

House Bill 671

By: Representatives Rice of the 95<sup>th</sup>, Powell of the 32<sup>nd</sup>, Dempsey of the 13<sup>th</sup>, Randall of the 142<sup>nd</sup>, Golick of the 40<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated,  
2 relating to general provisions for pretrial proceedings, so as to prohibit the use of uncertified  
3 driver improvement clinics as a basis for the dismissal of traffic offenses; to amend Code  
4 Section 24-8-823 of the Official Code of Georgia Annotated, relating to admissions and  
5 confessions received with care and no conviction on uncorroborated confession, so as to  
6 exclude the payment of fines for certain traffic offenses as evidence or admissions of guilt;  
7 to amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers'  
8 licenses, so as to clarify provisions relating to driving without a license; to modify provisions  
9 relating to passenger occupancy in vehicles driven by a driver with a Class D driver's license;  
10 to provide an ignition interlock device limited driving permit as an option for first offense  
11 DUI offenders; to modify provisions relating to ignition interlock device limited driving  
12 permits; to modify provisions relating to driver improvement clinics; to amend Code Section  
13 40-6-391 of the Official Code of Georgia Annotated, relating to driving under the influence  
14 of alcohol, drugs, or other intoxicating substances, penalties, publication of notice of  
15 conviction for persons convicted for a second time, and endangering a child while under the  
16 influence, so as to modify provisions relating to the attendance of certain risk reduction  
17 programs; to amend Code Section 48-2-35 of the Official Code of Georgia Annotated,  
18 relating to taxpayer refunds, so as to provide for the automatic deduction from refunds  
19 certain amounts owed by offenders pursuant to a court order entered in a criminal action; to  
20 provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
21 other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Article 1 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to  
25 general provisions for pretrial proceedings, is amended by adding a new Code section to read  
26 as follows:

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27 "17-7-4.  
 28 The provisions of Code Section 15-18-80, 34-2-14, and Article 5 of Chapter 8 of Title 42  
 29 notwithstanding, no judge, district attorney, solicitor, or municipal prosecutor shall be  
 30 authorized to dismiss any traffic offense or Title 40 criminal offense where such dismissal  
 31 is based, in whole or in part, on the accused's participation in or completion of a driver  
 32 improvement clinic, drug or alcohol awareness clinic, DUI Alcohol or Drug Use Risk  
 33 Reduction Program, or similar driver clinic, driver class, or driving program unless such  
 34 clinic, class, or program is certified or licensed by the Department of Driver Services."

### 35 SECTION 2.

36 Code Section 24-8-823 of the Official Code of Georgia Annotated, relating to admissions and  
 37 confessions received with care and no conviction on uncorroborated confession, is amended  
 38 as follows:

39 "24-8-823.

40 (a) All admissions shall be scanned with care, and confessions of guilt shall be received  
 41 with great caution. A confession alone, uncorroborated by any other evidence, shall not  
 42 justify a conviction.

43 (b) Any conviction for a traffic related offense in Title 40 based on the payment of a fine,  
 44 a plea, or a finding or other adjudication shall neither be admissible as evidence in a civil  
 45 action nor be used as an admission or confession of guilt in a civil action; provided,  
 46 however, that this subsection shall not apply to convictions for offenses in Article 15 of  
 47 Chapter 6 of Title 40, relating to serious traffic offenses."

### 48 SECTION 3.

49 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
 50 is amended by revising subsection (a) of Code Section 40-5-20, relating to requiring a  
 51 driver's license, surrender of prior licenses, and prohibiting local licenses, as follows:

52 "40-5-20.

53 (a) No person, except those expressly exempted in this chapter, shall drive any motor  
 54 vehicle upon a highway in this state unless such person has a valid driver's license under  
 55 this chapter for the type or class of vehicle being driven. Any person who is a resident of  
 56 this state for 30 days shall obtain a Georgia driver's license before operating a motor  
 57 vehicle in this state. ~~Any violation of this subsection shall be punished as provided in Code~~  
 58 ~~Section 40-5-121, except the violation of driving with an expired license, or a violation of~~  
 59 ~~Code Section 40-5-29 or if such person produces in court a valid driver's license issued by~~  
 60 ~~this state to such person, he or she shall not be guilty of such offenses. Any person~~

61 violating this subsection shall be guilty of the offense of driving without a license and shall  
 62 be punished as provided in Code Section 40-5-121, provided, however, that:

63 (1) A person driving with an expired license issued by this state to such person shall be  
 64 guilty of a misdemeanor unless he or she produces in court a valid driver's license issued  
 65 by this state to such person, then he or she shall not be guilty of any offense;

66 (2) A person driving without proof of a valid license in violation of Code Section  
 67 40-5-29, who shall otherwise have a valid license issued by this state, shall not be guilty  
 68 of driving without a license under this Code section but shall be guilty of driving without  
 69 proof of a valid license pursuant to Code Section 40-5-29 and punished in accordance  
 70 with the provisions of that Code section; and

71 (3) A person driving without a license who has never obtained a license as required by  
 72 this Code section but who shall produce in court a valid driver's license issued by this  
 73 state to such person shall be guilty of a misdemeanor offense.

