

Senate Bill 196

By: Senators Jackson of the 24th, Douglas of the 17th, Goggans of the 7th, Thomas of the 54th, Powell of the 23rd and others

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and  
2 traffic, so as to change certain provisions relating to driver's license requirements; to change  
3 certain provisions relating to driving while license is suspended or revoked; to revise  
4 penalties for causing serious injury due to a right of way violation resulting in a collision  
5 with a motorcyclist, pedestrian, bicyclist, or farmer hauling agricultural products; to provide  
6 a penalty for a second offense; to provide for license suspension; to change provisions  
7 relating to pedestrians walking on or along a roadway; to increase the assessment fees for  
8 approved DUI Alcohol or Drug Use Reduction Programs; to authorize local governments by  
9 ordinance or resolution to authorize the operation of bicycles on sidewalks by certain persons  
10 within the jurisdiction of such local governments; to provide for related matters; to provide  
11 for an effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
15 amended by revising subsection (a) of Code Section 40-5-20, relating to driver's license  
16 requirement, as follows:

17 "(a) No person, except those expressly exempted in this chapter, shall drive any motor  
18 vehicle upon a highway in this state unless such person has a valid driver's license under  
19 this chapter for the type or class of vehicle being driven. Any person who is a resident of  
20 this state for 30 days shall obtain a Georgia driver's license before operating a motor  
21 vehicle in this state. Any violation of this subsection shall be punished as provided in Code  
22 Section 40-5-121, except the violation of driving with an expired license, or a violation of  
23 Code Section 40-5-29 or if such person produces in court a valid driver's license issued by  
24 this state to such person, shall be punished as provided in Code Section 40-5-121 he or she

25 shall not be guilty of such offenses. Any court having jurisdiction over traffic offenses in  
 26 this state shall report to the department the name and other identifying information of any  
 27 individual convicted of driving without a license."

28 **SECTION 2.**

29 Said title is further amended in Article 3 of Chapter 5, relating to cancellation, suspension,  
 30 and revocation of licenses, by adding a new Code section to read as follows:

31 "40-5-57.3.

32 (a) The driver's license of any person who is convicted for a second or subsequent offense  
 33 of violating Code Section 40-6-77 within a five-year period of time, as measured from the  
 34 dates of previous arrests for which convictions were obtained or pleas of nolo contendere  
 35 were accepted to the date of the current arrest for which a conviction is obtained or a plea  
 36 of nolo contendere is accepted, shall be suspended for 30 days. The person shall submit  
 37 his or her driver's license to the court upon conviction and the court shall forward the  
 38 driver's license to the department.

39 (b) After the suspension period and the person pays a restoration fee of \$60.00 or, when  
 40 processed by mail, \$50.00, the suspension shall terminate and the department shall return  
 41 the person's driver's license to such person."

42 **SECTION 3.**

43 Said title is further amended by revising subsection (a) of Code Section 40-5-121, relating  
 44 to driving while license suspended or revoked, as follows:

45 "(a) Except when a license has been revoked under Code Section 40-5-58 as a habitual  
 46 violator, any person who drives a motor vehicle on any public highway of this state without  
 47 being licensed as required by subsection (a) of Code Section 40-5-20 or at a time when his  
 48 or her privilege to so drive is suspended, disqualified, or revoked shall be guilty of a  
 49 misdemeanor for a first conviction thereof and, upon a first conviction thereof or plea of  
 50 nolo contendere within five years, as measured from the dates of previous arrests for which  
 51 convictions were obtained to the date of the current arrest for which a conviction is  
 52 obtained or a plea of nolo contendere is accepted, shall be fingerprinted and shall be  
 53 punished by imprisonment for not less than two days nor more than 12 months, and there  
 54 may be imposed in addition thereto a fine of not less than \$500.00 nor more than  
 55 \$1,000.00; ~~provided, however, that at the time of the hearing such person shall not be guilty~~  
 56 ~~of such offense if he or she presents the court with proof of a valid driver's license issued~~  
 57 ~~by this state.~~ Such fingerprints, taken upon conviction, shall be forwarded to the Georgia  
 58 Crime Information Center where an identification number shall be assigned to the  
 59 individual for the purpose of tracking any future violations by the same offender. For the

60 second and third conviction within five years, as measured from the dates of previous  
 61 arrests for which convictions were obtained or pleas of nolo contendere were accepted to  
 62 the date of the current arrest for which a conviction is obtained or a plea of nolo contendere  
 63 is accepted, such person shall be guilty of a high and aggravated misdemeanor and shall  
 64 be punished by imprisonment for not less than ten days nor more than 12 months, and there  
 65 may be imposed in addition thereto a fine of not less than \$1,000.00 nor more than  
 66 \$2,500.00. For the fourth or subsequent conviction within five years, as measured from the  
 67 dates of previous arrests for which convictions were obtained or pleas of nolo contendere  
 68 were accepted to the date of the current arrest for which a conviction is obtained or a plea  
 69 of nolo contendere is accepted, such person shall be guilty of a felony and shall be  
 70 punished by imprisonment for not less than one year nor more than five years, and there  
 71 may be imposed in addition thereto a fine of not less than \$2,500.00 nor more than  
 72 \$5,000.00."

