

House Bill 215 (COMMITTEE SUBSTITUTE)

By: Representatives Battles of the 15th, Maddox of the 172nd, Rynders of the 152nd, Shaw of the 176th, and Hanner of the 148th

A BILL TO BE ENTITLED
AN ACT

To amend Article 7 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to commercial drivers' licenses, so as to prohibit persons required to register on the State Sexual Offender Registry for an act committed on or after July 1, 2012, from being licensed to drive certain commercial motor vehicles; to provide for a definition; to provide for revocation of certain commercial driver's license endorsements under certain circumstances; to provide for exceptions; to provide for penalties; to provide for a sunset of this Code section; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to commercial drivers' licenses, is amended by adding a new Code section to read as follows:

"40-5-145.1.

(a) As used in this Code section, the term 'State Sexual Offender Registry' means the registration required by Code Section 42-1-12.

(b) Except as otherwise provided in subsection (c) of this Code section and as required by the affidavit set forth in subparagraph (f)(3)(A) of this Code section, this Code section shall only apply to those persons who are required to register on the State Sexual Offender Registry for an act committed on or after July 1, 2012.

(c) A person who has a 'P' or 'S' endorsement to a commercial driver's license that was issued prior to July 1, 2012, who is required to register on the State Sexual Offender Registry shall not be disqualified from seeking renewals of such endorsements unless such person is convicted of an offense for an act committed on or after July 1, 2012, that requires registration on the State Sexual Offender Registry.

(d) Except as otherwise provided in subsection (c) of this Code section, effective July 1, 2012, no person shall seek the issuance of or renewal of a 'P' or 'S' endorsement to a

commercial driver's license during the period he or she is required to maintain registration on the State Sexual Offender Registry.

(e) Except as otherwise provided in subsection (c) of this Code section, the department shall revoke a 'P' or 'S' endorsement to the commercial driver's license of any person registered on the State Sexual Offender Registry.

(f)(1) Effective July 1, 2012, the department shall not issue or renew a 'P' or 'S' endorsement to a commercial driver's license to any person who is registered on the State Sexual Offender Registry.

(2) The department shall not issue a 'P' or 'S' endorsement to a commercial driver's license to an applicant until the department has determined if the applicant is currently registered as a sexual offender.

(3)(A) If the department is unable to determine if the applicant is registered on the State Sexual Offender Registry and the person is otherwise qualified to obtain a 'P' or 'S' endorsement to a commercial driver's license, then the department shall issue the 'P' or 'S' endorsement to the commercial driver's license, if the applicant signs an affidavit stating that he or she:

(i) Is not required to register on the State Sexual Offender Registry; or

(ii) Is required to register on the State Sexual Offender Registry for an act committed prior to July 1, 2012.

(B) If the department determines that an applicant is registered on the State Sexual Offender Registry for an act committed on or after July 1, 2012, in violation of this Code section, the department shall immediately revoke the 'P' or 'S' endorsement to a commercial driver's license and shall promptly notify the sheriff of the county where the application was executed that a violation of this Code section may have occurred.

(g) Any person whose 'P' or 'S' endorsement to a commercial driver's license has been revoked or who has been denied a 'P' or 'S' endorsement to a commercial driver's license by the department pursuant to this Code section may make a request in writing to the department for a hearing within ten business days from the date of receipt of the notice of revocation or date of denial of such endorsement. Such hearing shall be provided by the department within 30 days after the receipt of such request and shall follow the procedures required by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of revocation or denial, as applicable, or rescind such order. If no hearing is requested within the ten business days specified, the right to a hearing shall have been waived and such endorsement shall remain revoked or denied. Appeal from such hearing shall be in accordance with such chapter.

(h)(1) Any person who knowingly and willfully submits a false, fictitious, or fraudulent statement in an affidavit provided pursuant to subsection (f) of this Code section shall be

64 guilty of a violation of Code Section 16-10-20 and, upon conviction, shall be punished
65 as provided in such Code section.

66 (2) Notwithstanding Code Section 40-5-159, any person who is required to register on
67 the state sexual offender registry who drives a commercial motor vehicle which requires
68 the operator of such vehicle to have a 'P' or 'S' endorsement to his or her commercial
69 driver's license in accordance with this Code section and does not have such endorsement
70 issued to him or her shall be in violation of this Code section and shall be guilty of a
71 felony and, upon conviction, shall be punished by imprisonment for not more than two
72 years, a fine not to exceed \$5,000.00, or both.

73 (i) This Code section shall be repealed in its entirety on July 1, 2015."

74 **SECTION 2.**

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