

House Bill 205

By: Representative Rice of the 95<sup>th</sup>

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 require a driver who refused blood alcohol concentration testing as  
3 required by implied consent laws or an offender convicted of DUI with a blood alcohol  
4 concentration of 0.15 grams or higher to install and maintain ignition interlock devices on  
5 his or her vehicle; to provide for the application and standards of approval for ignition  
6 interlock device limited driving permits; to provide for an exception to suspension of a  
7 driver's license in certain instances; to provide for standards of suspension of a driver's  
8 license in relation to refusal to submit to required testing; to provide for the issuance of  
9 ignition interlock device limited driving permits by a court; to amend Chapter 6 of Title 40  
10 of the Official Code of Georgia Annotated, relating to uniform rules of the road, so as to  
11 provide for the probation of terms of imprisonment for DUI offenders in certain instances;  
12 to amend Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated,  
13 relating to ignition interlock devices as condition of probation, so as to provide for the court  
14 issuance of a certificate of installation of ignition interlock devices; to provide for the  
15 issuance of an ignition interlock device limited driving permit; to provide for the certification  
16 of ignition interlock devices; to provide for the revocation of driving privileges upon  
17 violation of terms of probation relative to driving on an ignition interlock device limited  
18 driving permit; to provide for unlawful behavior relative to blowing into an ignition interlock  
19 device; to provide for related matters; to repeal conflicting laws; and for other purposes.

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

21 **SECTION 1.**

22 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
23 is amended in Code Section 40-5-57.1, relating to suspension of licenses of persons under  
24 age 21 for certain offenses, by revising subparagraph (b)(2)(A) as follows:

25 "(2)(A) Upon the first conviction of a violation of Code Section 40-6-391, with no  
26 arrest and conviction of and no plea of nolo contendere accepted to such offense within

27 the previous five years, as measured from the dates of previous arrests for which  
 28 convictions were obtained to the date of the current arrest for which a conviction is  
 29 obtained, have his or her license suspended for a period of six months unless the  
 30 driver's blood alcohol concentration at the time of the offense was 0.08 grams or more  
 31 ~~or the person has previously been subject to a suspension pursuant to paragraph (1) of~~  
 32 ~~this subsection, in which case the period of suspension shall be for 12 months; provided~~  
 33 however, that any driver who refused testing as required by Code Section 40-5-67.1 or  
 34 40-5-153 or whose blood alcohol concentration at the time of the offense that triggered  
 35 such suspension was 0.15 grams or more shall not be eligible for license reinstatement,  
 36 and such license shall not become valid and shall remain suspended until such person  
 37 provides proof of installation and maintenance of an ignition interlock device for a  
 38 period of time coinciding with the issuance of an ignition interlock device limited  
 39 driving permit as provided in Code Section 40-5-64."

#### 40 SECTION 2.

41 Said chapter is further amended in Code Section 40-5-63, relating to periods of suspension,  
 42 by revising paragraph (1) of subsection (a) and adding a new paragraph, to read as follows:

43 "(1) Upon the first conviction of any such offense, with no arrest and conviction of and  
 44 no plea of nolo contendere accepted to such offense within the previous five years, as  
 45 measured from the dates of previous arrests for which convictions were obtained to the  
 46 date of the current arrest for which a conviction is obtained, the period of suspension shall  
 47 be 12 months. ~~At the end of 120 days, the person may apply to the department for early~~  
 48 ~~reinstatement of his or her driver's license. Such license shall be reinstated if such person~~  
 49 ~~submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and~~  
 50 ~~pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by~~  
 51 ~~mail, provided that, if such license was suspended as a result of a conviction of an offense~~  
 52 ~~listed in Code Section 40-5-54, such license shall be reinstated if such person submits~~  
 53 ~~proof of completion of either a defensive driving course approved by the commissioner~~  
 54 ~~pursuant to Code Section 40-5-83 or a DUI Alcohol or Drug Use Risk Reduction~~  
 55 ~~Program and pays the prescribed restoration fee. A driver's license suspended as a result~~  
 56 ~~of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall~~  
 57 ~~remain suspended until such person submits proof of completion of a DUI Alcohol or~~  
 58 ~~Drug Use Risk Reduction Program and pays the prescribed restoration fee. For purposes~~  
 59 of this paragraph, an accepted plea of nolo contendere to an offense listed in Code  
 60 Section 40-5-54 by a person who is under 18 years of age at the time of arrest shall  
 61 constitute a conviction. For the purposes of this paragraph ~~only~~, an accepted plea of nolo  
 62 contendere by a person 21 years of age or older, with no conviction of and no plea of nolo

