

The Senate Transportation Committee offered the following substitute to SB 57:

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 provide for criminal history background checks before issuing a commercial  
3 driver's license with a passenger or school bus endorsement; to provide for the commissioner  
4 to issue rules allowing for criminal history background checks; to provide for related matters;  
5 to provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

8 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
9 amended by adding a new subsection to Code Section 40-5-150, relating to contents of  
10 commercial driver's licenses, as follows:

11 “(j)(1) Before issuing, renewing, upgrading, reinstating, or transferring a commercial  
12 driver's license with a passenger or school bus endorsement, the department shall review  
13 the criminal history of the person applying for such license to determine if he or she has  
14 been convicted of any criminal offense under Title 16 or any offense under federal law  
15 or the laws of another state or territory of the United States which consists of one or more  
16 the following offenses:

- 17 (A) Kidnapping of a minor, except by a parent;
- 18 (B) False imprisonment of a minor, except by a parent;
- 19 (C) Criminal sexual conduct toward a minor;
- 20 (D) Solicitation of a minor to engage in sexual conduct;
- 21 (E) Use of a minor in a sexual performance;
- 22 (F) Solicitation of a minor to practice prostitution; or
- 23 (G) Any conviction resulting from an underlying sexual offense against a victim who  
24 was a minor.

25 (2) No person who has been convicted of any offense listed in paragraph (1) of this  
26 subsection shall be eligible for a commercial driver's license with a 'P' endorsement as

27 defined in paragraph (4) of subsection (c) of this Code Section or an 'S' endorsement as  
28 defined in paragraph (5.1) of subsection (c) of this Code Section. Any person convicted  
29 of a criminal offense listed in paragraph (1) of this subsection is prohibited from  
30 operating a commercial motor vehicle for which a 'P' endorsement or 'S' endorsement is  
31 required by state or federal law.

32 (3) In furtherance of such criminal history review, each person who is applying for  
33 issuance, renewal, reinstatement, upgrade, or transfer of a commercial driver's license  
34 with a passenger or school bus endorsement shall submit at least one set of classifiable  
35 electronically recorded fingerprints to the Georgia Crime Information Center in  
36 accordance with the fingerprint system of identification established by the director of the  
37 Federal Bureau of Investigation. The Georgia Crime Information Center shall submit the  
38 fingerprints to the Federal Bureau of Investigation for a search of bureau records and an  
39 appropriate report and promptly conduct a search of state records based upon the  
40 fingerprints. After receiving the report from the Georgia Crime Information Center and  
41 the Federal Bureau of Investigation, the department shall determine whether the  
42 employee or applicant is eligible for such endorsement.

43 (4) No employer may knowingly allow, require, permit, or authorize a driver who is  
44 subject to the prohibition contained in paragraph (2) of this subsection to operate a  
45 commercial motor vehicle for which a 'P' endorsement or an 'S' endorsement is required.  
46 Any employer who knowingly allows, requires, permits, or authorizes a driver to operate  
47 a commercial motor vehicle in violation of this paragraph shall be subject to a civil  
48 penalty in an amount not less than \$100.00 per passenger transported by such driver in  
49 violation of this paragraph. The operator of a transit service in this state shall not be  
50 required to perform any criminal background checks on his or her employees that are not  
51 otherwise provided for by law. For purposes of this paragraph, 'transit service' means all  
52 modes of transportation serving the general public which are appropriate to transport  
53 people and their personal effects by highway or other ground conveyance, including rail  
54 conveyance.

55 (5) Any person who is convicted for an offense contained in paragraph (1) of this  
56 subsection shall surrender his or her commercial driver's license to the court in which  
57 such conviction is imposed. Such court shall forward the commercial driver's license to  
58 the department and report such conviction electronically to the department within ten  
59 days of such conviction in the same manner it reports other convictions under Code  
60 Section 40-5-53. Upon receipt of such commercial driver's license and conviction, the  
61 department may issue a replacement commercial driver's license to such person after  
62 deleting the 'P' and 'S' endorsements as necessary.

63 (6) Notwithstanding the definition of 'conviction' set forth in Code Section 40-5-142, this  
64 subsection shall not apply to any sentence imposed pursuant to Article 3 of Chapter 8 of  
65 Title 42."

66 **SECTION 2.**

67 Said title is further amended by adding a new subsection to Code Section 40-16-5, relating  
68 to the authority of the commissioner, as follows:

69 "(f) Notwithstanding any provision of law to the contrary, the commissioner is authorized  
70 to promulgate regulations allowing for background investigations of applicants for  
71 credentials in any of the industries regulated by the department or any class of driver's  
72 license by means other than classifiable electronically recorded fingerprints in instances  
73 in which an applicant attempts to comply with the applicable statutory language mandating  
74 such background investigation, but his or her fingerprints cannot be captured electronically  
75 for reasons that are beyond the applicant's control."

76 **SECTION 3.**

77 This Act shall become effective on July 1, 2011.

78 **SECTION 4.**

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