

House Bill 1135

By: Representatives Rice of the 51st and Powell of the 29th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated,
2 relating to restoration of licenses to persons completing defensive driving course or alcohol
3 or drug program, so as to require certified driver improvement programs for purposes of
4 completing certain probation requirements; to modify provisions relating to certified DUI
5 Alcohol or Drug Use Risk Reduction Programs; to provide for related matters; to provide an
6 effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 4 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
10 restoration of licenses to persons completing defensive driving course or alcohol or drug
11 program, is amended by revising Code Section 40-5-81, relating to optional driver
12 improvement programs, as follows:

13 "40-5-81.

14 (a) Any driver improvement program at which attendance is required by court order shall
15 conform to the requirements of this article. When a defensive driving course is required
16 by a court having jurisdiction over misdemeanor traffic law offenses or by any prosecuting
17 attorney thereof, such course shall be certified, licensed, and approved by the department
18 under the provisions of Code Sections 40-5-82 and 40-5-83. Participation in an uncertified
19 or unlicensed driving improvement program or course shall not be required by any judge
20 or prosecutor as:

21 (1) A condition of a sentence of probation for a violation of any traffic related offense;

22 or

23 (2) A condition for nonprocessing or the dismissal of a prosecution for any traffic related
24 offense.

25 Certificates of completion from unlicensed defensive driving courses shall not be
26 recognized for any purposes under this article.

27 (b) Whenever any person is authorized or required to attend a driver improvement clinic
 28 or DUI Alcohol or Drug Use Risk Reduction Program as a condition of any sentence
 29 imposed under this title or any ordinance enacted pursuant to this title or as a condition of
 30 the retention or restoration of the person's driving privilege, such person, in complying with
 31 such condition, shall be authorized to attend any certified driver improvement clinic or
 32 certified DUI Alcohol or Drug Use Risk Reduction Program or to be clinically evaluated
 33 by a certified clinical evaluator under this article; and no judicial officer, probation officer,
 34 law enforcement officer, or other officer or employee of a court or person who owns,
 35 operates, or is employed by a private company which has contracted to provide private
 36 probation services for misdemeanor cases shall specify, directly or indirectly, a particular
 37 driver improvement clinic, ~~or~~ DUI Alcohol or Drug Use Risk Reduction Program, or
 38 clinical evaluator which the person may or shall attend. This Code section shall not
 39 prohibit any judicial officer, probation officer, law enforcement officer, or other officer or
 40 employee of a court or owner, operator, or employee of a private company which has
 41 contracted to provide probation services for misdemeanor offenders from furnishing any
 42 person, upon request, the names of certified driver improvement clinics, ~~or~~ DUI Alcohol
 43 or Drug Use Risk Reduction Programs, or clinical evaluators.

44 (c) It shall be unlawful for the owner, agent, servant, or employee of any driver
 45 improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program licensed by the
 46 department or any licensed clinical evaluator or any person holding himself or herself out
 47 as such a clinic, program, or evaluator to directly or indirectly solicit business by personal
 48 solicitation on public property, by phone, or by mail. A violation of this subsection shall
 49 be a misdemeanor. Advertising in any mass media, including, but not limited to,
 50 newspapers, radio, television, magazines, or telephone directories by a driver improvement
 51 clinic or DUI Alcohol or Drug Use Risk Reduction Program or clinical evaluator shall not
 52 be considered a violation of this subsection."

53 SECTION 2.

54 Said article is further amended by revising subsection (e) of Code Section 40-5-83, relating
 55 to establishment and approval of driver improvement clinics, as follows:

56 "(e)(1) The department is designated as the agency responsible for establishing criteria
 57 for the approval of DUI Alcohol or Drug Use Risk Reduction Programs. An applicant
 58 shall meet the certification criteria promulgated by the department through its standards
 59 and shall provide the following services: (1) (A) the risk assessment component and (2)
 60 (B) the intervention component. A licensed DUI Alcohol or Drug Use Risk Reduction
 61 Program shall require that the risk assessment component be conducted prior to the
 62 intervention component of the program. A clinical evaluation component, if any, shall

63 be conducted only following the completion of the risk assessment and intervention
64 components of such program. The department is designated as the agency responsible
65 for establishing rules and regulations concerning the contents and duration of the
66 components of DUI Alcohol or Drug Use Risk Reduction Programs, qualifications of
67 instructors, attendance requirements for students, examinations, and program evaluations.
68 Qualified instructors shall be certified for periods of four years each, which may be
69 renewed. Only clinical evaluators licensed by the Department of Behavioral Health and
70 Developmental Disabilities shall be qualified to conduct clinical evaluations.

71 (2) Approved DUI Alcohol or Drug Use Risk Reduction Programs shall charge a fee of
72 \$82.00 for the assessment component and \$190.00 for the intervention component. An
73 additional fee for required student program materials shall be established by the
74 department in such an amount as is reasonable and necessary to cover the cost of such
75 materials.

76 (3) No DUI Alcohol or Drug Use Risk Reduction Program shall be approved unless such
77 clinic agrees in writing to submit reports as required in the rules and regulations of the
78 department and to allow the examination and audit of the books, records, and financial
79 statements of such DUI Alcohol or Drug Use Risk Reduction Program by the department
80 or its authorized agent.

81 (4) DUI Alcohol or Drug Use Risk Reduction Programs may be operated by any public,
82 private, or governmental entity; provided, however, that, except as otherwise provided
83 in this subsection, in any political subdivision in which a DUI Alcohol or Drug Use Risk
84 Reduction Program is operated by a private entity, whether for profit or nonprofit, neither
85 the local county board of health nor any other governmental entity shall fund any new
86 programs in that area. Programs currently in existence which are operated by local
87 county boards of health or any other governmental entities shall be authorized to continue
88 operation. New programs may be started in areas where no private DUI Alcohol or Drug
89 Use Risk Reduction Programs have been made available to said community.

90 (5) The Department of Corrections is authorized to operate DUI Alcohol or Drug Use
91 Risk Reduction Programs in its facilities where offenders are not authorized to participate
92 in such programs in the community, provided that such programs meet the certification
93 criteria promulgated by the Department of Driver Services. All such programs operated
94 by the Department of Corrections shall be exempt from all fee provisions established in
95 this subsection, specifically including the rebate of any fee for the costs of administration.

96 (6) No DUI Alcohol or Drug Use Risk Reduction Program shall be approved unless such
97 clinic agrees in writing to pay to the state, for the costs of administration, a fee of \$22.00
98 for each offender assessed or each offender attending for points reduction, provided that
99 nothing in this Code section shall be construed so as to allow the department to retain any

100 funds required by the Constitution to be paid into the state treasury; and provided, further,
101 that the department shall comply with all provisions of Part 1 of Article 4 of Chapter 12
102 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such
103 miscellaneous funds."

104 **SECTION 3.**

105 This Act shall become effective on July 1, 2012.

106 **SECTION 4.**

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