74 Any court having jurisdiction over traffic offenses in this state shall report to the  
 75 department the name and other identifying information of any individual convicted of  
 76 driving without a license. This Code section shall have no application to any person  
 77 driving with a suspended or revoked driver's license which is a separate punishable  
 78 offense."

79 **SECTION 4.**

80 Said chapter is further amended by revising paragraph (2) of subsection (b) of Code Section  
 81 40-5-24, relating to instruction permits, graduated licensing, and temporary licenses, as  
 82 follows:

83 "40-5-24.

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

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

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

95 (ii) During the six-month period immediately following issuance of such license, any  
 96 Class D license holder shall not drive a Class C motor vehicle upon the public roads,

97 streets, or highways of this state when any other passenger in the vehicle is not a  
 98 member of the driver's immediate family:

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

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

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

#### 110 SECTION 5.

111 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section  
 112 40-5-63, relating to periods of suspension and conditions to return a driver's license, as  
 113 follows:

114 "(a) The driver's license of any person convicted of an offense listed in Code Section  
 115 40-5-54 or of violating Code Section 40-6-391, unless the driver's license has been  
 116 previously suspended pursuant to Code Sections 40-5-67.1 and 40-5-67.2, shall by  
 117 operation of law be suspended and such suspension shall be subject to the following terms  
 118 and conditions; provided, however, that any person convicted of a drug related offense  
 119 pursuant to Code Section 40-6-391 shall be governed by the suspension requirements of  
 120 Code Section 40-5-75; and further provided that each charge for which a conviction was  
 121 obtained shall be treated as a separate transaction for the purpose of imposing a license  
 122 suspension hereunder, even if said convictions arise from a single incident; and further  
 123 provided that the department shall treat each conviction received in the order in which said  
 124 convictions are processed even if it is not the order in which said offenses occurred:

125 (1)(A) Upon the first conviction of any such offense, with no arrest and conviction of  
 126 and no plea of nolo contendere accepted to such offense within the previous five years,  
 127 as measured from the dates of previous arrests for which convictions were obtained to  
 128 the date of the current arrest for which a conviction is obtained, the period of  
 129 suspension shall be for 12 months.

130 (B) At the end of 120 days, the person may apply to the department for reinstatement  
 131 of said driver's license. Such license shall be reinstated if such person submits proof  
 132 of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a

133 restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail  
134 unless such conviction was a recidivist conviction in which case the restoration fee shall  
135 be \$510.00 or \$500.00 when such reinstatement is processed by mail, provided that, if  
136 such license was suspended as a result of a conviction of an offense listed in Code  
137 Section 40-5-54, such license shall be reinstated if such person submits proof of  
138 completion of either a defensive driving program approved by the department or a DUI  
139 Alcohol or Drug Use Risk Reduction Program, and pays the prescribed restoration fee:  
140 ~~A driver's license suspended as a result of a conviction of a violation of Code Section~~  
141 ~~40-6-391 shall not become valid and shall remain suspended until such person submits~~  
142 ~~proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays~~  
143 ~~the prescribed restoration fee; provided, however, that no person whose blood alcohol~~  
144 ~~concentration at the time of the offense was .15 or more shall be eligible for a license~~  
145 ~~reinstatement unless he or she has submitted proof of the installation of an ignition~~  
146 ~~interlock device as provided in subparagraph (C) of this paragraph.~~

147 (C) The provisions of subparagraphs (A) and (B) of this paragraph notwithstanding,  
148 a person convicted of a first offense violation of Code Section 40-6-391 shall be  
149 eligible for an ignition interlock device limited driving permit during the period of  
150 suspension upon submitting proof of the installation of an ignition interlock device on  
151 one or more vehicles to be operated by the person and the maintenance of such device  
152 on any vehicle operated by such person. The ignition interlock device limited driving  
153 permit shall be valid for a period of up to 12 months during the period of suspension.  
154 Following the successful completion of the 12 month ignition interlock limited driving  
155 permit period, the license shall not become valid or reinstated unless such person  
156 submits proof of the completion of a DUI Alcohol or Drug Use Risk Reduction  
157 Program and the payment of the restoration fee as required in subparagraph (B) of this  
158 paragraph. The driving permit provided for by this subparagraph shall be limited and  
159 subject to the requirements and revocation procedures for ignition interlock limited  
160 driving permits set forth in Code Section 40-5-64. It shall be the duty of the department  
161 to monitor compliance with the requirements of the issuance of the ignition interlock  
162 device limited driving permit. The ignition interlock device limited driving permit  
163 authorized by this subparagraph shall be in lieu of the option of license reinstatement  
164 provided for in subparagraph (B) of this paragraph. A person whose blood alcohol  
165 concentration at the time of the offense was .15 or more shall not be eligible for an  
166 ignition interlock limited driving permit under this subparagraph until the completion  
167 of the 120 day minimum driver's license suspension required in subparagraph (B) of  
168 this paragraph.

