

House Bill 114

By: Representatives Tanner of the 9th, Powell of the 32nd, Lumsden of the 12th, and Hitchens of the 161st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
2 drivers' licenses, so as to provide for the use of paper eye charts for the testing of
3 noncommercial driver's vision; to provide for notice of certain information from the
4 department to be sent by first-class mail; to provide for the issuance of limited driving
5 permits to noncommercial drivers in certain instances; to provide for a waiver of the
6 application fee for instruction permits in certain instances; to allow photographs on drivers'
7 licenses and identification cards to be in black and white; to provide for the conditions under
8 which limited driving permits shall be issued; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
13 is amended in Code Section 40-5-21, relating to persons exempt from driver's license
14 requirements, by revising paragraph (11) of subsection (a) as follows:

15 "(11) Any resident who is 15 years of age or over while taking actual in-car training in
16 a training vehicle other than a commercial motor vehicle under the direct personal
17 supervision of a driving instructor when such driving instructor and training vehicle are
18 licensed by the department in accordance with the provisions of Chapter 13 of Title 43,
19 'The Driver Training School License Act.' As used in the previous sentence, the term
20 'commercial motor vehicle' shall have the meaning specified in Code Section 40-5-142.
21 All vehicles utilized for the in-car training authorized under this paragraph shall be
22 equipped with dual controlled brakes and shall be marked with signs in accordance with
23 the rules of the department clearly identifying such vehicles as training cars belonging
24 to a licensed driving school. A driving instructor shall test the eyesight of any unlicensed
25 person who will be receiving actual in-car training prior to commencement of such
26 training, and no unlicensed driver shall receive in-car training unless such person has at

27 least the visual acuity ~~and horizontal field of vision~~ as is required for issuance of a
 28 driver's license in subsection (c) of Code Section 40-5-27; and"

29 **SECTION 2.**

30 Said chapter is further amended in Code Section 40-5-22, relating to school attendance
 31 requirements for the issuance, renewal, and expiration of instruction permits and drivers'
 32 licenses, by revising subsections (a.1) and (c) and adding a new subsection to read as
 33 follows:

34 "(a.1)(1) The department shall not issue an instruction permit or driver's license to a
 35 person who is younger than 18 years of age unless at the time such minor submits an
 36 application for an instruction permit or driver's license the applicant presents acceptable
 37 proof that he or she has received a high school diploma, a general educational
 38 development (GED) diploma, a special diploma, or a certificate of high school
 39 completion or has terminated his or her secondary education and is enrolled in a
 40 postsecondary school, is pursuing a general educational development (GED) diploma, or
 41 the records of the department indicate that said applicant:

42 (A) Is enrolled in and not under expulsion from a public or private school and has
 43 satisfied relevant attendance requirements as set forth in paragraph (2) of this
 44 subsection for a period of one academic year prior to application for an instruction
 45 permit or driver's license; or

46 (B) Is enrolled in a home education program that satisfies the reporting requirements
 47 of all state laws governing such program.

48 The department shall notify such minor of his or her ineligibility for an instruction permit
 49 or driver's license at the time of such application.

50 (2) The department shall forthwith notify by ~~certified~~ first-class mail ~~or statutory~~
 51 ~~overnight delivery, return receipt requested,~~ to the address reflected in the department's
 52 records as the driver's mailing address any minor issued an instruction permit or driver's
 53 license in accordance with this subsection other than a minor who has terminated his or
 54 her secondary education and is enrolled in a postsecondary school or who is pursuing a
 55 general educational development (GED) diploma that such minor's instruction permit or
 56 driver's license is suspended subject to review as provided for in this subsection if the
 57 department receives notice that indicates that such minor:

58 (A) Has dropped out of school without graduating and has remained out of school for
 59 ten consecutive school days;

60 (B) Has ten or more school days of unexcused absences in the current academic year
 61 or ten or more school days of unexcused absences in the previous academic year; or

62 (C) Has been found in violation by a hearing officer, panel, or tribunal of one of the
 63 following offenses, has received a change in placement for committing one of the
 64 following offenses, or has waived his or her right to a hearing and pleaded guilty to one
 65 of the following offenses:

- 66 (i) Threatening, striking, or causing bodily harm to a teacher or other school
 67 personnel;
- 68 (ii) Possession or sale of drugs or alcohol on school property or at a school sponsored
 69 event;
- 70 (iii) Possession or use of a firearm in violation of Code Section 16-11-127.1 or
 71 possession or use of a dangerous weapon as defined in Code Section 16-11-121 but
 72 shall not include any part of an exhibit brought to school in connection with a school
 73 project;
- 74 (iv) Any sexual offense prohibited under Chapter 6 of Title 16; or
- 75 (v) Causing substantial physical or visible bodily harm to or seriously disfiguring
 76 another person, including another student.

