

Senate Bill 6 - Prefile

By: Senator McKoon of the 29th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapters 5, 11, and 16 of Title 40 of the Official Code of Georgia Annotated,  
2 relating to drivers' licenses, abandoned motor vehicles, and the Department of Driver  
3 Services, respectively, so as to provide that persons who possess a lawful alien status are the  
4 only category of noncitizens who may obtain a license, permit, or card; to provide for a short  
5 title; to provide for definitions; to provide for the storing and furnishing of information on  
6 records of noncitizens by the Department of Driver Services; to require the Department of  
7 Driver Services to obtain fingerprints or another biological characteristic from noncitizen  
8 applicants prior to the issuance of a temporary license, permit, or special identification card;  
9 to provide that a temporary license, permit, or special identification card issued to a  
10 noncitizen shall bear thereon the fingerprint of the noncitizen applicant; to provide for  
11 penalties; to revise penalties for the offense of driving while license is suspended or revoked;  
12 to provide that any motor vehicle operated by a person without a license may be subject to  
13 removal at the discretion of any peace officer; to provide that such motor vehicles shall not  
14 be released for 60 days; to provide for exceptions; to provide for return of the vehicle; to  
15 require the Department of Driver Services to participate in the Records and Information from  
16 DMVs for E-Verify initiative of the United States Department of Homeland Security; to  
17 provide for related matters; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 This Act shall be known and may be cited as the "Georgia Road Safety and Driver's License  
21 Integrity Act."

22 **SECTION 2.**

23 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
24 is amended by revising paragraphs (11), (13.5), and (15) of Code Section 40-5-1, relating to  
25 definitions, as follows:

26 "(11) 'Lawful alien status' means an alien status provided for by the federal Immigration  
 27 and Nationality Act or any other provision by the United States Congress; provided,  
 28 however, that lawful alien status shall not include a grant of any deferred deportation  
 29 action from the United States Department of Homeland Security Reserved."

30 "(13.5) 'Personal information' means any information that identifies a person, including  
 31 but not limited to an individual's fingerprint or other biological characteristic which shall  
 32 include without limitation deoxyribonucleic acid (DNA) and retinal scan identification  
 33 characteristics, photograph, or computerized image, social security number, driver  
 34 identification number, name, address (other than five-digit ZIP Code), telephone number,  
 35 and medical or disability information."

36 "(15) 'Resident' means a person who has a permanent home or abode in Georgia to  
 37 which, whenever such person is absent, he or she has the intention of returning. For the  
 38 purposes of this chapter, there is a rebuttable presumption that the following person is a  
 39 resident:

40 (A) Any person who accepts employment or engages in any trade, profession, or  
 41 occupation in Georgia or enters his or her children to be educated in the private or  
 42 public schools of Georgia within ten days after the commencement of such employment  
 43 or education; or

44 (B) Any person who, except for infrequent, brief absences, has been present in the state  
 45 for 30 or more days;

46 provided, however, that no person shall be considered a resident for purposes of this  
 47 chapter unless such person is either a United States citizen or ~~an alien with legal~~  
 48 ~~authorization from the U.S. Immigration and Naturalization Service~~ present in the United  
 49 States pursuant to a lawful alien status."

### 50 **SECTION 3.**

51 Said chapter is further amended by revising subsections (e) and (k) of Code Section 40-5-2,  
 52 relating to keeping of records of applications for licenses and information on licenses and the  
 53 furnishing of information on records, as follows:

54 "(e) Upon written request or participation in verification programs of the United States  
 55 Department of Homeland Security, including without limitation the initiative provided for  
 56 under Code Section 40-16-9, the department may provide copies of any record or personal  
 57 information from any driver's record for use by any appropriate governmental official,  
 58 entity, or agency for the purposes of carrying out official governmental functions or  
 59 legitimate governmental duties; provided, however, that notwithstanding the definition of  
 60 personal information under Code Section 40-5-1, personal information furnished under this  
 61 subsection shall be limited to name, address, driver identification number, and medical or

62 disability information, except for personal information related to a temporary license,  
 63 permit, or special identification card issued to a noncitizen pursuant to Code Section  
 64 40-5-21.1 which shall not be so limited."