169 (D) For purposes of this paragraph, an accepted plea of nolo contendere to an offense  
 170 listed in Code Section 40-5-54 by a person who is under 18 years of age at the time of  
 171 arrest shall constitute a conviction. For the purposes of this paragraph only, an  
 172 accepted plea of nolo contendere by a person 21 years of age or older, with no  
 173 conviction of and no plea of nolo contendere accepted to a charge of violating Code  
 174 Section 40-6-391 within the previous five years, as measured from the dates of previous  
 175 arrests for which convictions were obtained or pleas of nolo contendere accepted to the  
 176 date of the current arrest for which a plea of nolo contendere is accepted, shall be  
 177 considered a conviction, and the court having jurisdiction shall forward, as provided in  
 178 Code Section 40-6-391.1, the record of such disposition of the case to the department  
 179 and the record of such disposition shall be kept on file for the purpose of considering  
 180 and counting such accepted plea of nolo contendere as a conviction under  
 181 paragraphs (2) and (3) of this subsection;"

182 **SECTION 6.**

183 Said chapter is further amended by revising Code Section 40-5-64, relating to limited driving  
 184 permits for certain offenders, as follows:

185 "40-5-64.

186 (a) **To whom issued.**

187 (1) Notwithstanding any contrary provision of Code Section 40-5-57 or 40-5-63 or any  
 188 other Code section of this chapter, any person who has not been previously convicted or  
 189 adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as  
 190 measured from the dates of previous arrests for which convictions were obtained or pleas  
 191 of nolo contendere were accepted to the date of the current arrest for which a conviction  
 192 is obtained or a plea of nolo contendere is accepted, may apply for a limited driving  
 193 permit when and only when:

194 (A) That ~~that~~ person's driver's license has been suspended in accordance with:

195 (i) Paragraph ~~paragraph~~ (2) of subsection (a.1) of Code Section 40-5-22;<sub>1</sub>

196 (ii) Subsection ~~subsection~~ (d) of Code Section 40-5-57;<sub>1</sub>

197 (iii) Paragraph ~~paragraph~~ (1) of subsection (a) of Code Section 40-5-63;<sub>1</sub>

198 (iv) Paragraph ~~paragraph~~ (1) of subsection (a) of Code Section 40-5-67.2;<sub>1</sub> or

199 (v) Subsection ~~subsection~~ (a) of Code Section 40-5-57.1, when the person is 18 years  
 200 of age or older and his or her license was suspended for exceeding the speed limit by  
 201 24 miles per hour or more but less than 34 miles per hour;<sub>1</sub> and

202 (B) The ~~the~~ sentencing judge, in his or her discretion, decides it is reasonable to issue  
 203 a limited driving permit.

204 (2) Any person whose driver's license has been suspended as a result of a second  
 205 conviction for violating Code Section 40-6-391 within five years, as measured from the  
 206 dates of previous arrests for which convictions were obtained to the date of the current  
 207 arrest for which a conviction is obtained, may apply for a limited driving permit after  
 208 serving at least 120 days of the suspension required for such conviction and providing a  
 209 certificate of eligibility from a drug court program in the court in which he or she was  
 210 convicted of the offense for which such suspension was imposed or proof of enrollment  
 211 in clinical treatment as provided in Code Section 40-5-63.1.

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

217 (b) **Application form.** Applications for limited driving permits shall be made upon such  
 218 forms as the commissioner may prescribe. Such forms shall require such information as  
 219 is necessary for the department to determine the need for such permit. All applications  
 220 shall be signed by the applicant before a person authorized to administer oaths.

221 (c) **Standards for approval.** The department shall issue a limited driving permit if the  
 222 application indicates that refusal to issue such permit would cause extreme hardship to the  
 223 applicant. Except as otherwise provided by subsection (c.1) of this Code section, for the  
 224 purposes of this Code section, 'extreme hardship' means that the applicant cannot  
 225 reasonably obtain other transportation, and therefore the applicant would be prohibited  
 226 from:

- 227 (1) Going to his or her place of employment;
- 228 (2) Receiving scheduled or emergency medical care or obtaining prescription drugs;
- 229 (3) Attending a college or school at which he or she is regularly enrolled as a student;
- 230 (4) Attending regularly scheduled sessions or meetings of support organizations for  
 231 persons who have addiction or abuse problems related to alcohol or other drugs, which  
 232 organizations are recognized by the commissioner;
- 233 (5) Attending under court order any driver education or improvement school or alcohol  
 234 or drug program or course approved by the court which entered the judgment of  
 235 conviction resulting in suspension of his or her driver's license or by the commissioner;
- 236 (6) Attending court, reporting to a probation office or officer, or performing community  
 237 service; or
- 238 (7) Transporting an immediate family member who does not hold a valid driver's license  
 239 for work, medical care, or prescriptions or to school.

