

SENATE SUBSTITUTE to HB 269:

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to  
2 certificates of title, security interests, and liens, so as to change the value of a vehicle that can  
3 be scrapped; to provide for procedures for notifying the Department of Revenue regarding  
4 the cancellation of titles to scrap vehicles; to add falsifying a statement regarding  
5 cancellation of title of a scrap vehicle to the list of acts deemed to be felonies; to amend  
6 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
7 so as to provide for definitions; to provide that a driver granted a license due to an  
8 impairment of his or her parent or guardian must be accompanied while driving; to provide  
9 a definition of immediate family; to add an offense which mandates a suspension of the  
10 offender's driver's license upon conviction; to change certain fees regarding reinstatement of  
11 licenses; to provide for issuance of limited driving permits in certain situations; to change the  
12 requirement that certain statements by law enforcement officers need to be sworn statements;  
13 to provide that defensive driving courses be certified and approved by the Department of  
14 Driver Services; to provide that certificates of completion from unlicensed courses shall not  
15 be recognized; to update the types of approved driver improvement courses; to change  
16 certain provisions regarding issuance of identification cards; to change certain definitions  
17 regarding issuance of commercial drivers' licenses; to change certain requirements for  
18 issuance of an identification card for persons with disabilities; to amend Chapter 16 of Title  
19 40 of the Official Code of Georgia Annotated, relating to the Department of Driver Services,  
20 so as to grant authority to the commissioner to conduct background checks for certain  
21 applicants; to amend Chapter 8 of Title 42 of the Official Code of Georgia Annotated,  
22 relating to probation, so as to exempt certain transactions relating to ignition interlock  
23 devices from subject matter jurisdiction requirement; to amend Chapter 47 of Title 43 of the  
24 Official Code of Georgia Annotated, relating to used motor vehicles and parts dealers, so as  
25 to change a cross-reference; to provide for an effective date; to repeal conflicting laws; to  
26 provide for related matters; and for other purposes.

28

## SECTION .1.

29

Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to certificates of title, security interests, and liens, is amended by revising paragraphs (2) and (3) of subsection (a) of Code Section 40-3-36, relating to the cancellation of a certificate of title for scrap, dismantled, or demolished vehicles, as follows:

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"(2) Notwithstanding any other provision of this article to the contrary, if the owner or authorized agent of the owner has not obtained a title in his or her name for the vehicle to be transferred, or has lost the title for the vehicle to be transferred, he or she may sign a statement swearing that, in addition to the foregoing conditions, the vehicle is worth \$750.00 ~~\$850.00~~ or less and is at least 12 model years old. The statement described in this paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle parts dealer under Code Section 43-47-7 or scrap metal processor under Code Section 43-43-1. The department shall promulgate a form for the statement which shall include, but not be limited to:

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(A) A statement that the vehicle shall never be titled again; it must be dismantled or scrapped;

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(B) A description of the vehicle including the year, make, model, vehicle identification number, and color;

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(C) The name, address, and driver's license number of the owner;

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(D) A certification that the owner:

48

(i) Never obtained a title to the vehicle in his or her name; or

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(ii) Was issued a title for the vehicle, but the title was lost or stolen;

50

(E) A certification that the vehicle:

51

(i) Is worth \$750.00 ~~\$850.00~~ or less;

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(ii) Is at least 12 model years old; and

53

(iii) Is not subject to any secured interest or lien:<sup>2</sup>

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(F) An acknowledgment that the owner realizes this form will be filed with the department and that it is a felony, punishable by imprisonment for not fewer than one nor more than three years or a fine of not less than \$1,000.00 nor more than \$5,000.00, or both, to knowingly falsify any information on this statement;

58

(G) The owner's signature and the date of the transaction;

59

(H) The name<sup>2</sup>, and address, and National Motor Vehicle Title Information System identification number of the business acquiring the vehicle;

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(I) A certification by the business that \$750.00 ~~\$850.00~~ or less was paid to acquire the vehicle; and

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(J) The business agent's signature and date along with a printed name and title if the agent is signing on behalf of a corporation.

65       (3)(A) The used motor vehicle parts dealer or scrap metal processor shall mail or  
66 otherwise deliver the statement required under paragraph (2) of this subsection to the  
67 department within 72 hours of the completion of the transaction, requesting that the  
68 department cancel the Georgia certificate of title and registration.

69       (B) Notwithstanding the requirement to mail or otherwise deliver the statement  
70 required under paragraph (2) of this subsection to the department, the department shall  
71 provide a mechanism for the receipt of the information required to be obtained in the  
72 statement by electronic means, at no cost to the used motor vehicle parts dealer or scrap  
73 metal processor, in lieu of the physical delivery of the statement, in which case the used  
74 motor vehicle parts dealer or scrap metal processor shall maintain the original statement  
75 for a period of not less than two years.