63 contendere accepted to a charge of violating Code Section 40-6-391 within the previous  
64 five years, as measured from the dates of previous arrests for which convictions were  
65 obtained or pleas of nolo contendere accepted to the date of the current arrest for which  
66 a plea of nolo contendere is accepted, shall be considered a conviction, and the court  
67 having jurisdiction shall forward, as provided in Code Section 40-6-391.1, the record of  
68 such disposition of the case to the department and the record of such disposition shall be  
69 kept on file for the purpose of considering and counting such accepted plea of nolo  
70 contendere as a conviction under paragraphs (2) and (3) of this subsection. At the end  
71 of 120 days, the person may apply to the department for early reinstatement of his or her  
72 driver's license. Such license shall be reinstated if such person submits proof of  
73 completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a  
74 restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail,  
75 provided that, if such license was suspended as a result of a conviction of an offense  
76 listed in Code Section 40-5-54, such license shall be reinstated if such person submits  
77 proof of completion of either a defensive driving course approved by the commissioner  
78 pursuant to Code Section 40-5-83 or a DUI Alcohol or Drug Use Risk Reduction  
79 Program and pays the prescribed restoration fee. A driver's license suspended as a result  
80 of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall  
81 remain suspended until such person submits proof of completion of a DUI Alcohol or  
82 Drug Use Risk Reduction Program and pays the prescribed restoration fee;

83 (1.1) Upon the first conviction of any such offense, with no arrest and conviction of and  
84 no plea of nolo contendere accepted to such offense within the previous five years, as  
85 measured from the dates of previous arrests for which convictions were obtained to the  
86 date of the current arrest for which a conviction is obtained, the period of suspension shall  
87 be 12 months. For the purposes of this paragraph, an accepted plea of nolo contendere  
88 by a person 21 years of age or older, with no conviction of and no plea of nolo contendere  
89 accepted to a charge of violating Code Section 40-6-391 within the previous five years,  
90 as measured from the dates of previous arrests for which convictions were obtained or  
91 pleas of nolo contendere accepted to the date of the current arrest for which a plea of nolo  
92 contendere is accepted, shall be considered a conviction, and the court having jurisdiction  
93 shall forward, as provided in Code Section 40-6-391.1, the record of such disposition of  
94 the case to the department and the record of such disposition shall be kept on file for the  
95 purpose of considering and counting such accepted plea of nolo contendere as a  
96 conviction under paragraphs (2) and (3) of this subsection. Any driver who refused  
97 testing as required by Code Section 40-5-67.1 or 40-5-153 or whose blood alcohol  
98 concentration at the time of the offense that triggered such suspension was 0.15 grams  
99 or more shall not be eligible for license reinstatement, and such license shall not become

100 valid and shall remain suspended until such person provides proof of installation and  
 101 maintenance of an ignition interlock device for a period of time coinciding with the  
 102 issuance of an ignition interlock device limited driving permit as provided in Code  
 103 Section 40-5-64;"

104 **SECTION 3.**

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

107 "(a) **To whom issued.**

108 (1) Notwithstanding any contrary provision of Code Section 40-5-57 or 40-5-63 or any  
 109 other Code section of this chapter, any person who has not been previously convicted or  
 110 adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as  
 111 measured from the dates of previous arrests for which convictions were obtained or pleas  
 112 of nolo contendere were accepted to the date of the current arrest for which a conviction  
 113 is obtained or a plea of nolo contendere is accepted, may apply for a limited driving  
 114 permit when and only when that person's driver's license has been suspended in  
 115 accordance with ~~paragraph:~~

116 ~~(A) Paragraph (2) of subsection (a.1) of Code Section 40-5-22, subsection;~~