240 (c.1)(1) **Exception to standards for approval.** The provisions of paragraphs (2), (3),  
 241 (4), and (5) of subsection (c) of this Code section shall not apply and shall not be  
 242 considered for purposes of granting a limited driving permit or imposing conditions  
 243 thereon under this Code section in the case of a driver's license suspension under  
 244 paragraph (2) of subsection (a.1) of Code Section 40-5-22.

245 (2) An ignition interlock device limited driving permit shall be ~~restricted to~~ unrestricted  
 246 and allow the holder thereof to drive solely for the following for all lawful purposes:

- 247 ~~(A) Going to his or her place of employment;~~
- 248 ~~(B) Attending a college or school at which he or she is regularly enrolled as a student;~~
- 249 ~~(C) Attending regularly scheduled sessions or meetings of treatment support~~  
 250 ~~organizations for persons who have addiction or abuse problems related to alcohol or~~  
 251 ~~other drugs, which organizations are recognized by the commissioner; and~~
- 252 ~~(D) Going for monthly monitoring visits with the permit holder's ignition interlock~~  
 253 ~~device service provider.~~

254 (d) **Conditions attached.** A limited driving permit shall be endorsed with such conditions  
 255 as the commissioner deems necessary to ensure that such permit will be used by the  
 256 permittee only to avoid the conditions of extreme hardship. Such conditions ~~may~~ shall  
 257 include the following restrictions:

- 258 (1) Specific places between which the permittee may be allowed to operate a motor  
 259 vehicle;
- 260 (2) Routes to be followed by the permittee;
- 261 (3) Times of travel;
- 262 (4) The specific vehicle or vehicles which the permittee may operate;
- 263 (4.1) The installation and use of an ignition interlock device in accordance with Article  
 264 7 of Chapter 8 of Title 42, which shall be required for any permittee who is applying for  
 265 an ignition interlock limited driving permit; and
- 266 (5) Such other restrictions as the department may require.

267 (e) **Fees, duration, renewal, and replacement of permit.**

- 268 (1) A permit issued pursuant to this Code section shall be \$25.00 and shall become  
 269 invalid upon the driver's eighteenth birthday in the case of a suspension under paragraph  
 270 (2) of subsection (a.1) of Code Section 40-5-22, upon the expiration of one year  
 271 following issuance thereof in the case of a suspension for an offense listed in Code  
 272 Section 40-5-54 or a suspension under Code Section 40-5-57 or a suspension in  
 273 accordance with paragraph (1) of subsection (a) of Code Section 40-5-63 for a violation  
 274 of Code Section 40-6-391, or upon the expiration of 30 days in the case of an  
 275 administrative license suspension in accordance with paragraph (1) of subsection (a) of  
 276 Code Section 40-5-67.2; except that such limited driving permit shall expire upon any

277 earlier reinstatement of the driver's license. A person may apply to the department for  
 278 a limited driving permit immediately following such conviction if he or she has  
 279 surrendered his or her driver's license to the court in which the conviction was adjudged  
 280 or to the department if the department has processed the citation or conviction. Upon the  
 281 applicant's execution of an affidavit attesting to such facts and to the fact that the court  
 282 had not imposed a suspension or revocation of his or her driver's license or driving  
 283 privileges inconsistent with the driving privileges to be conferred by the limited driving  
 284 permit applied for, the department may issue such person a limited driving permit.  
 285 Permits issued pursuant to this Code section are renewable upon payment of a renewal  
 286 fee of \$5.00. Permits may be renewed until the person has his or her license reinstated  
 287 for the violation that was the basis of the issuance of the permit. Upon payment of a fee  
 288 in an amount the same as that provided by Code Section 40-5-25 for issuance of a Class  
 289 C driver's license, a person may be issued a replacement for a lost or destroyed limited  
 290 driving permit issued to him or her.

291 (2) An ignition interlock device limited driving permit shall be valid for a period of ~~eight~~  
 292 12 months. Upon successful completion of ~~eight~~ 12 months of monitoring of such  
 293 ignition interlock device, the restriction for maintaining and using such ignition interlock  
 294 device shall be removed, and the permit may be renewed for additional periods of six  
 295 months as provided in paragraph (1) of this subsection. An ignition interlock device  
 296 limited driving permit shall only be valid for the vehicle or vehicles designated by the  
 297 permit driver and the device shall be required to be installed on such designated vehicle  
 298 or vehicles.

299 (f) **Liability of issuing officer.** No official or employee of the department shall be  
 300 criminally or civilly liable or subject to being held in contempt of court for issuing a  
 301 limited driving permit in reliance on the truth of the affidavits required by this Code  
 302 section.