65 "(k)(1) The department, pursuant to rules and regulations promulgated by the  
 66 commissioner, may periodically review all records maintained pursuant to this Code  
 67 section and shall correct those records which contain known improper, false, fraudulent,  
 68 or invalid information.

69 (2) Not later than July 31, 2006, the department shall destroy all records of fingerprints  
 70 obtained on and after April 15, 1996, and prior to July 1, 2006, from applicants for  
 71 drivers' licenses, identification cards, and identification cards for persons with disabilities  
 72 issued by the department and shall compile and make available for public inspection a list  
 73 of all persons or entities to whom the department provided such fingerprint records.  
 74 Notwithstanding the provisions of this paragraph, and except as provided for under Code  
 75 Sections 40-5-21.1, fingerprint images electronically stored on existing drivers' licenses  
 76 will be destroyed upon application for a renewal of the driver's license."

#### 77 SECTION 4.

78 Said chapter is further amended by revising Code Section 40-5-21.1, relating to temporary  
 79 licenses, permits, or special identification cards, foreign licenses or identification cards as  
 80 evidence of legal presence in the United States, and extensions, as follows:

81 "40-5-21.1.

82 (a) Notwithstanding any other provision of this title and subject to subsection (d) of this  
 83 Code section, an applicant who presents in person valid documentary evidence of:

84 (1) Admission to the United States in a valid, unexpired nonimmigrant status;

85 (2) A pending or approved application for asylum in the United States;

86 (3) Admission into the United States in refugee status;

87 (4) An approved application for temporary protected status in the United States;

88 (5) ~~Approved deferred action status;~~

89 ~~(6) Other federal documentation verified by the United States Department of Homeland~~  
 90 ~~Security to be valid documentary evidence of lawful presence in the United States under~~  
 91 ~~federal immigration law~~ alien status; or

92 ~~(7)(6) Verification of lawful presence~~ alien status as provided by Code Section 40-5-21.2  
 93 may be issued a temporary license, permit, or special identification card. Such temporary  
 94 license, permit, or special identification card shall be valid only during the period of time  
 95 of the applicant's authorized stay in the United States or five years, whichever occurs first.

96 (b) A driver's license or identification card issued by any state or territory which, on or  
 97 after July 1, 2006, authorized such driver's license or identification card to be issued to

98 persons ~~not lawfully present in the United States~~ who do not have a lawful alien status may  
99 not be accepted as evidence of ~~legal presence in the United States~~ lawful alien status.

100 (c) Any noncitizen applicant who possesses a lawful alien status and whose Georgia  
101 driver's license or identification card has expired, or will expire within 30 days, and who  
102 has filed, or on whose behalf has been filed, a request for an extension with the United  
103 States Department of Homeland Security, or similar such federal issuing agency, for time  
104 to remain lawfully within the United States shall be issued a temporary driving permit or  
105 identification card valid for 120 days from the date of the expiration of his or her valid  
106 driver's license or identification card. The noncitizen applicant shall be required to present  
107 evidence of the application for extension by submitting a copy or copies of documentation  
108 designated by the department. A temporary driving permit or identification card shall be  
109 issued upon submission of the required documentation and an application fee in an amount  
110 to be determined by the department. Upon the expiration of the temporary driving permit  
111 or identification card, no further consecutive temporary permits or identification cards shall  
112 be authorized; provided, however, that application may be made following the expiration  
113 of an additional valid Georgia driver's license or identification card.

114 (d)(1) On or after July 1, 2015, prior to the issuance of a temporary license, permit, or  
115 special identification card under subsection (a) of this Code section, the department shall  
116 obtain a fingerprint or other biological characteristic of the applicant. On or after July 1,  
117 2015, prior to the issuance of a temporary driving permit or identification card under  
118 subsection (c) of this Code section, the department shall obtain a fingerprint or other  
119 biological characteristic of the applicant if such fingerprint or other biological  
120 characteristic was not obtained from such applicant upon the issuance of a temporary  
121 license, permit, or special identification card under subsection (a) of this Code section.