76       (C) Within 48 hours of each day's close of business, the used motor vehicle parts dealer  
77 or scrap metal processor who purchases or receives motor vehicles for scrap or for parts  
78 shall deliver in a format approved by the department, either by facsimile or by other  
79 electronic means to be made available by the department by January 1, 2012, a list of  
80 all such vehicles purchased that day for scrap or for parts. That list shall contain the  
81 following information:

- 82       (i) The name, address, and contact information for the reporting entity;
- 83       (ii) The vehicle identification numbers of such vehicles;
- 84       (iii) The dates such vehicles were obtained;
- 85       (iv) The names of the individuals or entities from whom the vehicles were obtained,  
86 for use by law enforcement personnel and appropriate governmental agencies only;
- 87       (v) A statement of whether the vehicles were, or will be, crushed or disposed of, or  
88 offered for sale or other purposes;
- 89       (vi) A statement of whether the vehicle is intended for export out of the United  
90 States; and
- 91       (vii) The National Motor Vehicle Title Information System identification number of  
92 the business acquiring the vehicle.

93       There shall be no charge to either a used motor vehicle parts dealer or scrap metal  
94 processor associated with providing this information to the department.

95       (D) For purposes of this subsection, the term 'motor vehicle' shall not include a vehicle  
96 which has been crushed or flattened by mechanical means such that it is no longer the  
97 motor vehicle as described by the certificate of title, or such that the vehicle  
98 identification number is no longer visible or accessible, in which case the purchasing  
99 or receiving used motor vehicle parts dealer or scrap metal processor shall verify that  
100 the seller has reported the vehicles in accordance with this subsection. Such  
101 verification may be in the form of a certification from the seller or contract between the

102 seller and the purchasing or receiving used motor vehicle parts dealer or scrap metal  
103 processor which clearly identifies the seller by a government issued photograph  
104 identification card, or employer identification number, and shall be maintained for a  
105 period of not less than two years.

106 (E) The information obtained by the department in accordance with this subsection  
107 shall be reported to the National Motor Vehicle Title Information System, in a format  
108 which will satisfy the requirement for reporting this information, in accordance with  
109 rules adopted by the United States Department of Justice in 28 C.F.R. 25.56.

110 (F) The information obtained by the department in accordance with this subsection  
111 shall be made available only to law enforcement agencies, and for purposes of  
112 cancelling certificates of title, and shall otherwise be considered to be confidential  
113 business information of the respective reporting entities.

114 (G) All records required under the provisions of this Code section shall be maintained  
115 for a period of two years by the reporting entity and shall include a scanned or  
116 photocopied copy of the seller's or seller's representative's driver's license or state  
117 issued identification card."

## SECTION .2.

119 Said chapter is further amended by revising Code Section 40-3-90, relating to felonies  
120 involving certificates of title, as follows:

121 "40-3-90.

122 A person who, with fraudulent intent:

- 123 (1) Alters, forges, or counterfeits a certificate of title;
- 124 (2) Alters or forges an assignment of a certificate of title or an assignment or release of  
125 a security interest on a certificate of title or a form the commissioner prescribed;
- 126 (3) Has possession of or uses a certificate of title knowing it to have been altered, forged,  
127 or counterfeited;
- 128 (4) Uses a false or fictitious name or address or makes a material false statement, or fails  
129 to disclose a security interest, or conceals any other material fact in an application for a  
130 certificate of title;
- 131 (5) Alters or forges a notice of a transaction concerning a security interest or lien  
132 reflected on the certificate of title as provided by Code Section 40-3-27; or
- 133 (6) Knowingly falsifies any information on the statement required by paragraph (2) of  
134 subsection (a) of Code Section 40-3-36; or
- 135 (7) Willfully violates any other provision of this chapter after having previously violated  
136 the same or any other provision of this chapter and having been convicted of that act in  
137 a court of competent jurisdiction

138 shall be guilty of a felony."

139

**SECTION 1.**

140 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
141 is amended by revising paragraph (9) of Code Section 40-5-1, relating to definitions, as  
142 follows:

143 " (9) 'DUI Alcohol or Drug Use Risk Reduction Program' means a program certified by  
144 the Department of Driver Services which consists of two components: assessment and  
145 intervention. ~~In the case of a conviction or plea of nolo contendere to a violation of Code~~  
146 ~~Section 40-6-391 or in any other instance in which a person may be referred to a DUI~~  
147 ~~Alcohol or Drug Use Risk Reduction Program, the program administers the assessment~~  
148 ~~component and refers such offender to the intervention component."~~

149

**SECTION 2.**

150 Said chapter is further amended by revising paragraph (1) of subsection (b) of Code Section  
151 40-5-22, relating to minimum ages for licensees, as follows:

152 "(b)(1) Notwithstanding the provisions of subsection (a) of this Code section, any  
153 person 14 years of age or older who has a parent or guardian who is medically  
154 incapable of being licensed to operate a motor vehicle due to visual impairment may  
155 apply for and, subject to the approval of the commissioner, may be issued a restricted  
156 noncommercial Class P instruction permit for the operation of a noncommercial Class  
157 C vehicle. Any person permitted pursuant to this subsection shall be accompanied by  
158 such visually impaired parent or guardian whenever operating a motor vehicle  
159 whenever operating a motor vehicle by such physically impaired parent or guardian or  
160 by a person at least 21 years of age who is licensed as a driver for a commercial or  
161 noncommercial Class C vehicle, who is fit and capable of exercising control over the  
162 vehicle, and who is occupying a seat beside the driver. The department shall require  
163 satisfactory proof that the physically impaired parent or guardian previously held a  
164 valid driver's license in the State of Georgia, another state, or the District of Columbia  
165 before issuing an instructional permit pursuant to this paragraph."