77 Notice given by ~~certified first-class mail or statutory overnight delivery with return~~
 78 ~~receipt requested mailed to the person's last known address shall be prima-facie evidence~~
 79 ~~that such person received the required notice. Such notice~~ to the address reflected in the
 80 department's records as the driver's mailing address shall include instructions to the minor
 81 to return immediately the instruction permit or driver's license to the department and
 82 information summarizing the minor's right to request an exemption from the provisions
 83 of this subsection. The minor so notified may request in writing a hearing within ten
 84 business days from the date of receipt of notice. Within 30 days after receiving a written
 85 request for a hearing, the department shall hold a hearing as provided for in Chapter 13
 86 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the
 87 department shall sustain its order of suspension or rescind such order. The department
 88 shall be authorized to grant an exemption from the provisions of this subsection to a
 89 minor, upon such minor's petition, if there is clear and convincing evidence that the
 90 enforcement of the provisions of this subsection upon such minor would create an undue
 91 hardship upon the minor or the minor's family or if there is clear and convincing evidence
 92 that the enforcement of the provisions of this subsection would act as a detriment to the
 93 health or welfare of the minor. Appeal from such hearing shall be in accordance with
 94 said chapter. If no hearing is requested within the ten business days specified above, the
 95 right to a hearing shall have been waived and the instruction permit or driver's license of
 96 the minor shall remain suspended. The suspension provided for in this paragraph shall
 97 be for a period of one year or shall end upon the date of such minor's eighteenth birthday
 98 or, if the suspension was imposed pursuant to subparagraph (A) of this paragraph, upon

99 receipt of satisfactory proof that the minor is pursuing or has received a general
100 educational development (GED) diploma, a high school diploma, a special diploma, a
101 certificate of high school completion, or has terminated his or her secondary education
102 and is enrolled in a postsecondary school, whichever comes first.

103 (3) The State Board of Education and the commissioner of driver services are authorized
104 to promulgate rules and regulations to implement the provisions of this subsection.

105 (4) The Technical College System of Georgia shall be responsible for compliance and
106 noncompliance data for students pursuing a general educational development (GED)
107 diploma."

108 "(c) Notwithstanding the provisions of subsection (d) of this Code section, the ~~The~~
109 department shall not issue any driver's license to nor renew the driver's license of any
110 person:

111 (1) Whose license has been suspended during such suspension, or whose license has
112 been revoked, except as otherwise provided in this chapter;

113 (2) Whose license is currently under suspension or revocation in any other jurisdiction
114 upon grounds which would authorize the suspension or revocation of a license under this
115 chapter;

116 (3) Who is a habitual user of alcohol or any drug to a degree rendering him or her
117 incapable of safely driving a motor vehicle;

118 (4) Who has previously been adjudged to be afflicted with or suffering from any mental
119 disability or disease and who has not at the time of application been restored to
120 competency by the methods provided by law;

121 (5) Who is required by this chapter to take an examination, unless such person shall have
122 successfully passed such examination;

123 (6) Who the commissioner has good cause to believe would not, by reason of physical
124 or mental disability, be able to operate a motor vehicle with safety upon the highway; or

125 (7) Whose license issued by any other jurisdiction is suspended or revoked by such other
126 jurisdiction during the period such license is suspended or revoked by such other
127 jurisdiction.

128 (d) The department is authorized to issue a limited driving permit to an applicant whose
129 license is currently under suspension or revocation in any other jurisdiction upon grounds
130 which would authorize the suspension or revocation of a license under this chapter,
131 provided that the applicant is otherwise eligible for such limited driving permit in
132 accordance with paragraph (1) of subsection (a) of Code Section 40-5-64."

133

SECTION 3.