122 (2) The fingerprint provided for under paragraph (1) of this subsection shall be of the  
123 applicant's index finger on his or her right hand; provided, however, that if such  
124 applicant's index finger on his or her right hand is missing or not suitable for  
125 fingerprinting, then such fingerprint shall be of the applicant's index finger on his or her  
126 left hand. The commissioner shall promulgate rules and regulations for obtaining a  
127 biological characteristic, including without limitation deoxyribonucleic acid (DNA) or  
128 retinal scan identification characteristics, of such applicants who have no fingers for  
129 fingerprinting.

130 (3) In addition to the requirements provided for under Code Section 40-5-28, a  
131 temporary license, permit, or special identification card issued pursuant to this Code  
132 section on or after January 1, 2016, shall bear thereon the fingerprint as obtained from the  
133 applicant under this subsection with a notation as to which finger the fingerprint  
134 represents; provided, however, that if a biological characteristic other than a fingerprint

135 has been obtained from the applicant, then the type of biological characteristic that has  
 136 been obtained from the applicant shall be noted on such license, permit, or card."

137 **SECTION 5.**

138 Said chapter is further amended by revising subsection (b) of Code Section 40-5-21.2,  
 139 relating to compliance with the Systematic Alien Verification for Entitlements Program,  
 140 application, and implementation, as follows:

141 "(b) The department shall utilize the following procedures in this subsection before issuing  
 142 an identification card, license, permit, or other official document to an applicant who is a  
 143 noncitizen:

144 (1) The department shall attempt to confirm through the SAVE program that the  
 145 applicant is ~~lawfully present in the United States~~ possesses a lawful alien status; and

146 (2) If the SAVE program does not provide sufficient information to the department to  
 147 make a determination, the department shall be authorized to accept verbal ~~or~~, e-mail, or  
 148 other means of confirmation of the ~~legal~~ alien status of the applicant from the Department  
 149 of Homeland Security and shall require such applicant to execute a signed and sworn  
 150 affidavit verifying that he or she possesses a lawful alien status and is not a current  
 151 recipient of a grant of deferred action from the United States Department of Homeland  
 152 Security. Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
 153 statement of representation in an affidavit executed pursuant to this Code section shall  
 154 be guilty of a violation of Code Section 16-10-20."

155 **SECTION 6.**

156 Said chapter is further amended by revising subsection (a) of Code Section 40-5-28, relating  
 157 to the issuance of licenses and contents, as follows:

158 "(a) Except as provided in subsection (c) of this Code section, the department shall, upon  
 159 payment of the required fee, issue to every applicant qualifying therefor a driver's license  
 160 indicating the type or general class of vehicles the licensee may drive, which license shall  
 161 be upon a form prescribed by the department and which shall bear thereon a distinguishing  
 162 number assigned to the licensee, a color photograph of the licensee, the licensee's full legal  
 163 name, either a facsimile of the signature of the licensee or a space upon which the licensee  
 164 shall write his or her usual signature with a pen and ink immediately upon receipt of the  
 165 license, and such other information or identification as is required by the department. No  
 166 license shall be valid until it has been so signed by the licensee. Except as provided for  
 167 under Code Section 40-5-21.1, the ~~The~~ department shall not require applicants to submit  
 168 or otherwise obtain from applicants any fingerprints or any other biological characteristic  
 169 or information which uniquely identifies an individual, including without limitation

170 deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not  
171 including a photograph, by any means upon application."

172 **SECTION 7.**

173 Said chapter is further amended by revising subsection (a) of Code Section 40-5-121, relating  
174 to driving while license is suspended or revoked, as follows:

