

House Bill 671

By: Representatives Rice of the 95th, Powell of the 32nd, Dempsey of the 13th, Randall of the 142nd, Golick of the 40th, 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;₁

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

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

198 (iv) Paragraph ~~paragraph~~ (1) of subsection (a) of Code Section 40-5-67.2;₁ 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;₁ 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.