166

**SECTION 3.**

167 Said chapter is further amended by revising paragraph (2) of subsection (b) of Code Section  
168 40-5-24, relating to instruction permits and graduated licensing, as follows:

169 "(2) The department shall, after all applicable requirements have been met, issue to the  
170 applicant a Class D driver's license which shall entitle the applicant, while having such  
171 license in his or her immediate possession, to drive a Class C vehicle upon the public  
172 highways of this state under the following conditions:

(A) Any Class D license holder shall not drive a Class C motor vehicle on the public roads, streets, or highways of this state between the hours of 12:00 Midnight and 6:00 A.M. eastern standard time or eastern daylight time, whichever is applicable; and

(B)(i) Any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when more than three other passengers in the vehicle who are not members of the driver's immediate family are less than 21 years of age.

(ii) During the six-month period immediately following issuance of such license, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when any other passenger in the vehicle is not a member of the driver's immediate family.

(iii) Notwithstanding the provisions of division (i) of this subparagraph, during the second six-month period immediately following issuance of such license, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when more than one other passenger in the vehicle who is not a member of the driver's immediate family is less than 21 years of age;

provided, however, that a Class D license holder shall not be charged with a violation of this paragraph alone but may be charged with violating this paragraph in addition to any other traffic offense.

(C) For purposes of this paragraph, the term 'immediate family' shall include the license holder's parents and step-parents, grandparents, siblings and step-siblings, children, and any other person who resides at the license holder's residence."

## SECTION 4.

Said chapter is further amended by revising subsection (a) of Code Section 40-5-54, relating to mandatory suspensions of drivers' licenses, as follows:

"(a) The department shall forthwith suspend, as provided in Code Section 40-5-63, the license of any driver upon receiving a record of such driver's conviction of the following offenses, whether charged as a violation of state law or of a local ordinance adopted pursuant to Article 14 of Chapter 6 of this title:

- (1) Homicide by vehicle, as defined by Code Section 40-6-393;
  - (2) Any felony in the commission of which a motor vehicle is used;
  - (3) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270;
  - (4) Racing on highways and streets;
  - (5) Using a motor vehicle in fleeing or attempting to elude an officer;
  - (6) Fraudulent or fictitious use of or application for a license as provided in Code Section 40-5-120 or 40-5-125; or

(7) Operating a motor vehicle with a revoked, canceled, or suspended registration in violation of Code Section 40-6-15; or

(8) Any felony violation of Article 1 of Chapter 9 of Title 16 if such offense related to an identification document as defined in Code Section 16-9-4."

## SECTION 5.

Said chapter is further amended by revising subsection (b) and subparagraph (e)(1)(B) of Code Section 40-5-58, relating to habitual violators, as follows:

"(b) When the records of the department disclose that any person has been arrested and convicted of a violation of Chapter 6 of this title, or of a valid local ordinance adopted pursuant thereto, of an offense occurring on or after January 1, 1976, which record of arrest and conviction, when taken with and added to previous arrests and convictions of such person as contained in the files of the department, reveals that such person is a habitual violator as defined in subsection (a) of this Code section, the department shall forthwith notify such person that upon the date of notification such person has been declared by the department to be a habitual violator, and that henceforth his or her driver's license has been revoked by operation of law and that it shall be unlawful for such habitual violator to operate a motor vehicle in this state unless otherwise provided in this Code section. Notice shall be given by certified mail or statutory overnight delivery, with return receipt requested; or, in lieu thereof, notice may be given by personal service upon such person. In the event that at the time of determination the habitual violator had been issued a driver's license, such license shall be revoked by such notice and shall be surrendered to the department within ten days of notification of such determination. For the purposes of this chapter, notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima facie evidence that such person received the required notice. In addition to the procedure set forth in this subsection, the sentencing judge or prosecutor in a conviction which conviction classifies the defendant as a habitual violator may, at the time of sentencing, declare such defendant to be a habitual violator. The judge or prosecutor shall, when declaring a defendant to be a habitual violator, then give personal notice to such defendant on forms provided by the department that henceforth it shall be unlawful for such habitual violator to operate a motor vehicle in this state unless otherwise provided in this Code section. The judge or prosecutor, as the case may be, shall within three days forward to the department the order declaring that the defendant is a habitual violator, the notice of service, with the defendant's driver's license or a sworn affidavit of the defendant declaring that the driver's license has been lost, and the department's copy of the uniform citation or the official notice of conviction attached thereto."