303 (g) **Revocation of permit.**

304 (1)(A) Any permittee who is convicted of violating any state law or local ordinance  
 305 relating to the movement of vehicles or any permittee who ~~is convicted of violating~~  
 306 violates the conditions endorsed on his or her permit shall have his or her permit  
 307 revoked by the department. Any court in which such conviction is had shall require the  
 308 permittee to surrender the permit to the court, and the court shall forward it to the  
 309 department within ten days after the conviction, with a copy of the conviction.

310 (B) Upon receipt of notice from the Department of Behavioral Health and  
 311 Developmental Disabilities that a permittee who is required to complete a substance  
 312 abuse treatment program pursuant to Code Section 40-5-63.1 enrolled in but failed to  
 313 attend or complete such program as scheduled, the department shall revoke such

314 person's limited driving permit and, by regular mail to his or her last known address,  
 315 notify such person of such revocation. Such notice of revocation shall inform the  
 316 person of the grounds for and effective date of the revocation and of the right to review.  
 317 The notice of revocation shall be deemed received three days after mailing.

318 (C) Upon receipt of notice from a provider center for ignition interlock devices that:

319 (i) An an ignition interlock device which a permittee is required to use has been  
 320 tampered with ~~or~~;

321 (ii) The the permittee has failed to report for monitoring of such device ~~as required~~  
 322 ~~by law~~;

323 (iii) The permittee has operated a vehicle without an ignition interlock device or  
 324 operated any vehicle which has not been designated as required by this Code section;  
 325 or

326 (iv) The permittee attempted to use such device following the consumption of alcohol

327 the department shall revoke such permittee's limited driving permit and, by regular mail  
 328 to his or her last known address, notify such person of such revocation. Such notice of  
 329 revocation shall inform the person of the grounds for and effective date of the  
 330 revocation and of the right to review. The notice of revocation shall be deemed  
 331 received three days after mailing.

332 (2) Any person whose limited driving permit has been revoked shall not be eligible to  
 333 apply for a driver's license until six months from the date such permit was surrendered  
 334 to the department. In any case of revocation of a limited driving permit pursuant to  
 335 subparagraph (A) of paragraph (1) of this subsection, the department may impose an  
 336 additional period of suspension for the conviction upon which revocation of the permit  
 337 was based.

338 (h) **Hearings.** Any person whose permit has been revoked or who has been refused a  
 339 permit by the department may make a request in writing for a hearing to be provided by the  
 340 department. Such hearing shall be provided by the department within 30 days after the  
 341 receipt of such request and shall follow the procedures required by Chapter 13 of Title 50,  
 342 the 'Georgia Administrative Procedure Act.' Appeal from such hearing shall be in  
 343 accordance with said chapter.

344 (i) **Rules and regulations.** The commissioner may promulgate such rules and regulations  
 345 as are necessary to implement this Code section.

346 (j) **Penalty.** Any permittee who operates a motor vehicle in violation of any condition  
 347 specified on the permit shall be guilty of a misdemeanor."

348

**SECTION 7.**

349 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section  
 350 40-5-67.2, relating to terms and conditions for suspension of license under subsection (c) of  
 351 Code Section 40-5-67.1, as follows:

352 "(1) Upon the first suspension pursuant to subsection (c) of Code Section 40-5-67.1  
 353 within the previous five years, as measured from the dates of previous arrests for which  
 354 a suspension was obtained to the date of the current arrest for which a suspension is  
 355 obtained, the period of suspension shall be for one year. At any time prior to, on, or after  
 356 Not sooner than 30 days following the effective date of suspension, the person may apply  
 357 to the department for an ignition interlock device limited driving permit. The ignition  
 358 interlock device limited driving permit shall be valid for 12 months. After successfully  
 359 completing the 12 month ignition interlock device limited driving permit period, the  
 360 person may apply to the department for reinstatement of his or her driver's license. Such  
 361 license shall be reinstated if such person submits proof of completion of a DUI Alcohol  
 362 or Drug Use Risk Reduction Program and pays a restoration fee of \$210.00 or \$200.00  
 363 when such reinstatement is processed by mail unless such conviction was a recidivist  
 364 conviction in which case the restoration fee shall be \$510.00 or \$500.00 when processed  
 365 by mail. A driver's license suspended pursuant to Code Section 40-5-67.1 shall not  
 366 become valid and shall remain suspended until such person submits proof of completion  
 367 of a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed  
 368 restoration fee."

