

Senate Bill 2

By: Senators Douglas of the 17th, Staton of the 18th, Jackson of the 24th and Murphy of the 27th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 40-5-63 of the Official Code of Georgia Annotated, relating to
2 periods of suspension for drivers' licenses and conditions to return drivers' licenses, so as to
3 extend the period of suspension for certain serious offenders committing a second offense
4 before such offender is eligible for reinstatement; to amend Code Section 40-6-391.2 of the
5 Official Code of Georgia Annotated, relating to the seizure and forfeiture of a motor vehicle
6 operated by a habitual violator, so as to authorize the seizure and forfeiture of a motor
7 vehicle operated by certain persons convicted of a third or subsequent offense of fleeing or
8 attempting to elude a police officer; to amend Code Section 40-6-395 of the Official Code
9 of Georgia Annotated, relating to fleeing or attempting to elude a police officer and
10 impersonating a law enforcement officer, so as to modify certain conditions when such
11 offense shall be treated as a felony offense; to provide for related matters; to provide for an
12 effective date and applicability; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 Code Section 40-5-63 of the Official Code of Georgia Annotated, relating to periods of
16 suspension for drivers' licenses and conditions to return drivers' licenses, is amended by
17 revising paragraph (2) of subsection (a) as follows:

18 "(2) Upon the second conviction of any such offense within five years, as measured from
19 the dates of previous arrests for which convictions were obtained to the date of the
20 current arrest for which a conviction is obtained, the period of suspension shall be for
21 three years. At the end of ~~120 days~~ six months, the person may apply to the department
22 for reinstatement of said driver's license; except that if such license was suspended as a
23 result of a second conviction of a violation of Code Section 40-6-391 within five years,
24 the person shall not be eligible to apply for license reinstatement until the end of 18
25 months. Such license shall be reinstated if such person submits proof of completion of
26 a DUI Alcohol or Drug Use Risk Reduction Program and pays a restoration fee of

27 \$210.00 or \$200.00 when such reinstatement is processed by mail unless such conviction
 28 was a recidivist conviction in which case the restoration fee shall be \$510.00 or \$500.00
 29 when processed by mail, provided that, if such license was suspended as a result of a
 30 conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated
 31 if such person submits proof of completion of either a defensive driving program
 32 approved by the department or a DUI Alcohol or Drug Use Risk Reduction Program and
 33 pays the prescribed restoration fee. A driver's license suspended as a result of a
 34 conviction of a violation of Code Section 40-6-391 shall not become valid and shall
 35 remain suspended until such person submits proof of completion of a DUI Alcohol or
 36 Drug Use Risk Reduction Program and pays the prescribed restoration fee. For purposes
 37 of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo
 38 contendere to an offense listed in Code Section 40-5-54 within such five-year period of
 39 time shall constitute a conviction. For the purposes of this paragraph, a plea of nolo
 40 contendere to a charge of violating Code Section 40-6-391 and all prior accepted pleas
 41 of nolo contendere within five years, as measured from the dates of previous arrests for
 42 which convictions were obtained or pleas of nolo contendere were accepted to the date
 43 of the current arrest for which a plea of nolo contendere is accepted, shall be considered
 44 and counted as convictions; or"

45

SECTION 2.

46 Code Section 40-6-391.2 of the Official Code of Georgia Annotated, relating to the seizure
 47 and forfeiture of a motor vehicle operated by a habitual violator, is amended by revising
 48 subsection (a) as follows:

49 "(a)(1) Except as provided in this Code section, any motor vehicle operated by a person
 50 who has been declared a habitual violator for three violations of Code Section 40-6-391
 51 and whose license has been revoked and who is arrested and charged with a violation of
 52 Code Section 40-6-391, is declared to be contraband and subject to forfeiture to the state,
 53 as provided in this Code section, provided that said forfeiture shall not be absolute unless
 54 the defendant is finally convicted of such offense.

55 (2) Except as otherwise provided in this Code section, any motor vehicle operated by a
 56 person who commits a third or subsequent offense of fleeing or attempting to elude a
 57 police officer in violation of Code Section 40-6-395 shall be declared contraband and
 58 subject to forfeiture to the state as provided in this Code section; provided that said
 59 forfeiture shall not be absolute unless the defendant is finally convicted of such offense."

60 **SECTION 3.**

61 Code Section 40-6-395 of the Official Code of Georgia Annotated, relating to fleeing or
62 attempting to elude a police officer and impersonating a law enforcement officer, is amended
63 by revising subparagraph (b)(5)(A) as follows:

64 "(5)(A) Any person violating the provisions of subsection (a) of this Code section who,
65 while fleeing or attempting to elude a pursuing police vehicle or police officer in an
66 attempt to escape arrest for any offense other than a violation of this chapter, operates
67 his or her vehicle in excess of ~~30~~ ten miles an hour above the posted speed limit, strikes
68 or collides with another vehicle or a pedestrian, flees in traffic conditions which place
69 the general public at risk of receiving serious injuries, commits a violation of Code
70 Section 40-6-391 pertaining to driving under the influence of alcohol, drugs, or other
71 intoxicating substances, or leaves the state shall be guilty of a felony punishable by a
72 fine of \$5,000.00 or imprisonment for not less than one year nor more than five years
73 or both."

74 **SECTION 4.**

75 This Act shall become effective on July 1, 2009, and shall apply to offenses committed on
76 or after such date.

77 **SECTION 5.**

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