance abuse treatment program approved by the~~
 233 ~~Department of Human Services or is enrolled in a drug court program;~~

234 ~~(C) That such person has installed an ignition interlock device in any vehicle that he~~
 235 ~~or she will be operating; and~~

236 ~~(D) A certificate of eligibility for an ignition interlock device limited driving permit~~
 237 ~~or probationary license from the court that sentenced such person for the conviction that~~
 238 ~~resulted in the suspension or revocation of his or her driver's license for which he or she~~
 239 ~~is applying for a probationary license.~~

240 ~~(3) If the person subject to court ordered use of an ignition interlock device as a~~
 241 ~~condition of probation is authorized under Code Section 40-5-58 or under Code Section~~
 242 ~~40-5-67.2 to obtain a habitual violator's probationary license, such person shall, if such~~

243 ~~person is a habitual violator as a result of two or more convictions for driving under the~~
244 ~~influence of alcohol or drugs, have an ignition interlock device installed and maintained~~
245 ~~in a motor vehicle or vehicles to the extent required by subsection (a) of Code Section~~
246 ~~42-8-111 for a period of six months following issuance of the probationary license, and~~
247 ~~such person shall not during such six-month period drive any motor vehicle that is not so~~
248 ~~equipped, all as conditions of such probationary license. Following expiration of such~~
249 ~~six-month period with no violation of the conditions of the probationary license, the~~
250 ~~person may apply for a habitual violator probationary license without such ignition~~
251 ~~interlock device condition.~~

252 (4) In any case where installation of an ignition interlock device is required, failure to
253 show proof of such device shall be grounds for refusal of reinstatement of such license
254 or issuance of such habitual violator's probationary license or the immediate suspension
255 or revocation of such license.

256 (4) Any limited driving permit or probationary license issued to such person shall bear
257 a restriction reflecting that the person may only operate a motor vehicle equipped with
258 a functional ignition interlock device. No person whose limited driving permit or
259 probationary license contains such restriction shall operate a motor vehicle that is not
260 equipped with a functional ignition interlock device.

261 (5)(A) Any person who has been issued an ignition interlock device limited driving
262 permit or a habitual violator probationary license bearing an ignition interlock device
263 condition shall maintain such ignition interlock device in any motor vehicle he or she
264 operates to the extent required by the certificate of eligibility for such permit or
265 probationary license issued to such person by the court in which he or she was
266 convicted, but for not less than 14 months.

267 (B) At the expiration of such certificate of eligibility ignition interlock device
268 requirement, or 14 months, whichever is greater, a person issued an ignition interlock
269 device limited driving permit may, if otherwise qualified, apply for reinstatement of his
270 or her regular driver's license upon payment of the fee provided in Code Section
271 40-5-25.

272 (C) Following expiration of such certificate of eligibility ignition interlock device
273 requirement, or 14 months, whichever is greater, a person issued a habitual violator
274 probationary license bearing an ignition interlock device condition may apply for a
275 habitual violator probationary license without such ignition interlock device condition,
276 provided such person committed no violations of the conditions of such probationary
277 license."

278 **SECTION 5.**

279 Said article is further amended by revising subsection (a) of Code Section 42-8-113, relating
 280 to renting, leasing, or lending motor vehicle to a probationer under this article prohibited, as
 281 follows:

282 "(a) No person shall knowingly rent, lease, or lend a motor vehicle to a person known to
 283 have had his or her driving privilege restricted ~~as a condition of probation~~ as provided in
 284 this article, unless the vehicle is equipped with a functioning, certified ignition interlock
 285 device. Any person whose driving privilege is restricted ~~as a condition of probation~~ as
 286 provided in this article shall notify any other person who rents, leases, or loans a motor
 287 vehicle to him or her of such driving restriction."

288 **SECTION 6.**

289 Said article is further amended by revising Code Section 42-8-117, relating to revocation of
 290 driving privilege for violation of probation, as follows:

291 "42-8-117.

292 (a)(1) In the event the sentencing court ~~finds~~ revokes a person's probation after finding
 293 that a such person has violated the terms of probation imposed the certificate of eligibility
 294 for an ignition interlock device limited driving permit or probationary license issued
 295 pursuant to subsection (a) of Code Section 42-8-111, the Department of Driver Services
 296 shall revoke that person's driving privilege for one year from the date the court revokes
 297 that person's probation. The court shall report such probation revocation to the
 298 Department of Driver Services by court order.

299 (2) This subsection shall not apply to any person whose limited driving permit has been
 300 revoked under subsection (d) of Code Section 42-8-112.

301 (b) In the event the sentencing court ~~finds~~ revokes a person's probation after finding that
 302 a such person has twice violated the terms of probation imposed the certificate of eligibility
 303 for an ignition interlock device limited driving permit or probationary license issued
 304 pursuant to subsection (a) of Code Section 42-8-111 during the same period of probation,
 305 the Department of Driver Services shall revoke that person's driving privilege for five years
 306 from the date the court revokes that person's probation for a second time. The court shall
 307 report such probation revocation to the Department of Driver Services by court order."

308 **SECTION 7.**

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