369

**SECTION 8.**

370 Said chapter is further amended by revising subsections (a), (e), and (f) of Code Section  
 371 40-5-83, relating to establishment and approval of driver improvement clinics and programs  
 372 related to defensive driving courses or alcohol or drug programs, out-of-state certificates of  
 373 completion, instructor licenses, fees, operation of clinics by employees of probation division,  
 374 and submission of fingerprints by applicants, as follows:

375 "(a)(1) The commissioner shall establish criteria for the approval of driver improvement  
 376 clinics. To be approved, a clinic shall provide and operate a defensive driving course.  
 377 Clinics shall be composed of uniform education and training programs consisting of six  
 378 hours of instruction designed for the rehabilitation of problem drivers. The commissioner  
 379 shall establish standards and requirements concerning the contents of courses,  
 380 qualifications of instructors, attendance requirements for students, and examinations.  
 381 Approved clinics shall charge a fee of ~~\$75.00~~ \$95.00 for a defensive driving course,  
 382 except that such clinics may charge different fees of their own choosing if the person is  
 383 not enrolling in such course pursuant to court order or department requirement. Clinics

384 offered for the purpose of lowering insurance premiums shall be authorized to provide  
 385 such course online. No clinic shall be approved unless such clinic agrees in writing to  
 386 allow the examination and audit of the books, records, and financial statements of such  
 387 clinic. Clinics may be operated by any individual, partnership, or corporation. Nothing  
 388 in this paragraph shall be construed to affect in any way driving programs established for  
 389 purposes of insurance premium reductions under the provisions of Code Section 33-9-42.

390 (1.1)(A) No driver improvement clinic shall be permitted to use, adopt, or conduct any  
 391 business under any name that is like or deceptively similar to any name used by any  
 392 other driver improvement clinic, Georgia company, or Georgia corporation registered  
 393 with the Secretary of State. This subparagraph shall not prohibit the franchising or  
 394 licensing of any part or all of the name of a driver improvement clinic by the owner or  
 395 the rights thereof to another licensed driver improvement clinic.

396 (B) This paragraph shall not prohibit the franchising or licensing of any part or all of  
 397 the name of a clinic by the owner of the rights therein to another licensed driver  
 398 improvement clinic.

399 (2) The commissioner may issue a special license to the instructor of any ~~commercial~~  
 400 licensed driver training school authorizing such instructor to teach a defensive driving  
 401 ~~course, advanced defensive driving course, or professional defensive driving course~~ of  
 402 a driver improvement clinic provided pursuant to this Code section if such instructor is  
 403 qualified to teach a teen-age driver education course which consists of a minimum of 30  
 404 hours of classroom and six hours of behind-the-wheel training and such instructor  
 405 certifies to the commissioner that he or she has provided at least ~~250~~ 300 hours of  
 406 behind-the-wheel training in a teen-age driver education course."

407 "(e)(1) The department is designated as the agency responsible for establishing criteria  
 408 for the approval of DUI Alcohol or Drug Use Risk Reduction Programs. An applicant  
 409 shall meet the certification criteria promulgated by the department through its standards  
 410 and shall provide the following services: ~~(1)~~ (A) the assessment component and ~~(2)~~ (B)  
 411 the intervention component. A licensed DUI Alcohol or Drug Use Risk Reduction  
 412 Program shall require that the risk assessment component be conducted prior to the  
 413 intervention component of the program. A clinical evaluation component, if any, shall  
 414 be conducted only following the completion of the risk assessment and intervention  
 415 components of such program. The department is designated as the agency responsible  
 416 for establishing rules and regulations concerning the contents and duration of the  
 417 components of DUI Alcohol or Drug Use Risk Reduction Programs, qualifications of  
 418 instructors, attendance requirements for students, examinations, and program evaluations.  
 419 Qualified instructors shall be certified for periods of four years each, which may be

420 renewed. Only clinical evaluators licensed by the Department of Behavioral Health and  
 421 Developmental Disabilities shall be qualified to conduct clinical evaluations.

422 (2) Approved DUI Alcohol or Drug Use Risk Reduction Programs shall charge a fee of  
 423 ~~\$82.00~~ \$85.00 for the assessment component and ~~\$190.00~~ \$225.00 for the intervention  
 424 component. An additional fee for required student program materials shall be established  
 425 by the department in such an amount as is reasonable and necessary to cover the cost of  
 426 such materials.

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

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

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

447 (6) No DUI Alcohol or Drug Use Risk Reduction Program shall be approved unless such  
 448 clinic agrees in writing to pay to the state, for the costs of administration, a fee of \$22.00  
 449 for each offender assessed ~~or each offender attending for points reduction~~, provided that  
 450 nothing in this Code section shall be construed so as to allow the department to retain any  
 451 funds required by the Constitution to be paid into the state treasury; and provided, further,  
 452 that the department shall comply with all provisions of Part 1 of Article 4 of Chapter 12  
 453 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such  
 454 miscellaneous funds.

455 (f)(1) Each applicant for certification to own or operate a driver improvement clinic shall  
 456 submit at least one set of classifiable electronically recorded fingerprints to the

457 department in accordance with the fingerprint system of identification established by the  
 458 director of the Federal Bureau of Investigation; provided, however, that where an  
 459 applicant has previously submitted an acceptable set of classifiable, electronically  
 460 recorded fingerprints to the department, he or she shall not be required to resubmit such  
 461 fingerprints for an additional application for certification. The department shall transmit  
 462 the fingerprints to the Georgia Crime Information Center, which shall submit the  
 463 fingerprints to the Federal Bureau of Investigation for a search of bureau records and an  
 464 appropriate report and promptly conduct a search of state records based upon the  
 465 fingerprints. After receiving the report from the Georgia Crime Information Center and  
 466 the Federal Bureau of Investigation, the department shall determine whether the applicant  
 467 may be certified.