73

#### SECTION 4.

74 Said title is further amended by revising Code Section 40-6-77, relating to penalties for  
 75 causing serious injury due to right of way violation resulting in a collision with a  
 76 motorcyclist, pedestrian, bicyclist, or farmer hauling agricultural products, as follows:

77 "40-6-77.

78 (a) For purposes of this Code section, 'serious injury' shall include, but shall not be limited  
 79 to, causing bodily harm to another by depriving him or her of a member of his or her body,  
 80 by rendering a member of his or her body useless, by seriously disfiguring his or her head  
 81 or body or a member thereof, or by causing organic brain damage which renders the body  
 82 or any member thereof useless.

83 (b) Any person who causes a serious injury to another person as a result of a collision with  
 84 a motorcyclist, bicyclist, pedestrian, or farmer operating any vehicle used to transport  
 85 agricultural products, livestock, farm machinery, or farm supplies by committing any right  
 86 of way violation under this chapter when such motorcyclist, bicyclist, pedestrian, or farmer  
 87 operating any vehicle used to transport agricultural products, livestock, farm machinery,  
 88 or farm supplies is abiding by the provisions of this title shall be guilty of a misdemeanor  
 89 and shall be punished;

90 (1) For a first offense, by a fine of not less than \$250.00 in addition to any other penalties  
 91 stipulated by law and the court shall report such conviction to the Department of Driver  
 92 Services; and

93 (2) For a second or subsequent offense within a five-year period of time, as measured  
 94 from the dates of previous arrests for which convictions were obtained or pleas of nolo  
 95 contendere were accepted to the date of the current arrest for which a conviction is

96 obtained or a plea of nolo contendere is accepted, by a fine of not less than \$500.00 nor  
 97 more than \$1,000.00 and imprisonment for not less than ten days nor more than 12  
 98 months. Any fine imposed under this paragraph shall be mandatory and shall not be  
 99 suspended or waived or conditioned upon the completion of any course or sentence. The  
 100 court imposing punishment under this subsection shall forward a record of the disposition  
 101 of the case to the Department of Driver Services.

102 ~~For purposes of this Code section, serious injury shall include, but shall not be limited to,~~  
 103 ~~causing bodily harm to another by depriving him or her of a member of his or her body, by~~  
 104 ~~rendering a member of his or her body useless, by seriously disfiguring his or her body or~~  
 105 ~~a member thereof, or by causing organic brain damage which renders the body or any~~  
 106 ~~member thereof useless."~~

### 107 SECTION 5.

108 Said title is further amended by revising Code Section 40-6-96, relating to pedestrians  
 109 walking on or along a roadway, as follows:

110 "40-6-96.

111 (a) As used in this Code section, the term 'pedestrian' means any person afoot and shall  
 112 include, without limitation, persons standing, walking, jogging, running, or otherwise on  
 113 foot.

114 (b) Where a sidewalk is provided, it shall be unlawful for any pedestrian to ~~walk~~ stand or  
 115 stride along and upon an adjacent roadway unless there is no motor vehicle traveling within  
 116 1,000 feet of such pedestrian on such roadway or the available sidewalk presents an  
 117 imminent threat of bodily injury to such pedestrian.

118 ~~(b)(c)~~ Where a sidewalk is not provided but a shoulder is available, any pedestrian ~~walking~~  
 119 standing or striding along and upon a highway shall ~~walk~~ stand or stride only on the  
 120 shoulder, as far as practicable from the edge of the roadway.

121 ~~(c)(d)~~ Where neither a sidewalk nor a shoulder is available, any pedestrian ~~walking~~  
 122 standing or striding along and upon a highway shall ~~walk~~ stand or stride as near as  
 123 practicable to an outside edge of the roadway, and, if on a two-lane roadway, shall ~~walk~~  
 124 stand or stride only on the left side of the roadway.

125 ~~(d)(e)~~ Except as otherwise provided in this chapter, any pedestrian upon a roadway shall  
 126 yield the right of way to all vehicles upon the roadway.