134 Said chapter is further amended in Code Section 40-5-25, relating to application fees for
135 drivers' licenses, by revising subsection (b) as follows:

136 "(b)(1) Each person applying for a Class P commercial or noncommercial instruction
137 permit for a Class A, B, C, E, F, or M driver's license shall pay the applicable license fee
138 prior to attempting the knowledge test for the instruction permit sought when the
139 knowledge test is to be administered by the department. If said person fails to achieve
140 a passing score on the knowledge test, the license fee paid shall be considered a testing
141 fee and retained by the department. Any person failing to achieve a passing score on the
142 knowledge test for an instructional permit shall pay the applicable license fee on each
143 subsequent attempt until successful, at which time said fee shall be his or her license fee.

144 (2) The department shall waive the license fee for each person applying for a Class P
145 noncommercial instruction permit for a Class C driver's license when the noncommercial
146 knowledge test is to be administered by a licensed driver training school or public or
147 private high school authorized to administer such tests as provided for in subsection (d)
148 of Code Section 40-5-27.

149 (3) Each person applying for a Class A, B, or C commercial driver's license shall pay the
150 applicable license fee at the time that he or she schedules his or her appointment for said
151 skills test. If said person fails to appear for his or her scheduled skills test appointment
152 or fails to achieve a passing score on the skills test, the license fee paid shall be
153 considered a testing fee and retained by the department. The person shall pay the
154 applicable license fee on each subsequent attempt until successful, at which time said fee
155 shall be his or her license fee. All fees retained by the department pursuant to this Code
156 section shall be remitted to the general fund."

157

SECTION 4.

158 Said chapter is further amended in Code Section 40-5-27, relating to examination of driver's
159 license applicants, by revising paragraph (1) of subsection (c) as follows:

160 "(c)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, no
161 noncommercial driver's license shall be issued to any person who does not have a visual
162 acuity of 20/60, corrected or uncorrected, in at least one eye or better ~~and a horizontal~~
163 ~~field of vision with both eyes open of at least 140 degrees or, in the event that one eye~~
164 ~~only has usable vision, horizontal field of vision must be at least 70 degrees temporally~~
165 ~~and 50 degrees nasally."~~

166 **SECTION 5.**

167 Said chapter is further amended in Code Section 40-5-28, relating to contents of drivers'
 168 licenses, by revising subsection (a) as follows:

169 "(a) Except as provided in subsection (c) of this Code section, the department shall, upon
 170 payment of the required fee, issue to every applicant qualifying therefor a driver's license
 171 indicating the type or general class of vehicles the licensee may drive, which license shall
 172 be upon a form prescribed by the department and which shall bear thereon a distinguishing
 173 number assigned to the licensee, a ~~color~~ photograph of the licensee, the licensee's full legal
 174 name, either a facsimile of the signature of the licensee or a space upon which the licensee
 175 shall write his or her usual signature with a pen and ink immediately upon receipt of the
 176 license, and such other information or identification as is required by the department. No
 177 license shall be valid until it has been so signed by the licensee. The department shall not
 178 require applicants to submit or otherwise obtain from applicants any fingerprints or any
 179 other biological characteristic or information which uniquely identifies an individual,
 180 including without limitation deoxyribonucleic acid (DNA) and retinal scan identification
 181 characteristics but not including a photograph, by any means upon application."

182 **SECTION 6.**

183 Said chapter is further amended in Code Section 40-5-54.1, relating to denial or suspension
 184 of a driver's license for noncompliance with a child support order, by revising subsection (b)
 185 as follows:

186 "(b) The department shall suspend, as provided in Code Sections 19-6-28.1 and 19-11-9.3,
 187 the license of any driver upon receiving a record from the agency or a court of competent
 188 jurisdiction stating that such driver is not in compliance with an order for child support.
 189 The department shall send notice of any suspension imposed pursuant to this Code section.
 190 Such notice shall be sent via ~~certified~~ first-class mail to the address reflected on its records
 191 as the driver's mailing address. ~~The mailing of such notice by the department shall be~~
 192 ~~deemed conclusively to be notice to such driver of the suspension of his or her driver's~~
 193 ~~license and shall be deemed to satisfy all notice requirements of law, and no further notice~~
 194 ~~to the driver shall be required for the suspensions provided for in this Code section."~~

195 **SECTION 7.**

196 Said chapter is further amended in Code Section 40-5-56, relating to suspension of driving
 197 privileges for failure to respond to a citation, by revising subsection (a) as follows:

198 "(a) Notwithstanding any other provisions of this chapter or any other law to the contrary,
 199 the department shall suspend the driver's license or privilege to operate a motor vehicle in
 200 this state of any person who has failed to respond to a citation to appear before a court of