468 (2) No applicant shall be certified unless he or she is a United States citizen, or if not a  
 469 citizen, he or she presents federal documentation verified by the United States  
 470 Department of Homeland Security to be valid documentary evidence of lawful presence  
 471 in the United States under federal immigration law."

472 **SECTION 9.**

473 Code Section 40-6-391 of the Official Code of Georgia Annotated, relating to driving under  
 474 the influence of alcohol, drugs, or other intoxicating substances, penalties, publication of  
 475 notice of conviction for persons convicted for a second time, and endangering a child while  
 476 under the influence, is amended by revising subsection (c) as follows:

477 "(c) Every person convicted of violating this Code section shall, upon a first or second  
 478 conviction thereof, be guilty of a misdemeanor, upon a third conviction thereof, be guilty  
 479 of a high and aggravated misdemeanor, and upon a fourth or subsequent conviction thereof,  
 480 be guilty of a felony except as otherwise provided in paragraph (4) of this subsection and  
 481 shall be punished as follows:

482 (1) For the first ~~First~~ conviction with no conviction of and no plea of nolo contendere  
 483 accepted to a charge of violating this Code section within the previous ten years, as  
 484 measured from the dates of previous arrests for which convictions were obtained or pleas  
 485 of nolo contendere were accepted to the date of the current arrest for which a conviction  
 486 is obtained or a plea of nolo contendere is accepted:

487 (A) A fine of not less than \$300.00 and not more than \$1,000.00, which fine shall not,  
 488 except as provided in subsection (g) of this Code section, be subject to suspension, stay,  
 489 or probation;

490 (B) A period of imprisonment of not fewer than ten days nor more than 12 months,  
 491 which period of imprisonment may, at the sole discretion of the judge, be suspended,  
 492 stayed, or probated, except that if the offender's alcohol concentration at the time of the

493 offense was 0.08 grams or more, the judge may suspend, stay, or probate all but 24  
494 hours of any term of imprisonment imposed under this subparagraph;

495 (C) Not fewer than 40 hours of community service, except that for a conviction for  
496 violation of subsection (k) of this Code section where the person's alcohol concentration  
497 at the time of the offense was less than 0.08 grams, the period of community service  
498 shall be not fewer than 20 hours;

499 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program within 120  
500 days following his or her conviction. The sponsor of any such program shall provide  
501 written notice of the department's approval of the program to the person upon  
502 enrollment in the program;

503 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as  
504 a part of such evaluation, completion of a substance abuse treatment program as defined  
505 in Code Section 40-5-1; provided, however, that in the court's discretion such  
506 evaluation may be waived; and

507 (F) If the person is sentenced to a period of imprisonment for fewer than 12 months,  
508 a period of probation of 12 months less any days during which the person is actually  
509 incarcerated;

510 (2) For the second conviction within a ten-year period of time, as measured from the  
511 dates of previous arrests for which convictions were obtained or pleas of nolo contendere  
512 were accepted to the date of the current arrest for which a conviction is obtained or a plea  
513 of nolo contendere is accepted:

514 (A) A fine of not less than \$600.00 and not more than \$1,000.00, which fine shall not,  
515 except as provided in subsection (g) of this Code section, be subject to suspension, stay,  
516 or probation;

517 (B) A period of imprisonment of not fewer than 90 days and not more than 12 months.  
518 The judge shall probate at least a portion of such term of imprisonment, in accordance  
519 with subparagraph (F) of this paragraph, thereby subjecting the offender to the  
520 provisions of Article 7 of Chapter 8 of Title 42 and to such other terms and conditions  
521 as the judge may impose; provided, however, that the offender shall be required to  
522 serve not fewer than 72 hours of actual incarceration;

523 (C) Not fewer than 30 days of community service;

524 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program within 120  
525 days following his or her conviction. The sponsor of any such program shall provide  
526 written notice of the department's approval of the program to the person upon  
527 enrollment in the program;

528 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as  
529 a part of such evaluation, completion of a substance abuse treatment program as defined  
530 in Code Section 40-5-1; and

531 (F) A period of probation of 12 months less any days during which the person is  
532 actually incarcerated;

533 (3) For the third conviction within a ten-year period of time, as measured from the dates  
534 of previous arrests for which convictions were obtained or pleas of nolo contendere were  
535 accepted to the date of the current arrest for which a conviction is obtained or a plea of  
536 nolo contendere is accepted:

537 (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall  
538 not, except as provided in subsection (g) of this Code section, be subject to suspension,  
539 stay, or probation;