117 ~~(B) Subsection (d) of Code Section 40-5-57, paragraph;~~

118 ~~(C) Paragraph (1) of subsection (a) of Code Section 40-5-63, paragraph;~~

119 ~~(D) Paragraph (1) of subsection (a) of Code Section 40-5-67.2, or subsection; or~~

120 (E) Subsection (a) of Code Section 40-5-57.1, when the person is 18 years of age or  
 121 older and his or her license was suspended for exceeding the speed limit by 24 miles  
 122 per hour or more but less than 34 miles per hour, and the sentencing judge, in his or her  
 123 discretion, decides it is reasonable to issue a limited driving permit.

124 (2) Any person whose driver's license has been suspended as a result of a second  
 125 conviction for violating Code Section 40-6-391 within five years, as measured from the  
 126 dates of previous arrests for which convictions were obtained to the date of the current  
 127 arrest for which a conviction is obtained, may apply for an ignition interlock device  
 128 limited driving permit after serving at least 120 days of the suspension required for such  
 129 conviction and providing either a certificate of eligibility from a drug court program in  
 130 the court in which he or she was convicted of the offense for which such suspension was  
 131 imposed or by submitting proof of enrollment in clinical treatment as provided in Code  
 132 Section 40-5-63.1, or by submitting proof that he or she has otherwise satisfied the  
 133 provisions of Code Section 40-5-63.1. No person who has been granted an exemption  
 134 from the ignition interlock device requirements of Article 7 of Chapter 8 of Title 42 shall

135 ~~be eligible for a limited driving permit or any other driving privilege for a period of one~~  
 136 ~~year.~~

137 (3) Any person whose driver's license was suspended pursuant to subsection (a) of Code  
 138 Section 40-5-57.1 or paragraph (1) of subsection (a) of Code Section 40-5-63 as a result  
 139 of a first conviction for violating Code Section 40-6-391 within five years and who either  
 140 refused testing as required by Code Section 40-5-67.1 or 40-5-153 or whose blood  
 141 alcohol concentration at the time of the offense that triggered such suspension was 0.15  
 142 grams or more may apply for an ignition interlock device limited driving permit.

143 (4) To the extent a person is subject to more than one suspension for which a limited  
 144 driving permit may be issued, the department shall not issue such permit unless the  
 145 suspensions are for a conviction for driving under the influence in violation of Code  
 146 Section 40-6-391 imposed pursuant to Code Section 40-5-63 and an administrative  
 147 suspension imposed pursuant to paragraph (1) of subsection (a) of Code Section  
 148 40-5-67.2 arising from the same incident."

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

- 155 (1) Going to his or her place of employment;
- 156 (2) Receiving scheduled medical or emergency care or obtaining prescription drugs;
- 157 (3) Attending a college or school at which he or she is regularly enrolled as a student;
- 158 (4) Attending regularly scheduled sessions or meetings of support organizations for  
 159 persons who have addiction or abuse problems related to alcohol or other drugs, ~~which~~  
 160 so long as such organizations are recognized by the commissioner;
- 161 (5) Attending under court order any driver education or improvement school or alcohol  
 162 or drug program or course approved by the court which entered the judgment of  
 163 conviction resulting in suspension of his or her driver's license or by the commissioner;
- 164 (6) Attending court, reporting to a probation office or officer, or performing community  
 165 service; or
- 166 (7) Transporting an immediate family member who does not hold a valid driver's license  
 167 for work, medical care, or prescriptions or to school.

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

- 169 (1) The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code  
 170 section shall not apply and shall not be considered for purposes of granting a limited  
 171 driving permit or imposing conditions thereon under this Code section in the case of a

172 driver's license suspension under paragraph (2) of subsection (a.1) of Code Section  
173 40-5-22.