201 competent jurisdiction in this state or in any other state for a traffic violation other than a
 202 parking violation. The department shall include language in the uniform traffic citation
 203 stating that failure to appear and respond to such citation shall result in the suspension of
 204 the violator's driver's license or nonresident driving privilege. The language reflected on
 205 a uniform traffic citation issued in this state shall be sufficient notice of said suspension to
 206 support a conviction for a violation of Code Section 40-5-121 if such person drives
 207 subsequent to the imposition of such a suspension following his or her failure to appear.
 208 Notwithstanding the foregoing, the department shall send notice of any suspension imposed
 209 pursuant to this Code section. Such notice shall be sent via ~~certified~~ first-class mail to the
 210 address reflected on its records as the person's mailing address. ~~Proof of receipt of said~~
 211 ~~notice shall be admissible to support a conviction for a violation of Code Section 40-5-121~~
 212 ~~if such person drives subsequent to the imposition of such a suspension following his or~~
 213 ~~her failure to appear."~~

214 **SECTION 8.**

215 Said chapter is further amended in Code Section 40-5-57.1, relating to suspension and
 216 reinstatement of drivers' licenses for persons under a certain age, by revising subsection (a)
 217 as follows:

218 "(a) Notwithstanding any other provision of this chapter, the driver's license of any person
 219 under 21 years of age convicted of hit and run or leaving the scene of an accident in
 220 violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle
 221 in fleeing or attempting to elude an officer, reckless driving, any offense for which four or
 222 more points are assessable under subsection (c) of Code Section 40-5-57, purchasing an
 223 alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23,
 224 or violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23, or violation
 225 of Code Section 40-6-391 shall be suspended by the department as provided by this Code
 226 section; and the driver's license of any person under 18 years of age who has accumulated
 227 a violation point count of four or more points under Code Section 40-5-57 in any
 228 consecutive 12 month period shall be suspended by the department as provided by this
 229 Code section. A plea of nolo contendere shall be considered a conviction for purposes of
 230 this subsection. Notice of suspension shall be given by ~~certified~~ first-class mail ~~or statutory~~
 231 ~~overnight delivery, return receipt requested;~~ to the address reflected in the department's
 232 records as the driver's mailing address or, in lieu thereof, notice may be given by personal
 233 service upon such person. Such license shall be surrendered within ten days of notification
 234 of such suspension. ~~Notice given by certified mail or statutory overnight delivery, return~~
 235 ~~receipt requested, mailed to the person's last known address shall be prima-facie evidence~~
 236 ~~that such person received the required notice."~~

237 **SECTION 9.**

238 Said chapter is further amended in Code Section 40-5-58, relating to revocation of drivers'
 239 licenses of habitual violators, by revising subsection (b) as follows:

240 "(b) When the records of the department disclose that any person is a habitual violator as
 241 defined in subsection (a) of this Code section, the department shall forthwith notify such
 242 person that his or her driver's license has been revoked by operation of law and that it shall
 243 be unlawful for such habitual violator to operate a motor vehicle in this state unless
 244 otherwise provided in this Code section. Notice shall be given by ~~certified~~ first-class mail
 245 ~~or statutory overnight delivery, with return receipt requested;~~ to the address reflected in the
 246 department's records as the driver's mailing address or, in lieu thereof, notice may be given
 247 by personal service upon such person."

248 **SECTION 10.**

249 Said chapter is further amended in Code Section 40-5-64, relating to limited driving permits
 250 for certain offenders, by revising subsections (c) and (c.1) as follows:

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

- 257 (1) Going to his or her place of employment or performing the normal duties of his or
 258 her occupation;
- 259 (2) Receiving scheduled medical care or obtaining prescription drugs;
- 260 (3) Attending a college or school at which he or she is regularly enrolled as a student;
- 261 (4) Attending regularly scheduled sessions or meetings of support organizations for
 262 persons who have addiction or abuse problems related to alcohol or other drugs, which
 263 organizations are recognized by the commissioner;
- 264 (5) Attending under court order any driver education or improvement school or alcohol
 265 or drug program or course approved by the court which entered the judgment of
 266 conviction resulting in suspension of his or her driver's license or by the commissioner;
- 267 (6) Attending court, reporting to a probation office or officer, or performing community
 268 service; or
- 269 (7) Transporting an immediate family member who does not hold a valid driver's license
 270 for work, medical care, or prescriptions or to school.