540 (B) A mandatory period of imprisonment of not fewer than 120 days and not more than  
541 12 months. The judge shall probate at least a portion of such term of imprisonment, in  
542 accordance with subparagraph (F) of this paragraph, thereby subjecting the offender to  
543 the provisions of Article 7 of Chapter 8 of Title 42 and to such other terms and  
544 conditions as the judge may impose; provided, however, that the offender shall be  
545 required to serve not fewer than 15 days of actual incarceration;

546 (C) Not fewer than 30 days of community service;

547 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program within 120  
548 days following his or her conviction. The sponsor of any such program shall provide  
549 written notice of the department's approval of the program to the person upon  
550 enrollment in the program;

551 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as  
552 a part of such evaluation, completion of a substance abuse treatment program as defined  
553 in Code Section 40-5-1; and

554 (F) A period of probation of 12 months less any days during which the person is  
555 actually incarcerated;

556 (4) For the fourth or subsequent conviction within a ten-year period of time, as measured  
557 from the dates of previous arrests for which convictions were obtained or pleas of nolo  
558 contendere were accepted to the date of the current arrest for which a conviction is  
559 obtained or a plea of nolo contendere is accepted:

560 (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall  
561 not, except as provided in subsection (g) of this Code section, be subject to suspension,  
562 stay, or probation;

563 (B) A period of imprisonment of not less than one year and not more than five years;  
564 provided, however, that the judge may suspend, stay, or probate all but 90 days of any

565 term of imprisonment imposed under this paragraph. The judge shall probate at least  
566 a portion of such term of imprisonment, in accordance with subparagraph (F) of this  
567 paragraph, thereby subjecting the offender to the provisions of Article 7 of Chapter 8  
568 of Title 42 and to such other terms and conditions as the judge may impose;

569 (C) Not fewer than 60 days of community service; provided, however, that if a  
570 defendant is sentenced to serve three years of actual imprisonment, the judge may  
571 suspend the community service;

572 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program within 120  
573 days following his or her conviction. The sponsor of any such program shall provide  
574 written notice of the department's approval of the program to the person upon  
575 enrollment in the program;

576 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as  
577 a part of such evaluation, completion of a substance abuse treatment program as defined  
578 in Code Section 40-5-1; and

579 (F) A period of probation of five years less any days during which the person is  
580 actually imprisoned;

581 provided, however, that if the ten-year period of time as measured in this paragraph  
582 commenced prior to July 1, 2008, then such fourth or subsequent conviction shall be a  
583 misdemeanor of a high and aggravated nature and punished as provided in paragraph (3)  
584 of this subsection;

585 (5) If a person has been convicted of violating subsection (k) of this Code section  
586 premised on a refusal to submit to required testing or where such person's alcohol  
587 concentration at the time of the offense was 0.08 grams or more, and such person is  
588 subsequently convicted of violating subsection (a) of this Code section, such person shall  
589 be punished by applying the applicable level or grade of conviction specified in this  
590 subsection such that the previous conviction of violating subsection (k) of this Code  
591 section shall be considered a previous conviction of violating subsection (a) of this Code  
592 section;

593 (6) For the purpose of imposing a sentence under this subsection, a plea of nolo  
594 contendere based on a violation of this Code section shall constitute a conviction; and

595 (7) For purposes of determining the number of prior convictions or pleas of nolo  
596 contendere pursuant to the felony provisions of paragraph (4) of this subsection, only  
597 those offenses for which a conviction is obtained or a plea of nolo contendere is accepted  
598 on or after July 1, 2008, shall be considered; provided, however, that nothing in this  
599 subsection shall be construed as limiting or modifying in any way administrative  
600 proceedings or sentence enhancement provisions under Georgia law, including, but not  
601 limited to, provisions relating to punishment of recidivist offenders pursuant to Title 17."

602

**SECTION 10.**

603 Code Section 48-2-35 of the Official Code of Georgia Annotated, relating to taxpayer  
604 refunds, is amended by adding a new subsection to read as follows:

605 "(g) An amount owing to a court within this state by a taxpayer pursuant to a court ordered  
606 fee, fine, or cost entered in a criminal case, including traffic offenses, shall be  
607 automatically deducted by the department from any approved tax refund. The clerk of a  
608 superior, state, or municipal court shall provide a statement of criminal fines, fees, and  
609 costs owed to the court which he or she represents. The amounts requested shall not  
610 include court ordered restitution. Such statements shall be submitted not more than  
611 quarterly to the department and the statement shall only include amounts owed by  
612 offenders who completed the sentence from which the fines, fees, or costs arose and more  
613 than six months has elapsed since the completion of the sentence. The statement for  
614 reimbursement shall include the style of the case, case number, and date the order was  
615 entered for each offender. In addition, the statement shall include available offender  
616 identification information, including driver's license number, social security number, name,  
617 aliases, and last known address. Of the amounts deducted from the tax refund check, the  
618 department shall retain 30 percent to cover its administrative costs and return the remaining  
619 amount to the requesting court."

620

**SECTION 11.**

621 This Act shall become effective on January 1, 2014.

622

**SECTION 12.**

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