175 "(a) Except when a license has been revoked under Code Section 40-5-58 as a habitual  
176 violator, any person who drives a motor vehicle on any public highway of this state without  
177 being licensed as required by subsection (a) of Code Section 40-5-20 or at a time when his  
178 or her privilege to so drive is suspended, disqualified, or revoked shall be guilty of a  
179 misdemeanor for a first conviction thereof and, upon a first conviction thereof or plea of  
180 nolo contendere within five years, as measured from the dates of previous arrests for which  
181 convictions were obtained to the date of the current arrest for which a conviction is  
182 obtained or a plea of nolo contendere is accepted, shall be fingerprinted and shall be  
183 punished by imprisonment for not less than two days nor more than 12 months, and there  
184 may be imposed in addition thereto a fine of not less than ~~\$500.00~~ \$1,000.00 nor more than  
185 ~~\$1,000.00~~ \$2,500.00. Such fingerprints, taken upon conviction, shall be forwarded to the  
186 Georgia Crime Information Center where an identification number shall be assigned to the  
187 individual for the purpose of tracking any future violations by the same offender. For the  
188 second ~~and third~~ conviction within five years, as measured from the dates of previous  
189 arrests for which convictions were obtained or pleas of nolo contendere were accepted to  
190 the date of the current arrest for which a conviction is obtained or a plea of nolo contendere  
191 is accepted, such person shall be guilty of a high and aggravated misdemeanor and shall  
192 be punished by imprisonment for not less than ten days nor more than 12 months, and there  
193 may be imposed in addition thereto a fine of not less than ~~\$1,000.00~~ \$2,500.00 nor more  
194 than ~~\$2,500.00~~ \$5,000.00. For the third and fourth convictions or a subsequent conviction  
195 within five years, as measured from the dates of previous arrests for which convictions  
196 were obtained or pleas of nolo contendere were accepted to the date of the current arrest  
197 for which a conviction is obtained or a plea of nolo contendere is accepted, such person  
198 shall be guilty of a felony and shall be punished by imprisonment for not less than one year  
199 and one week nor more than five years, and there may be imposed in addition thereto a fine  
200 of not less than ~~\$2,500.00~~ \$5,000.00 nor more than ~~\$5,000.00~~ \$10,000.00."

201 **SECTION 8.**

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

203 "40-5-126.

204 (a) When a person is driving a motor vehicle without being licensed as required by  
 205 subsection (a) of Code Section 40-5-20, the arresting peace officer may, except in an  
 206 emergency, cause the motor vehicle being operated by such person to be removed and  
 207 impounded pursuant to subsection (b.1) of Code Section 40-11-3. All provisions of  
 208 Chapter 11 of this title which are applicable to vehicles removed by law enforcement  
 209 officers, including but not limited to lien procedures, shall apply to the release or disposal  
 210 of such impounded vehicle; provided, however, that such vehicle shall not be released until  
 211 the expiration of 60 days after such vehicle has been removed and impounded; and  
 212 provided, further, that when such vehicle is released, such vehicle shall be released to the  
 213 owner or the owner's spouse, child, or parent upon proof of relationship to the owner so  
 214 long as such person displays an unexpired driver's license and complies with the applicable  
 215 provisions of Chapter 11 of this title.

216 (b)(1) The owner of a motor vehicle which has been removed and impounded pursuant  
 217 to subsection (a) of this Code section shall have the right to request a hearing in the  
 218 superior court of the county in which such motor vehicle has been removed and  
 219 impounded within ten days of receiving notice of the removal and impoundment of such  
 220 vehicle as provided for in this subsection. Within five days of such request, the superior  
 221 court shall conduct a hearing to determine the validity of, or to consider any mitigating  
 222 circumstances attendant to, the removal and impoundment of such vehicle. The superior  
 223 court may order the release of such vehicle prior to the expiration of the time provided  
 224 for in subsection (a) of this Code section; provided, however, that such owner shall  
 225 remain liable for all storage fees associated with the removal and impoundment of such  
 226 vehicle.

227 (2)(A) When the arresting peace officer causes a motor vehicle to be removed and  
 228 impounded pursuant to subsection (a) of this Code section, the law enforcement agency  
 229 of the arresting peace officer shall, within 72 hours from the time of removal and  
 230 impoundment, provide the vehicle's owner with notice, by personal service, certified  
 231 or registered mail, or statutory overnight delivery, of such removal and impoundment.

232 (B) The notice provided for in subparagraph (A) of this paragraph shall include:

233 (i) The name, address, and telephone number of the law enforcement agency  
 234 providing the notice;

235 (ii) The name and location of the place of storage of such vehicle;

236 (iii) The description of such vehicle, which shall include, if determinative, such  
 237 vehicle's license plate number and vehicle identification number;

238 (iv) The authority and purpose for the removal and impoundment of such vehicle,  
 239 including a statement that, pursuant to this Code section, such vehicle shall not be

240 released until the expiration of 60 days after such vehicle has been removed and  
 241 impounded; and

242 (v) A statement that such owner has the right to receive a hearing in the superior  
 243 court of the county in which such motor vehicle has been removed and impounded to  
 244 contest the validity of such removal and impoundment or to offer mitigating  
 245 circumstances for the release of such motor vehicle prior to the expiration of the time  
 246 for the hold of such motor vehicle if such owner requests a hearing in such superior  
 247 court within ten days of such notice.