174 ~~(2) Subsection (c) of this Code section shall not apply and shall not be considered for the~~  
175 ~~purpose of granting an~~ An ignition interlock device limited driving permit ~~shall be~~  
176 ~~restricted to allow the holder thereof to drive solely for the following purposes: pursuant~~  
177 ~~to paragraph (3) of subsection (a) of this Code section or imposing any conditions on~~  
178 ~~such permit.~~

179 ~~(A) Going to his or her place of employment;~~

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

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

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

186 **"(g) Revocation of permit.**

187 (1)(A) Any permittee who is convicted of violating any state law or local ordinance  
188 relating to the movement of vehicles or any permittee who is convicted of violating the  
189 conditions endorsed on his or her permit shall have his or her permit revoked by the  
190 department. Any court in which such conviction is had shall require the permittee to  
191 surrender the permit to the court, and the court shall forward it to the department within  
192 ten days after the conviction, with a copy of the conviction.

193 (B) Upon receipt of notice from the Department of Behavioral Health and  
194 Developmental Disabilities that a permittee who is required to complete a substance  
195 abuse treatment program pursuant to Code Section 40-5-63.1 enrolled in but failed to  
196 attend or complete such program as scheduled, the department shall revoke such  
197 person's limited driving permit and, by regular mail to his or her last known address,  
198 notify such person of such revocation. Such notice of revocation shall inform the  
199 person of the grounds for and effective date of the revocation and of the right to review.  
200 The notice of revocation shall be deemed received three days after mailing.

201 ~~(C)(i) The department shall revoke a permittee's ignition interlock device limited~~  
202 ~~driving permit upon~~ Upon receipt of notice from a provider center for ignition  
203 interlock devices that: ~~an~~

204 ~~(I) An~~ ignition interlock device which a permittee is required to use has been  
205 tampered with; ~~or the~~

206 ~~(II) The~~ permittee has failed to report for monitoring of such device; ~~or as required~~  
207 ~~by law, the~~

208 (III) The permittee has attempted to use an ignition interlock device after  
 209 consuming alcohol.

210 (ii) The department shall revoke such permittee's limited driving permit and, notify  
 211 the permittee of such revocation by regular mail to his or her last known address;  
 212 ~~notify such person of such revocation.~~ Such notice of revocation shall inform the  
 213 ~~person~~ permittee of the grounds for and effective date of the revocation and of the  
 214 right to review. The notice of revocation shall be deemed received three days after  
 215 mailing.

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

#### 222 **SECTION 4.**

223 Said chapter is further amended in Code Section 40-5-67.1, relating to chemical tests,  
 224 implied consent notices, rights of motorists, test results, refusal to submit to testing, and  
 225 suspension of licenses, by revising subsection (d) as follows:

226 "(d) If a person under arrest or a person who was involved in any traffic accident resulting  
 227 in serious injuries or fatalities refuses, upon the request of a law enforcement officer, to  
 228 submit to a chemical test designated by the law enforcement officer as provided in  
 229 subsection (a) of this Code section, no test shall be given; but the law enforcement officer  
 230 shall report the refusal to the department. Upon the receipt of a report of the law  
 231 enforcement officer that the officer had reasonable grounds to believe the arrested person  
 232 had been driving or was in actual physical control of a moving motor vehicle upon the  
 233 highways or elsewhere throughout this state in violation of Code Section 40-6-391 or that  
 234 such person had been driving or was in actual physical control of a moving motor vehicle  
 235 upon the highways or elsewhere throughout this state and was involved in a traffic accident  
 236 which resulted in serious injuries or fatalities and that the person had refused to submit to  
 237 the test upon the request of the law enforcement officer, the department shall suspend the  
 238 person's driver's license, permit, or nonresident operating privilege for a period of one year  
 239 unless such person provides proof of installation and maintenance of an ignition interlock  
 240 device for a period of time coinciding with the issuance of an ignition interlock device  
 241 limited driving permit as provided in Code Section 40-5-64 or if the person was operating  
 242 or in actual physical control of a commercial motor vehicle, the department shall disqualify  
 243 the person from operating a commercial motor vehicle and shall suspend the person's

244 driver's license, permit, or nonresident operating privilege, subject to review as provided  
 245 for in this chapter."