"(B) Such person has not been convicted, or pleaded nolo contendere to a charge, of a violation of any provision of this chapter or Chapter 6 of this title which resulted in the death or injury of any individual;"

## SECTION 6.

Said chapter is further amended by revising Code Section 40-5-60, relating to effective dates of revocations and suspensions, as follows:

"40-5-60.

(a) All revocations and suspensions provided for in this chapter shall be effective on the day the driver receives actual knowledge or legal notice thereof, whichever occurs first. Notice of suspension by operation of law shall be considered legal notice. Any license suspension or revocation mandated in this chapter following a person's conviction for any offense, including suspensions due to the accumulation of points pursuant to Code Section 40-5-57, shall be by operation of law.

(b) Notwithstanding any other provision of this chapter to the contrary, for any suspension or revocation for which the department is required to send notice to the driver, the department shall be authorized to direct such notice to the driver's new address as reflected in the records of the United States Postal Service in lieu of or in addition to sending such notice to the address reflected in his or her driving record. Provided, however, that any notice of suspension or revocation shall be sent via certified mail."

## **SECTION 7.**

Said chapter is further amended by revising paragraph (2) of subsection (a) of Code Section 40-5-63, relating to periods of suspension and conditions of return of drivers' licenses, as follows:

"(2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years. At the end of 120 days, the person may apply to the department for reinstatement of said driver's license; except that if such license was suspended as a result of a second conviction of a violation of Code Section 40-6-391 within five years, the person shall not be eligible to apply for license reinstatement until the end of 18 months. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail unless such conviction was a recidivist conviction in which case the restoration fee shall be \$510.00 or \$500.00 when processed by mail, provided that, if such license was suspended as a result of a conviction

280 of an offense listed in Code Section 40-5-54, such license shall be reinstated if such  
281 person submits proof of completion of either a defensive driving program approved by  
282 the department or a DUI Alcohol or Drug Use Risk Reduction Program and pays the  
283 prescribed restoration fee. A driver's license suspended as a result of a conviction of a  
284 violation of Code Section 40-6-391 shall not become valid and shall remain suspended  
285 until such person submits proof of completion of a DUI Alcohol or Drug Use Risk  
286 Reduction Program, provides proof of installation and maintenance of an ignition  
287 interlock device for a period of six months coinciding with the issuance of an ignition  
288 interlock device limited driving permit as provided in Code Section 40-5-64 unless  
289 waived due to financial hardship, and pays the prescribed restoration fee. For purposes  
290 of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo  
291 contendere to an offense listed in Code Section 40-5-54 within such five-year period of  
292 time shall constitute a conviction. For the purposes of this paragraph, a plea of nolo  
293 contendere to a charge of violating Code Section 40-6-391 and all prior accepted pleas  
294 of nolo contendere within five years, as measured from the dates of previous arrests for  
295 which convictions were obtained or pleas of nolo contendere were accepted to the date  
296 of the current arrest for which a plea of nolo contendere is accepted, shall be considered  
297 and counted as convictions; or"

## 298 SECTION 8.

299 Said chapter is further amended by revising subsection (a) of Code Section 40-5-64, relating  
300 to limited driving permits, as follows:

301 "(a) **To whom issued.**

302 (1) Notwithstanding any contrary provision of Code Section 40-5-57 or 40-5-63 or any  
303 other Code section of this chapter, any person who has not been previously convicted or  
304 adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as  
305 measured from the dates of previous arrests for which convictions were obtained or pleas  
306 of nolo contendere were accepted to the date of the current arrest for which a conviction  
307 is obtained or a plea of nolo contendere is accepted, may apply for a limited driving  
308 permit when and only when that person's driver's license has been suspended in  
309 accordance with paragraph (2) of subsection (a.1) of Code Section 40-5-22, subsection  
310 (d) of Code Section 40-5-57, paragraph (1) of subsection (a) of Code Section 40-5-63,  
311 paragraph (1) of subsection (a) of Code Section 40-5-67.2, or subsection (a) of Code  
312 Section 40-5-57.1, when the person is 18 or over and his or her license was suspended for  
313 exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour,  
314 and the sentencing judge, in his or her discretion, decides it is reasonable to issue a  
315 limited driving permit.

(2) Any person whose driver's license has been suspended and who is subject to a court order for installation and use of an ignition interlock device as a condition of probation pursuant to the provisions Article 7 of Chapter 8 of Title 42 may apply for a limited driving permit.

(3) To the extent a person is subject to more than one suspension for which a permit may be issued, the department shall not issue such permit unless the suspensions are for a conviction for driving under the influence in violation of Code Section 40-6-391 imposed pursuant to Code Section 40-5-63 and an administrative suspension imposed pursuant to paragraph (1) of subsection (a) of Code Section 40-5-67.2 arising from the same incident."