127 ~~(e)(f)~~ No pedestrian shall enter or remain upon any bridge or approach thereto beyond the  
 128 bridge signal, gate, or barrier after a bridge operation signal indication has been given.

129 ~~(f)(g)~~ No pedestrian shall pass through, around, over, or under any crossing gate or barrier  
 130 at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened  
 131 or closed."

**SECTION 6.**

132  
133 Said title is further amended by revising subsection (e) of Code Section 40-5-83, relating to  
134 establishment and approval of driver clinics and programs, as follows:

135 "(e) The department is designated as the agency responsible for establishing criteria for the  
136 approval of DUI Alcohol or Drug Use Risk Reduction Programs. An applicant ~~must~~ shall  
137 meet the certification criteria promulgated by the department through its standards and  
138 ~~must~~ shall provide the following services: (1) the assessment component and (2) the  
139 intervention component. The department is designated as the agency responsible for  
140 establishing rules and regulations concerning the contents and duration of the components  
141 of DUI Alcohol or Drug Use Risk Reduction Programs, qualifications of instructors,  
142 attendance requirements for students, examinations, and program evaluations. Qualified  
143 instructors shall be certified for periods of four years each, which may be renewed.  
144 Approved DUI Alcohol or Drug Use Risk Reduction Programs shall charge a fee of ~~\$75.00~~  
145 \$82.00 for the assessment component and \$190.00 for the intervention component. An  
146 additional fee for required student program materials shall be established by the department  
147 in such an amount as is reasonable and necessary to cover the cost of such materials. No  
148 DUI Alcohol or Drug Use Risk Reduction Program shall be approved unless such clinic  
149 agrees in writing to submit reports as required in the rules and regulations of the  
150 department and to allow the examination and audit of the books, records, and financial  
151 statements of such DUI Alcohol or Drug Use Risk Reduction Program by the department  
152 or its authorized agent. DUI Alcohol or Drug Use Risk Reduction Programs may be  
153 operated by any public, private, or governmental entity; provided, however, that, except  
154 as otherwise provided in this subsection, in any political subdivision in which a DUI  
155 Alcohol or Drug Use Risk Reduction Program is operated by a private entity, whether for  
156 profit or nonprofit, neither the local county board of health nor any other governmental  
157 entity shall fund any new programs in that area. Programs currently in existence which are  
158 operated by local county boards of health or any other governmental entities shall be  
159 authorized to continue operation. New programs may be started in areas where no private  
160 DUI Alcohol or Drug Use Risk Reduction Programs have been made available to said  
161 community. The Department of Corrections is authorized to operate DUI Alcohol or Drug  
162 Use Risk Reduction Programs in its facilities where offenders are not authorized to  
163 participate in such programs in the community, provided that such programs meet the  
164 certification criteria promulgated by the Department of Driver Services. All such programs  
165 operated by the Department of Corrections shall be exempt from all fee provisions  
166 established in this subsection specifically including the rebate of any fee for the costs of  
167 administration. No DUI Alcohol or Drug Use Risk Reduction Program ~~will~~ shall be  
168 approved unless such clinic agrees in writing to pay to the state, for the costs of

169 administration, a fee of ~~\$15.00~~ \$22.00, for each offender assessed or each offender  
170 attending for points reduction, provided that nothing in this Code section shall be construed  
171 so as to allow the department to retain any funds required by the Constitution of Georgia  
172 to be paid into the state treasury; and provided, further, that the department shall comply  
173 with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except  
174 Code Section 45-12-92, prior to expending any such miscellaneous funds."

175 **SECTION 7.**

176 Said title is further amended by revising Code Section 40-6-144, relating to emerging from  
177 alley, driveway, or building, as follows:

178 "40-6-144.

179 The driver of a vehicle emerging from an alley, building, private road, or driveway within  
180 a business or residential district shall stop such vehicle immediately prior to driving onto  
181 a sidewalk or onto the sidewalk area extending across such alley, building entrance, road,  
182 or driveway or, in the event there is no sidewalk area, shall stop at the point nearest the  
183 street to be entered where the driver has a view of approaching traffic thereon. The driver  
184 of a vehicle shall yield the right of way to any pedestrian on a sidewalk. ~~No~~ Except as  
185 provided by resolution or ordinance of a local government for sidewalks within the  
186 jurisdiction of such local government authorizing the operation of bicycles on sidewalks  
187 by persons 12 years of age or younger, no person shall drive any vehicle upon a sidewalk  
188 or sidewalk area except upon a permanent or duly authorized driveway."

189 **SECTION 8.**

190 This Act shall become effective on July 1, 2009.

191 **SECTION 9.**

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