246 **SECTION 5.**

247 Said chapter is further amended in Code Section 40-5-67.2, relating to terms and conditions  
 248 for suspension of license under subsection (c) of Code Section 40-5-67.1, by revising  
 249 subsection (a) as follows:

250 "(a) Any driver's license required to be suspended under subsection (c) of Code Section  
 251 40-5-67.1 shall be suspended subject to the following terms and conditions:

252 (1) Upon the first suspension pursuant to subsection (c) of Code Section 40-5-67.1  
 253 within the previous five years, as measured from the dates of previous arrests for which  
 254 a suspension was obtained to the date of the current arrest for which a suspension is  
 255 obtained, the period of suspension shall be for one year. Not sooner than 30 days  
 256 following the effective date of suspension, the person may apply to the department for  
 257 reinstatement of his or her driver's license. Such license shall be reinstated if such person  
 258 submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and  
 259 pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by  
 260 mail ~~unless such conviction was a recidivist conviction in which case the restoration fee~~  
 261 ~~shall be \$510.00 or \$500.00 when processed by mail.~~ A driver's license suspended  
 262 pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended  
 263 until such person submits proof of completion of a DUI Alcohol or Drug Use Risk  
 264 Reduction Program and pays the prescribed restoration fee; provided, however, that any  
 265 driver who refused testing as required by Code Section 40-5-67.1 or 40-5-153 or whose  
 266 blood alcohol concentration at the time of the offense that triggered such suspension was  
 267 0.15 grams or more shall not be eligible for license reinstatement, and such license shall  
 268 not become valid and shall remain suspended until such person provides proof of  
 269 installation and maintenance of an ignition interlock device for a period of time  
 270 coinciding with the issuance of an ignition interlock device limited driving permit as  
 271 provided in Code Section 40-5-64;

272 (2) Upon the second suspension pursuant to subsection (c) of Code Section 40-5-67.1  
 273 within five years, as measured from the dates of previous arrests for which suspensions  
 274 were obtained to the date of the current arrest for which a suspension is obtained, the  
 275 period of suspension shall be for three years. The person shall be eligible to apply to the  
 276 department for license reinstatement not sooner than 18 months following the effective  
 277 date of suspension. Such license shall be reinstated if such person submits proof of  
 278 completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a  
 279 restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail



280 ~~unless such conviction was a recidivist conviction in which case the restoration fee shall~~  
 281 ~~be \$510.00 or \$500.00 when processed by mail.~~ A driver's license suspended pursuant  
 282 to Code Section 40-5-67.1 shall not become valid and shall remain suspended until such  
 283 person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction  
 284 Program and pays the prescribed restoration fee; or

285 (3) Upon the third or subsequent suspension pursuant to subsection (c) of Code Section  
 286 40-5-67.1 within five years, as measured from the dates of previous arrests for which  
 287 suspensions were obtained to the date of the current arrest for which a suspension is  
 288 obtained, the period of suspension shall be for five years. A driver's license suspended  
 289 pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended  
 290 until such person submits proof of completion of a DUI Alcohol or Drug Use Risk  
 291 Reduction Program and pays the prescribed restoration fee. The driver may apply for a  
 292 probationary license pursuant to Code Section 40-5-58 after the expiration of two years  
 293 from the effective date of suspension."

294 **SECTION 6.**

295 Said chapter is further amended by revising Code Section 40-5-76, relating to the restoration  
 296 of drivers' licenses or issuance of limited driving permits for defendants by a court, as  
 297 follows:

298 "40-5-76.

299 (a) A judge presiding in a drug court division, mental health court division, or veterans  
 300 court division may order the department to restore a defendant's driver's license that has  
 301 been or should be suspended pursuant to Code Section 40-5-75, suspend such license, or  
 302 issue a defendant a limited driving permit in accordance with the provisions set forth in  
 303 subsections (c) and (d) of Code Section 40-5-64 or an ignition interlock device limited  
 304 driving permit in accordance with subsection (c.1) of Code Section 40-5-64 or with  
 305 whatever conditions the court determines to be appropriate under the circumstances as a  
 306 reward or sanction to the defendant's behavior in such court division. The court shall  
 307 determine what fees, if any, shall be paid to the department for such reward or sanction,  
 308 provided that such fee shall not be greater than the fee normally imposed for such services.