## SECTION 9.

Said chapter is further amended by revising subsections (c), (d), and (f) of Code Section 40-5-67.1, relating to testing for driving under the influence and administrative license suspensions, as follows:

"(c) If a person under arrest or a person who was involved in any traffic accident resulting in serious injuries or fatalities submits to a chemical test upon the request of a law enforcement officer and the test results indicate that a suspension or disqualification is required under this Code section, the results shall be reported to the department. Upon the receipt of a ~~sworn~~ report of the law enforcement officer that the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state in violation of Code Section 40-6-391 or that such person had been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state and was involved in a traffic accident involving serious injuries or fatalities and that the person submitted to a chemical test at the request of the law enforcement officer and the test results indicate either an alcohol concentration of 0.08 grams or more or, for a person under the age of 21, an alcohol concentration of 0.02 grams or more, the department shall suspend the person's driver's license, permit, or nonresident operating privilege pursuant to Code Section 40-5-67.2, subject to review as provided for in this chapter. Upon the receipt of a ~~sworn~~ report of the law enforcement officer that the arrested person had been operating or was in actual physical control of a moving commercial motor vehicle and the test results indicate an alcohol concentration of 0.04 grams or more, the department shall disqualify the person from operating a motor vehicle for a minimum period of one year.

(d) If a person under arrest or a person who was involved in any traffic accident resulting in serious injuries or fatalities refuses, upon the request of a law enforcement officer, to

352 submit to a chemical test designated by the law enforcement officer as provided in  
353 subsection (a) of this Code section, no test shall be given; but the law enforcement officer  
354 shall report the refusal to the department. Upon the receipt of a ~~sworn~~ report of the law  
355 enforcement officer that the officer had reasonable grounds to believe the arrested person  
356 had been driving or was in actual physical control of a moving motor vehicle upon the  
357 highways or elsewhere throughout this state in violation of Code Section 40-6-391 or that  
358 such person had been driving or was in actual physical control of a moving motor vehicle  
359 upon the highways or elsewhere throughout this state and was involved in a traffic accident  
360 which resulted in serious injuries or fatalities and that the person had refused to submit to  
361 the test upon the request of the law enforcement officer, the department shall suspend the  
362 person's driver's license, permit, or nonresident operating privilege for a period of one year  
363 or if the person was operating or in actual physical control of a commercial motor vehicle,  
364 the department shall disqualify the person from operating a commercial motor vehicle and  
365 shall suspend the person's driver's license, permit, or nonresident operating privilege,  
366 subject to review as provided for in this chapter."

367 "(f)(1) The law enforcement officer, acting on behalf of the department, shall personally  
368 serve the notice of intention to suspend or disqualify the license of the arrested person or  
369 other person refusing such test on such person at the time of the person's refusal to submit  
370 to a test or at the time at which such a test indicates that suspension or disqualification  
371 is required under this Code section. The law enforcement officer shall take possession  
372 of any driver's license or permit held by any person whose license is subject to suspension  
373 pursuant to subsection (c) or (d) of this Code section, if any, and shall issue a 30 day  
374 temporary permit. The officer shall forward the person's driver's license to the  
375 department along with the notice of intent to suspend or disqualify and the ~~sworn~~ report  
376 required by subsection (c) or (d) of this Code section within ten calendar days after the  
377 date of the arrest of such person. This paragraph shall not apply to any person issued a  
378 180 day temporary permit pursuant to subsection (b) of Code Section 40-5-67. The  
379 failure of the officer to transmit the ~~sworn~~ report required by this Code section within ten  
380 calendar days shall not prevent the department from accepting such report and utilizing  
381 it in the suspension of a driver's license as provided in this Code section.

382 (2) If notice has not been given by the arresting officer, the department, upon receipt of  
383 the ~~sworn~~ report of such officer, shall suspend the person's driver's license, permit, or  
384 nonresident operating privilege or disqualify such person from operating a motor vehicle  
385 and, by regular mail, at the last known address, notify such person of such suspension or  
386 disqualification. The notice shall inform the person of the grounds of suspension or  
387 disqualification, the effective date of the suspension or disqualification, and the right to  
388 review. The notice shall be deemed received three days after mailing."

389

**SECTION 10.**

390

Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section  
391 40-5-75, relating to suspensions of drivers' licenses for controlled substance convictions, as  
392 follows:

393

"(3) Upon the third or subsequent conviction of any such offense within five years, as  
394 measured from the dates of previous arrests for which convictions were obtained to the date  
395 of the current arrest for which a conviction is obtained, such person's license shall be  
396 suspended for a period of five years. At the end of two years, the person may apply to the  
397 department for a three-year driving permit upon compliance with the following conditions:

398

(A) Such person has not been convicted or pleaded nolo contendere to any drug related  
399 offense, including driving under the influence, for a period of two years immediately  
400 preceding the application for such permit;

401

(B) Such person submits proof of completion of a licensed drug treatment program.  
402 Such proof shall be submitted within two years of the license suspension and prior to  
403 the issuance of the permit. Such licensed drug treatment program shall be paid for by  
404 the offender. The offender shall pay a permit fee of \$25.00 to the department;

405

(C) Such person submits proof of financial responsibility as provided in Chapter 9 of  
406 this title; and

407

(D) Refusal to issue such permit would cause extreme hardship to the applicant. For  
408 the purposes of this subparagraph, the term 'extreme hardship' means that the applicant  
409 cannot reasonably obtain other transportation, and, therefore, the applicant would be  
410 prohibited from:

411

(i) Going to his or her place of employment or performing the normal duties of his  
412 or her occupation;

413

(ii) Receiving scheduled medical care or obtaining prescription drugs;

414

(iii) Attending a college or school at which he or she is regularly enrolled as a  
415 student; or

416

(iv) Attending regularly scheduled sessions or meetings of support organizations for  
417 persons who have addiction or abuse problems related to alcohol or other drugs,  
418 which organizations are recognized by the commissioner.