248 (C) The failure of such owner to request a hearing or to attend a scheduled hearing  
 249 shall satisfy the requirements of this subsection.

250 (3) If a law enforcement agency fails to provide notice as required by this subsection  
 251 within 72 hours from the time of removal and impoundment, the motor vehicle shall be  
 252 available for immediate release to the owner of such motor vehicle and such law  
 253 enforcement agency shall be liable for all storage fees associated with the removal and  
 254 impoundment of such vehicle.

255 (4) This subsection shall not apply when the name and address of the last known  
 256 registered owner of the motor vehicle is unable to be obtained pursuant to the procedures  
 257 provided for in Code Section 40-11-3.

258 (c) This Code section shall not apply to:

259 (1) A person driving with an expired license; provided, however, that such person  
 260 possesses a lawful alien status pursuant to Chapter 5 of this title;

261 (2) A first offense committed by an unlicensed driver who is 15 years of age or younger;  
 262 provided, however, that such unlicensed driver possesses a lawful alien status pursuant  
 263 to Chapter 5 of this title; or

264 (3) A person exempted under Code Section 40-5-21."

265 **SECTION 9.**

266 Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to abandoned  
 267 motor vehicles, is amended by revising subparagraph (C) of paragraph (1) of Code Section  
 268 40-11-1, relating to definitions, as follows:

269 "(C) Which has been lawfully towed onto the property of another at the request of a  
 270 law enforcement officer and left there for a period of not less than 30 days, or left there  
 271 for a period of not less than 90 days if the conditions of Code Section 40-5-126 are  
 272 applicable, without anyone having paid all reasonable current charges for such towing  
 273 and storage;"

274 **SECTION 10.**

275 Said chapter is further amended by revising subsection (d) of Code Section 40-11-2, relating  
 276 to duty of person removing or storing motor vehicle, as follows:

277 "(d) If any motor vehicle removed under conditions set forth in subsection (a) or (b) of this  
 278 Code section is determined not to be a stolen vehicle or is not a vehicle being repaired by  
 279 a repair facility or is not being stored by an insurance company providing insurance to  
 280 cover damages to the vehicle, the person removing or storing such motor vehicle shall,  
 281 within seven calendar days of the day such motor vehicle was removed or one business day  
 282 after the information is furnished to the remover or storer pursuant to subsection (a) or (b)  
 283 of this Code section, whichever is later, notify all owners, if known, by written  
 284 acknowledgment signed thereby or by certified or registered mail or statutory overnight  
 285 delivery, of the location of such motor vehicle, the fees connected with removal and  
 286 storage of such motor vehicle, and the fact that such motor vehicle will be deemed  
 287 abandoned under this chapter unless the owner, security interest holder, or lienholder  
 288 redeems such motor vehicle within 30 days of the day such vehicle was removed or, if the  
 289 conditions of Code Section 40-5-126 are applicable, within 90 days of the day such motor  
 290 vehicle was removed and impounded."

291 **SECTION 11.**

292 Said chapter is further amended by adding a new subsection to Code Section 40-11-3,  
 293 relating to when peace officers may remove vehicles from public property and notification  
 294 requirements, to read as follows:

295 "(b.1) Except as provided for by Code Section 40-5-126, any peace officer who finds a  
 296 person driving a motor vehicle without being licensed as required by subsection (a) of  
 297 Code Section 40-5-20 shall be authorized to cause such motor vehicle to be removed  
 298 immediately to a garage or other place of safety."

299 **SECTION 12.**

300 Chapter 16 of Title 40 of the Official Code of Georgia Annotated, relating to the Department  
 301 of Driver Services, is amended by adding a new Code section to read as follows:

302 "40-16-9.  
 303 On or after July 1, 2015, the department shall participate in the Records and Information  
 304 from DMVs for E-Verify initiative of the United States Department of Homeland Security.  
 305 The commissioner shall promulgate rules and regulations for the department's participation  
 306 in such initiative."

307

**SECTION 13.**

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