309 (b) A judge presiding in any court, other than the court divisions specified in subsection (a)  
 310 of this Code section, may order the department to restore a defendant's driver's license that  
 311 has been or should be suspended pursuant to Code Section 40-5-75, ~~or~~ issue a defendant  
 312 a limited driving permit in accordance with the provisions set forth in subsections (c) and  
 313 (d) of Code Section 40-5-64, or issue a defendant an ignition interlock device limited  
 314 driving permit in accordance with subsection (c.1) of Code Section 40-5-64 if the offense  
 315 for which the defendant was convicted did not directly relate to the operation of a motor

316 vehicle. The court shall determine what fees, if any, shall be paid to the department for the  
 317 restoration of such driver's license or issuance of such limited driving permit, provided that  
 318 such fee shall not be greater than the fee normally imposed for such services. Such judge  
 319 may also order the department to suspend a defendant's driver's license that could have  
 320 been suspended pursuant to Code Section 40-5-75 as a consequence of the defendant's  
 321 violation of the terms of his or her probation."

### 322 SECTION 7.

323 Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to uniform rules  
 324 of the road, is amended in Code Section 40-6-391, relating to driving under the influence of  
 325 alcohol, drugs, or other intoxicating substances, by revising paragraph (1) of subsection (c)  
 326 as follows:

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

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

335 (B) A period of imprisonment of not fewer than ten days nor more than 12 months,  
 336 which ~~period of imprisonment~~ may, at the sole discretion of the judge, be suspended,  
 337 stayed, or probated, except that if the offender's blood alcohol concentration at the time  
 338 of the offense was 0.08 grams or more, the judge may suspend, stay, or probate all but  
 339 24 hours of any term of imprisonment imposed under this subparagraph; and provided,  
 340 further, that if the offender's blood alcohol concentration at the time of the offense was  
 341 0.15 grams or more, the judge shall probate at least a portion of such term of  
 342 imprisonment, in accordance with subparagraph (F) of this paragraph, thereby  
 343 subjecting the offender to the provisions of Article 7 of Chapter 8 of Title 42 and to  
 344 such other terms and conditions as the judge may impose;

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

349 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program within 120  
 350 days following his or her conviction; provided, however, that if the defendant is  
 351 incarcerated and such program cannot be completed within 120 days, it shall be

352 completed within 90 days of his or her release from custody. The sponsor of any such  
 353 program shall provide written notice of the Department of Driver Services' certification  
 354 of the program to the person upon enrollment in the program;

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

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

362 **SECTION 8.**

363 Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to  
 364 ignition interlock devices as condition of probation, is amended by revising Code Section  
 365 42-8-111, relating to court issuance of certificate for installation of ignition interlock devices,  
 366 as follows:

367 "42-8-111.

368 (a) Upon a first conviction of a resident of this state for violating Code Section 40-6-391  
 369 within five years, as measured from the dates of previous arrests for which convictions  
 370 were obtained to the date of the current arrest for which a conviction is obtained, for which  
 371 such person refused testing as required by Code Section 40-5-67.1 or 40-5-153 or for which  
 372 such person's blood alcohol concentration at the time of the offense was 0.15 grams or  
 373 more, the court shall issue a certificate of eligibility for an ignition interlock device limited  
 374 driving permit immediately upon such conviction if such person is otherwise eligible for  
 375 issuance of a limited driving permit as determined by the Department of Driver Services.  
 376 Such person shall install and maintain a certified ignition interlock device in any motor  
 377 vehicle that he or she will be operating and shall not drive any motor vehicle whatsoever  
 378 that is not equipped with such device.