419

At the end of five years from the date on which the license was suspended, the person  
420 may apply to the department for reinstatement of his or her driver's license by submitting  
421 proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying  
422 to the Department of Driver Services a restoration fee of \$410.00 or \$400.00 when such  
423 reinstatement is processed by mail. For purposes of this paragraph, a plea of nolo  
424 contendere and all previous pleas of nolo contendere within such five-year period of time  
425 shall constitute a conviction."

426

**SECTION 11.**

427

Said chapter is further amended by revising subsection (a) of Code Section 40-5-81, relating to optional driver improvement programs, as follows:

429

"(a) Any driver improvement program at which attendance is required by court order shall conform to the requirements of this article. When a defensive driving course is required by a court having jurisdiction over misdemeanor traffic law offenses or by any prosecuting attorney thereof, such course shall be certified and approved by the department under the provisions of Code Sections 40-5-82 and 40-5-83. Certificates of completion from unlicensed defensive driving courses shall not be recognized for any purposes under this article."

436

**SECTION 12.**

437

Said chapter is further amended by revising paragraph (1) of subsection (a) and subsections (c) and (e) of Code Section 40-5-83, relating to establishment and approval of driver improvement clinics, as follows:

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"(a)(1) The commissioner shall establish criteria for the approval of driver improvement clinics. To be approved, a clinic shall provide and operate ~~either~~ a defensive driving course, ~~an advanced defensive driving course, or a professional defensive driving course or any combination thereof.~~ Clinics shall be composed of uniform education and training programs consisting of six hours of instruction designed for the rehabilitation of problem drivers. The commissioner shall establish standards and requirements concerning the contents of courses, qualifications of instructors, attendance requirements for students, and examinations. Approved clinics shall charge a fee of \$75.00 for a defensive driving course, ~~an advanced defensive driving course, or a professional defensive driving course;~~ except that such clinics may charge different fees of their own choosing if the person is not enrolling in such course pursuant to court order or department requirement. No clinic shall be approved unless such clinic agrees in writing to allow the examination and audit of the books, records, and financial statements of such clinic. Clinics may be operated by any individual, partnership, ~~or corporation, association, civic group, club, county, municipality, board of education, school, or college.~~ Nothing in this paragraph shall be construed to affect in any way driving programs established for purposes of insurance premium reductions under the provisions of Code Section 33-9-42."

457

"(c) The commissioner shall be authorized to issue a special license to the instructor of any driver improvement clinic who is qualified to teach the alcohol and drug course prescribed in subsection (b) of Code Section 20-2-142. A driver improvement clinic shall offer such alcohol and drug course only through a qualified instructor and shall not charge a fee for such course of more than \$25.00. The commissioner shall be authorized to issue a special

462 license to ~~the~~ a licensed instructor of any ~~commercial~~ driver training school to teach the  
463 alcohol and drug course prescribed in subsection (b) of Code Section 20-2-142 who is  
464 qualified to teach a teen-age driver education course, which course consists of a minimum  
465 of 30 hours of classroom and six hours of behind-the-wheel training. The alcohol and drug  
466 program may be included in the 30 hours of classroom training as part of a curriculum  
467 approved by the department. Any fee authorized by law for such a drug and alcohol course  
468 may be included in the tuition charge for a teen-age driver education course. Any text or  
469 workbook provided or required by the Department of ~~Public Safety~~ Driver Services for  
470 such alcohol and drug course shall be provided by the department at the same fee as  
471 currently charged by the department to any public or private school, contractor, or  
472 appropriate representative currently teaching the program."

473 "(e) The department is designated as the agency responsible for establishing criteria for the  
474 approval of DUI Alcohol or Drug Use Risk Reduction Programs. An applicant shall meet  
475 the certification criteria promulgated by the department through its standards and shall  
476 provide the following services: (1) the assessment component and (2) the intervention  
477 component. The department is designated as the agency responsible for establishing rules  
478 and regulations concerning the contents and duration of the components of DUI Alcohol  
479 or Drug Use Risk Reduction Programs, qualifications of instructors, attendance  
480 requirements for students, examinations, and program evaluations. Qualified instructors  
481 shall be certified for periods of four years each, which may be renewed. Approved DUI  
482 Alcohol or Drug Use Risk Reduction Programs shall charge a fee of \$82.00 for the  
483 assessment component and \$190.00 for the intervention component. An additional fee for  
484 required student program materials shall be established by the department in such an  
485 amount as is reasonable and necessary to cover the cost of such materials. No DUI Alcohol  
486 or Drug Use Risk Reduction Program shall be approved unless such clinic agrees in writing  
487 to submit reports as required in the rules and regulations of the department and to allow the  
488 examination and audit of the books, records, and financial statements of such DUI Alcohol  
489 or Drug Use Risk Reduction Program by the department or its authorized agent. DUI  
490 Alcohol or Drug Use Risk Reduction Programs may be operated by any public, private, or  
491 governmental entity; provided, however, that, except as otherwise provided in this  
492 subsection, in any political subdivision in which a DUI Alcohol or Drug Use Risk  
493 Reduction Program is operated by a private entity, whether for profit or nonprofit, neither  
494 the local county board of health nor any other governmental entity shall fund any new  
495 programs in that area. Programs currently in existence which are operated by local county  
496 boards of health or any other governmental entities shall be authorized to continue  
497 operation. New programs may be started in areas where no private DUI Alcohol or Drug  
498 Use Risk Reduction Programs have been made available to said community. The

