

Senate Bill 160

By: Senators Williams of the 27th, Cowser of the 46th, Harper of the 7th, Mullis of the 53rd,
Jones of the 25th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated,
2 relating to prohibited acts regarding alcoholic beverages, so as to revise penalties for a
3 violation of Code Section 3-3-23; to amend Article 2 of Chapter 4 of Title 17 of the Official
4 Code of Georgia Annotated, relating to arrest by law enforcement officers generally, so as
5 to revise procedures for arrest by citation; to provide for related matters; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to
10 prohibited acts regarding alcoholic beverages, is amended by revising subsections (d) and
11 (e) of Code Section 3-3-23.1, relating to procedure and penalties upon violation of Code
12 Section 3-3-23, as follows:

13 ~~“(d)(1) Unless the officer has reasonable cause to believe such person is intoxicated,~~
14 Except as provided for in paragraph (2) of this subsection, a law enforcement officer may
15 shall arrest by issuance of a citation, ~~summons, or accusation~~ a pursuant to Code Section
16 17-4-23, any person accused of violating any provision of Code Section 3-3-23. The
17 ~~citation, summons, or accusation~~ shall enumerate the specific charges against the person
18 and either the date upon which the person is to appear and answer the charges or a
19 notation that the person will be later notified of the date upon which the person is to
20 appear and answer the charges. If the person charged shall fail to appear as required, the
21 judge having jurisdiction of the offense may issue a warrant or other order directing the
22 apprehension of such person and commanding that such person be brought before the
23 court to answer the charges contained within the ~~citation, summons, or accusation~~ and the
24 charge of his or her failure to appear as required. Nothing in this ~~subsection~~ paragraph
25 shall be construed to invalidate an otherwise valid arrest by citation, summons, or
26 accusation of a person who is intoxicated and who has committed an offense under the
27 laws of this state other than that provided for in Code Section 3-3-23. Nothing in this

28 paragraph shall be construed to restrict the discretion of the prosecuting attorney to use
 29 a uniform traffic citation as the formal charging document.

30 (2) If the arresting officer provided for in paragraph (1) of this subsection has probable
 31 cause to believe that a person accused of violating any provision of Code Section 3-3-23
 32 is intoxicated to the extent that he or she poses a danger to himself or herself or to the
 33 person or property of another, the arresting officer may effect a custodial arrest of such
 34 person in addition to the issuance of a citation, summons, or accusation. The citation,
 35 summons, or accusation shall enumerate the specific charges against the person and either
 36 the date upon which the person is to appear and answer the charges or a notation that the
 37 person will be later notified of the date upon which the person is to appear and answer
 38 the charges. In all such cases provided for under this subsection, the provisions of Code
 39 Section 17-6-1 shall apply. Nothing in this paragraph shall be construed to invalidate an
 40 otherwise valid arrest by citation, summons, or accusation of a person who is intoxicated
 41 and who has committed an offense under the laws of this state other than that provided
 42 for in Code Section 3-3-23.

43 (e) A law enforcement officer arresting a person by the issuance of a citation, ~~summons,~~
 44 ~~or accusation~~ under paragraph (1) of subsection (d) of this Code section may require any
 45 such person having a driver's license or instruction permit to deposit such license or permit
 46 with the arresting officer in order to ensure the appearance of such person to answer the
 47 charges against him or her. The procedures and rules connected with the acceptance of
 48 such license or permit and subsequent disposition of the case shall be the same as provided
 49 for the acceptance of a driver's license as bail on arrest for traffic offenses pursuant to Code
 50 Section 17-6-11."

51 **SECTION 2.**

52 Article 2 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to
 53 arrest by law enforcement officers generally, is amended by revising subsection (a) of Code
 54 Section 17-4-23, relating to procedure for arrests by citation for motor vehicle violations,
 55 issuance of warrants for arrest for failure of persons charged to appear in court, and bond, as
 56 follows:

57 "(a) A law enforcement officer may arrest a person accused of violating any law or
 58 ordinance governing the operation, licensing, registration, maintenance, or inspection of
 59 motor vehicles or violating any provision of Code Section 3-3-23 by the issuance of a
 60 citation, provided that the offense is committed in his presence or information constituting
 61 a basis for arrest concerning the operation of a motor vehicle or a violation of any provision
 62 of Code Section 3-3-23 was received by the arresting officer from a law enforcement
 63 officer observing the offense being committed, except that, where the offense results in an

64 accident, an investigating officer may issue citations regardless of whether the offense
65 occurred in the presence of a law enforcement officer. The arresting officer shall issue to
66 such person a citation which shall enumerate the specific charges against the person and
67 the date upon which the person is to appear and answer the charges or a notation that the
68 person will be later notified of the date upon which the person is to appear and answer the
69 charges. Whenever an arresting officer makes an arrest concerning the operation of a
70 motor vehicle based on information received from another law enforcement officer who
71 observed the offense being committed, the citation shall list the name of each officer and
72 each must be present when the charges against the accused person are heard."

73 **SECTION 3.**

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