379 (a.1)(1) Upon a second or subsequent conviction of a resident of this state for violating  
 380 Code Section 40-6-391 within five years, as measured from the dates of previous arrests  
 381 for which convictions were obtained to the date of the current arrest for which a  
 382 conviction is obtained, for which such person is granted probation, the court shall issue  
 383 a certificate of eligibility for an ignition interlock device limited driving permit or  
 384 probationary license, subject to the following conditions:

385 ~~(1) Such person shall have installed and shall maintain in each motor vehicle registered~~  
 386 ~~in such person's name for a period of not less than one year a functioning, certified~~  
 387 ~~ignition interlock device;~~

388 ~~(2)~~(A) Such person shall have installed and shall maintain in any other motor vehicle  
 389 to be driven by such person for a period of not less than one year a functioning,  
 390 certified ignition interlock device, and such person shall not drive any motor vehicle  
 391 whatsoever that is not so equipped during such period. Upon successful completion of  
 392 one year of monitoring of such ignition interlock device, the restriction for maintaining  
 393 and using such ignition interlock device shall be removed, and the permit may be  
 394 renewed for additional periods of two months as provided in paragraph (1) of  
 395 subsection (e) of Code Section 40-5-64; and

396 ~~(3)~~(B) Such person shall participate in a substance abuse treatment program as defined  
 397 in paragraph (16.2) of Code Section 40-5-1 or a drug court program in compliance with  
 398 Code Section 15-1-15 for a period of not less than 120 days unless he or she has  
 399 otherwise provided proof that he or she has satisfied the provisions of Code Section  
 400 40-5-63.1.

401 (2) For the purposes of this subsection, a plea of nolo contendere shall constitute a  
 402 conviction; and a conviction of any offense under the law of another state or territory  
 403 substantially conforming to any offense under Code Section 40-6-391 shall be deemed  
 404 a conviction of violating said Code section.

405 (b) The court may, in its discretion, decline to issue a certificate of eligibility for an  
 406 ignition interlock device limited driving permit or probationary license for any reason, ~~or~~  
 407 ~~exempt a person from any or all~~ If the ignition interlock device requirements ~~upon a~~  
 408 ~~determination that such requirements~~ would subject such a person to undue financial  
 409 hardship, he or she may petition the court for a waiver of the fees for such device. The  
 410 court shall make written findings of fact with respect to the determination of a person  
 411 having undue financial hardship. If the court finds that a person cannot pay for an ignition  
 412 interlock device, but otherwise qualifies for a certificate of eligibility for an ignition  
 413 interlock device limited driving permit or probationary license, it shall issue an order  
 414 requiring such device to be installed at the expense of an ignition interlock device provider.  
 415 Notwithstanding any contrary provision of Code Section 40-13-32 or 40-13-33, a  
 416 determination of financial hardship may be made at the time of conviction or any time  
 417 thereafter. ~~If a court grants an exemption from the ignition interlock device requirements,~~  
 418 ~~such person shall not be eligible for a limited driving permit or any other driving privilege~~  
 419 ~~for a period of one year.~~

420 (c) In the case of any person subject to the provisions of subsection (a) ~~or (a.1)~~ of this  
 421 Code section, the court shall include in the record of conviction or violation submitted to  
 422 the Department of Driver Services a copy of the certificate of eligibility for an ignition  
 423 interlock device limited driving permit or probationary license issued by the court or  
 424 documentation of the court's decision to decline to issue such certificate. For persons

425 subject to subsection (a) or (a.1) of this Code section, such Such certificate shall specify  
 426 any exemption ~~from the installation requirements of paragraph (1) of subsection (a) of this~~  
 427 ~~Code section and any vehicles subject to the installation requirements of paragraph (2) of~~  
 428 ~~such subsection~~ permitted by the court. The records of the Department of Driver Services  
 429 shall contain a record reflecting such certificate, and the person's driver's license, limited  
 430 driving permit, or probationary license shall contain a notation that the person may only  
 431 operate a motor vehicle equipped with a functioning, certified ignition interlock device.

432 (d) Except as provided in Code Section 42-8-112, no provision of this article shall be  
 433 deemed to reduce any period of driver's license suspension or revocation otherwise  
 434 imposed by law.

435 (e) The fee for issuance of any driver's license indicating that use of an ignition interlock  
 436 device is required shall be as prescribed for a regular driver's license in Code Section  
 437 40-5-25, and the fee for issuance of any limited driving permit indicating that use of an  
 438 ignition interlock device is required shall be as prescribed for a limited driving permit in  
 439 Code Section 40-5-64; except that, for habitual violators required to use an ignition  
 440 interlock device as a condition of a probationary license, the fee shall be as prescribed for  
 441 a probationary license in Code Section 40-5-58.