Department of Corrections is authorized to operate DUI Alcohol or Drug Use Risk Reduction Programs in its facilities where offenders are not authorized to participate in such programs in the community, provided that such programs meet the certification criteria promulgated by the Department of Driver Services. All such programs operated by the Department of Corrections shall be exempt from all fee provisions established in this subsection specifically including the rebate of any fee for the costs of administration. No DUI Alcohol or Drug Use Risk Reduction Program shall be approved unless such clinic agrees in writing to pay to the state, for the costs of administration, a fee of \$22.00 for each offender assessed or each offender attending for points reduction, provided that nothing in this Code section shall be construed so as to allow the department to retain any funds required by the Constitution of Georgia to be paid into the state treasury; and provided, further, that the department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such miscellaneous funds."

## SECTION 13.

Said chapter is further amended by revising subsection (d) of Code Section 40-5-84, relating to reinstatement of suspended drivers' licenses for points, as follows:

"(d) The license of any person whose license is suspended for the second time within a five-year period as a result of the assessment of points pursuant to Code Section 40-5-57 shall be reinstated by the department immediately upon receipt by the department of a certificate of completion of an ~~advanced~~ approved defensive driving course and the payment of a restoration fee of \$310.00 or \$300.00 when such reinstatement is processed by mail."

## **SECTION 14.**

Said chapter is further amended by revising subsections (c), (e), and (f) of Code Section 40-5-103, relating to identification cards, as follows:

"(c) The department shall not be authorized to collect a fee for an identification card from those persons who are entitled to a free veterans' or honorary driver's license under the provisions of Code Section 40-5-36."

"(e) The commissioner may by rule authorize incentive discounts where identification cards are renewed by Internet, telephone, or mail. Any person who has previously been issued a driver's license who transitions from such license or applies for an identification card in addition to such license shall be eligible for such incentive discounts.

532 (f)(1) Every identification card shall be renewed on or before its expiration upon  
533 application, payment of the required fee, and, if applicable, satisfactory completion of any  
534 other requirements imposed by law.

535 (2) An application for renewal of an identification card may be submitted by:

536 (A) Personal appearance before the department; or

537 (B) Subject to rules or regulations of the department consistent with considerations of  
538 public safety and efficiency of service to identification card holders, means other than  
539 personal appearance which may include, without limitation, by mail or electronically.

540 The department may by such rules or regulations exempt persons renewing, obtaining,  
541 or transitioning to identification cards under this paragraph from any surrender  
542 requirement imposed under Georgia law.

543 (3) Notwithstanding any other provision of this Code section, there shall be no fee  
544 whatsoever for replacement of any identification card solely due to a change of the  
545 identification card holder's name or address, provided that such replacement identification  
546 card shall be valid only for the remaining period of such original term; and provided,  
547 further, that only one such free replacement identification card may be obtained within  
548 the period for which the identification card was originally issued. Any application for the  
549 replacement of a lost identification card or due to a change in the identification card  
550 holder's name or address submitted within 150 days of the expiration of said  
551 identification card shall be treated as an application for renewal subject to the applicable  
552 fees as set forth in this Code section."

## 553 SECTION 15.

554 Said chapter is further amended by revising paragraph (22) of Code Section 40-5-142,  
555 relating to definitions applicable to commercial drivers' licenses, as follows:

556 "(22) 'Serious traffic violation' means conviction of any of the following offenses or a  
557 conviction of any law or ordinance equivalent thereto in this state, in any other state, or  
558 in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless  
559 otherwise specified, a noncommercial motor vehicle:

560 (A) Speeding 15 or more miles per hour above the posted speed limit;

561 (B) Reckless driving;

562 (C) Following another vehicle too closely;

563 (D) Improper or erratic lane change, including failure to signal a lane change;

564 (E) A violation, arising in connection with a fatal crash, of state law or a local  
565 ordinance, relating to motor vehicle traffic control, excluding parking, weight, length,  
566 height, and vehicle defect violations, and excluding homicide by vehicle as defined in  
567 Code Section 40-6-393;

- (F) A railroad grade crossing violation in a noncommercial motor vehicle;
  - (G) Driving a commercial motor vehicle without obtaining a commercial driver's license;
  - (H) Driving a commercial motor vehicle without a commercial driver's license in the driver's immediate possession, and excluding such violations when the person's commercial driver's license or commercial driving privilege is suspended, revoked, canceled, or disqualified; **or**
  - (I) Driving a commercial motor vehicle without a commercial driver's license of the proper class and endorsements for the specific vehicle being operated or for the passengers or type of cargo transported; **or**
  - (J) Use of a wireless telecommunications device in violation of Code Section 40-6-241.2 while driving a commercial motor vehicle."