271 (c.1) **Exception to standards for approval.**

272 (1) The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code
 273 section shall not apply and shall not be considered for purposes of granting a limited
 274 driving permit or imposing conditions thereon under this Code section in the case of a
 275 driver's license suspension under paragraph (2) of subsection (a.1) of Code Section
 276 40-5-22.

277 (2) An ignition interlock device limited driving permit shall be restricted to allow the
 278 holder thereof to drive solely for the following purposes:

279 (A) Going to his or her place of employment or performing the normal duties of his or
 280 her occupation;

281 (B) Attending a college or school at which he or she is regularly enrolled as a student;

282 (C) Attending regularly scheduled sessions or meetings of treatment support
 283 organizations for persons who have addiction or abuse problems related to alcohol or
 284 other drugs, which organizations are recognized by the commissioner; and

285 (D) Going for monthly monitoring visits with the permit holder's ignition interlock
 286 device service provider."

287 **SECTION 11.**

288 Said chapter is further amended in Code Section 40-5-100, relating to contents of personal
 289 identification cards, by revising subsection (a) as follows:

290 "(a) The department shall issue personal identification cards to all residents as defined in
 291 Code Section 40-5-1 who make application to the department in accordance with rules and
 292 regulations prescribed by the commissioner. Cards issued to applicants under 21 years of
 293 age shall contain the distinctive characteristics of drivers' licenses issued pursuant to Code
 294 Section 40-5-26. The identification card shall be similar in form but distinguishable in
 295 color from motor vehicle drivers' licenses and may contain a recent ~~color~~ photograph of the
 296 applicant and include the following information:

297 (1) Full legal name;

298 (2) Address of residence;

299 (3) Birth date;

300 (4) Date identification card was issued;

301 (5) Sex;

302 (6) Height;

303 (7) Weight;

304 (8) Eye color;

305 (9) Signature of person identified or facsimile thereof; and

306 (10) Such other information or identification as required by the department; provided,
 307 however, that the department shall not require an applicant to submit or otherwise obtain
 308 from an applicant any fingerprints or any other biological characteristic or information
 309 which uniquely identifies an individual, including without limitation deoxyribonucleic
 310 acid (DNA) and retinal scan identification characteristics but not including a photograph,
 311 by any means upon application."

312 **SECTION 12.**

313 Said chapter is further amended in Code Section 40-5-150, relating to contents of commercial
 314 drivers' licenses, by revising subsection (a) as follows:

315 "(a) The commercial driver's license shall be marked 'Commercial Driver's License' or
 316 'CDL' and shall be, to the maximum extent practicable, tamperproof, and shall include, but
 317 not be limited to, the following information:

- 318 (1) The full legal name and residential address of the person;
- 319 (2) The person's ~~color~~ photograph;
- 320 (3) A physical description of the person, including sex, height, weight, and eye color;
- 321 (4) Full date of birth;
- 322 (5) The license number or identifier assigned by the department;
- 323 (6) The person's signature;
- 324 (7) The class or type of commercial motor vehicle or vehicles which the person is
 325 authorized to drive, together with any endorsements or restrictions;
- 326 (8) The name of this state; and
- 327 (9) The dates between which the license is valid."

328 **SECTION 13.**

329 Said chapter is further amended in Code Section 40-5-171, relating to contents of personal
 330 identification cards for persons with disabilities, by revising subsection (a) as follows:

331 "(a) The department shall issue personal identification cards to persons with disabilities
 332 who make application to the department in accordance with rules and regulations
 333 prescribed by the commissioner. The identification card for persons with disabilities shall
 334 contain a recent ~~color~~ photograph of the applicant and the following information:

- 335 (1) Full legal name;
- 336 (2) Address of residence;
- 337 (3) Birth date;
- 338 (4) Date identification card was issued;
- 339 (5) Date identification card expires;
- 340 (6) Sex;

- 341 (7) Height;
- 342 (8) Weight;
- 343 (9) Eye color;
- 344 (10) Signature of person identified or facsimile thereof; and
- 345 (11) Such other information as required by the department; provided, however, that the
- 346 department shall not require an applicant to submit or otherwise obtain from an applicant
- 347 any fingerprints or any other biological characteristic or information which uniquely
- 348 identifies an individual, including without limitation deoxyribonucleic acid (DNA) and
- 349 retinal scan identification characteristics but not including a photograph, by any means
- 350 upon application."

351

SECTION 14.

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