442 (f) Exemptions granted due to financial hardship pursuant to ~~paragraph (1) of subsection~~  
 443 ~~(a) of this Code section~~ shall be exempt from the subject matter jurisdiction limitations  
 444 imposed in Code Sections 40-13-32 and 40-13-33."

#### 445 **SECTION 9.**

446 Said article is further amended in Code Section 42-8-112, relating to timing for issuance for  
 447 ignition interlock device limited driving permit, by revising subparagraphs (a)(2)(B) and  
 448 (b)(2)(B) as follows:

449 "(B) That such person has completed a clinical evaluation as defined in Code Section  
 450 40-5-1 and enrolled in a substance abuse treatment program approved by the  
 451 Department of Human Services or is enrolled in a drug court program or proof that he  
 452 or she has otherwise satisfied the provisions of Code Section 40-5-63.1;"

453 "(B) That such person has completed a clinical evaluation as defined in Code Section  
 454 40-5-1 and enrolled in a substance abuse treatment program approved by the  
 455 Department of Human Services or is enrolled in a drug court program or proof that he  
 456 or she has otherwise satisfied the provisions of Code Section 40-5-63.1;"

#### 457 **SECTION 10.**

458 Said article is further amended in Code Section 42-8-115, relating to certification of ignition  
 459 interlock devices, by revising subsection (a) as follows:

460 "(a) The commissioner of driver services or the commissioner's designee shall certify  
 461 ignition interlock devices required by this article and the providers of such devices and  
 462 shall promulgate rules and regulations for the certification of ~~said~~ such devices and  
 463 providers. The rules and regulations for certification of providers shall include a  
 464 requirement that ignition interlock devices be provided to defendants without charge if so  
 465 ordered by a court. The standards for certification of such devices shall include, but not  
 466 be limited to, those standards for such devices promulgated by the National Highway  
 467 Traffic Safety Administration and adopted by rule or regulation of the Department of  
 468 Driver Services."

469 **SECTION 11.**

470 Said article is further amended by revising Code Section 42-8-117, relating to revocation of  
 471 driving privilege upon violation of probation imposed by Code Section 42-8-111, as follows:

472 "42-8-117.

473 (a)(1) In the event the sentencing court revokes a person's probation after finding that  
 474 such person has violated the terms of the certificate of eligibility for an ignition interlock  
 475 device limited driving permit or probationary license issued pursuant to subsection (a) or  
 476 (a.1) of Code Section 42-8-111, the Department of Driver Services shall revoke that  
 477 person's driving privilege for one year from the date the court revokes that person's  
 478 probation. The court shall report such probation revocation to the Department of Driver  
 479 Services by court order.

480 (2) This subsection shall not apply to any person whose limited driving permit has been  
 481 revoked under subsection (d) of Code Section 42-8-112.

482 (b) In the event the sentencing court revokes a person's probation after finding that such  
 483 person has twice violated the terms of the certificate of eligibility for an ignition interlock  
 484 device limited driving permit or probationary license issued pursuant to subsection (a) or  
 485 (a.1) of Code Section 42-8-111 during the same period of probation, the Department of  
 486 Driver Services shall revoke that person's driving privilege for five years from the date the  
 487 court revokes that person's probation for a second time. The court shall report such  
 488 probation revocation to the Department of Driver Services by court order."

489 **SECTION 12.**

490 Said article is further amended in Code Section 42-8-118, relating to requesting or soliciting  
 491 another to blow into device, by revising subsections (a) and (b) as follows:

492 "(a) It is unlawful for any person whose driving privilege is restricted pursuant to  
 493 subsection (a) or (a.1) of Code Section 42-8-111 to request or solicit any other person to

494 blow into an ignition interlock device or to start a motor vehicle equipped with the device  
495 for the purpose of providing the person so restricted with an operable motor vehicle.

496 (b) It is unlawful for any person to blow into an ignition interlock device or to start a motor  
497 vehicle equipped with the device for the purpose of providing an operable motor vehicle  
498 to a person whose driving privilege is restricted pursuant to subsection (a) or (a.1) of Code  
499 Section 42-8-111."

500

**SECTION 13.**

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