

House Bill 435

By: Representatives Marin of the 96th, Floyd of the 99th, Bruce of the 64th, and Mitchell of the 88th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 40-6-391 of the Official Code of Georgia Annotated, relating to
2 driving under the influence of alcohol, so as to require persons convicted to have an ignition
3 interlock device installed; to amend Code Section 42-8-111 of the Official Code of Georgia
4 Annotated, relating to court ordered installation of ignition interlock devices, so as to make
5 it applicable to all convictions for driving under the influence of alcohol; to provide for
6 related matters; to provide for an effective date; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Code Section 40-6-391 of the Official Code of Georgia Annotated, relating to driving under
11 the influence of alcohol, is amended by revising subparagraph (c)(1)(B) as follows:

12 "(B) A period of imprisonment of not fewer than ten days nor more than 12 months,
13 which period of imprisonment may, at the sole discretion of the judge, be suspended,
14 stayed, or probated, except that the judge shall probate at least a portion of such term
15 of imprisonment, thereby subjecting the offender to the provisions of Article 7 of
16 Chapter 8 of Title 42 and to such other terms and conditions as the judge may impose;
17 provided, however, that if the offender's alcohol concentration at the time of the offense
18 was 0.08 grams or more, the judge may suspend, stay, or probate all but 24 hours of any
19 term of imprisonment imposed under this subparagraph;"

20 SECTION 2.

21 Code Section 42-8-111 of the Official Code of Georgia Annotated, relating to court ordered
22 installation of ignition interlock devices, is amended by revising subsection (a) as follows:

23 "(a) In addition to any other provision of probation, upon a ~~second or subsequent~~
24 conviction of a resident of this state for violating Code Section 40-6-391 ~~within five years,~~
25 ~~as measured from the dates of previous arrests for which convictions were obtained to the~~

26 ~~date of the current arrest for which a conviction is obtained, for which such person is~~
27 ~~granted probation~~, the court shall order as conditions of probation that:

28 (1) Such person shall have installed and shall maintain in each motor vehicle registered
29 in such person's name throughout the applicable six-month period prescribed by
30 subsection (b) of Code Section 42-8-112 a functioning, certified ignition interlock device,
31 unless the court exempts the person from the requirements of this paragraph based upon
32 the court's determination that such requirements would subject the person to undue
33 financial hardship; and

34 (2) Such person shall have installed and shall maintain in any other motor vehicle to be
35 driven by such person during the applicable six-month period prescribed by subsection
36 (b) of Code Section 42-8-112 a functioning, certified ignition interlock device, and such
37 person shall not during such six-month period drive any motor vehicle whatsoever that
38 is not so equipped.

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

43 **SECTION 3.**

44 This Act shall become effective on July 1, 2011, and shall be applicable to all convictions
45 on or after that date.

46 **SECTION 4.**

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