## **SECTION 16.**

Said chapter is further amended by adding a new Code section to read as follows:

"40-5-148.3.

(a) Any person applying for issuance or renewal of a commercial driver's license shall submit a certification of his or her type of driving and a current medical examiner's certificate to the department as required by 49 C.F.R. Parts 383 and 391. Receipt of such current medical examiner's certificate shall be reflected upon such person's driving record and posted to his or her CDLIS driver record as his or her medical certification status.

(b) Upon the expiration of the medical examiner's certificate submitted to the department pursuant to this Code section, the department shall update the medical certification status of such person on his or her driving record and his or her CDLIS driving record. The department shall notify such person of the change of his or her medical certification status and advise such person that he or she will be disqualified from operating a commercial motor vehicle indefinitely if such person does not submit a current medical examiner's certificate to the department within 60 days. Such notice shall be sent via certified mail or such other delivery service obtained by the department that results in delivery confirmation to the address reflected on its records as the driver's mailing address.

(c) A commercial driving disqualification imposed as the result of the expiration of a medical examiner's certificate shall be reinstated, and changes to a person's medical certification status shall be updated upon receipt of a current medical examiner's certificate.

(d) The department shall suspend the commercial driving privilege or commercial driver's license of any person who submits a medical examiner's certificate containing false information. The period of such suspension shall be 60 days."

**SECTION 17.**

Said chapter is further amended by revising Code Section 40-5-172, relating to identification cards for persons with disabilities, as follows:

"40-5-172.

(a) The identification card for persons with disabilities shall be issued to a person with a permanent disability for a period of ~~four~~ five years and shall be renewable on the applicant's birthday in the fourth year following such issuance. Such identification cards shall be issued to persons:

- (1) With obvious permanent disabilities without further verification of disability; and
- (2) With disabilities which are not obvious upon presentation of the current sworn affidavit of at least one medical doctor attesting to such permanent disability. A current affidavit shall be presented at each request for renewal.

(b) The identification card for persons with disabilities shall be issued to a person with a temporary disability upon presentation of a sworn affidavit of at least one medical doctor attesting to such disability and estimating the duration of such disability. Such identification cards shall be issued for periods of six months. A current affidavit of a medical doctor attesting to the continuance of such disability shall be presented at each request for renewal thereafter.

(c) The commissioner may by rule authorize renewal of an identification card issued to a person with a permanent disability by means other than personal appearance. No further documentation of such person's disability shall be required for such renewal."

**SECTION 18.**

Chapter 16 of Title 40 of the Official Code of Georgia Annotated, relating to the Department of Driver Services, is amended by adding a new subsection to Code Section 40-16-5, relating to the authority of the commissioner, as follows:

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

**SECTION 19.**

Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is amended by adding a new subsection to Code Section 42-8-111, relating to court ordered installation of ignition interlock devices, as follows:

"(f) Exemptions granted due to financial hardship pursuant to paragraph (1) of subsection (a) of this Code section shall be exempt from the subject-matter jurisdiction limitations imposed in Code Sections 40-13-32 and 40-13-33."

**SECTION 20.**

Chapter 13 of Title 43 of the Official Code of Georgia Annotated, relating to instructors in driver training and operators of driver training schools, is amended by revising paragraph (4) of Code Section 43-13-4, relating to qualifications of driver training school operators, as follows:

"(4) Provide a continuous surety company bond in the principal sum of ~~\$2,500.00 \$10,000.00~~ for the protection of the contractual rights of students in such form as will meet with the approval of the department and written by a company authorized to do business in this state; provided, however, that the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the principal sum of ~~\$2,500.00 \$10,000.00~~ per location, and a single bond at such rate for all schools operated by the same person may be provided in satisfaction of this paragraph. The surety on any such bond may cancel such bond on giving 30 days' notice thereof in writing to the department and shall be relieved of liability for any breach of any condition of the bond which occurs after the effective date of cancellation. If at any time said bond is not valid and in force, the license of the school or program shall be deemed suspended by operation of law until a valid surety company bond is again in force;"

**SECTION 20.1.**

Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor vehicles and parts dealers, is amended in Code Section 43-47-10, relating to investigations of licensees and sanctions, by revising subparagraph (B) of paragraph (2) as follows:

"(B) Any of those activities described in paragraphs (1) through ~~(5)~~(6) of Code Section 40-3-90; or"

**SECTION 21.**

This Act shall become effective on January 1, 2012.

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**SECTION 22.**

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