

The House Committee on Judiciary Non-civil offers the following substitute to SB 160:

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 paragraph (2), (3), or (5) of
17 subsection (a) of Code Section 3-3-23. The citation, ~~summons, or accusation~~ shall
18 enumerate the specific charges against the person and either the date upon which the
19 person is to appear and answer the charges or a notation that the person will be later
20 notified of the date upon which the person is to appear and answer the charges. If the
21 person charged shall fail to appear as required, the judge having jurisdiction of the
22 offense may issue a warrant or other order directing the apprehension of such person and
23 commanding that such person be brought before the court to answer the charges
24 contained within the citation, ~~summons, or accusation~~ and the charge of his or her failure
25 to appear as required. Nothing in this ~~subsection~~ paragraph shall be construed to
26 invalidate an otherwise valid arrest by citation, summons, or accusation of a person who

27 is intoxicated and who has committed an offense under the laws of this state other than
 28 that provided for in Code Section 3-3-23. Nothing in this paragraph shall be construed
 29 to restrict the discretion of the prosecuting attorney to use a uniform traffic citation as the
 30 formal charging document.

31 (2) If the arresting officer provided for in paragraph (1) of this subsection has probable
 32 cause to believe that a person accused of violating paragraph (2), (3), or (5) of subsection
 33 (a) of Code Section 3-3-23 is intoxicated to the extent that he or she poses a danger to
 34 himself or herself or to the person or property of another, the arresting officer may effect
 35 a custodial arrest of such person in addition to the issuance of a citation, summons, or
 36 accusation. The citation, summons, or accusation shall enumerate the specific charges
 37 against the person and either the date upon which the person is to appear and answer the
 38 charges or a notation that the person will be later notified of the date upon which the
 39 person is to appear and answer the charges. In all such cases provided for under this
 40 subsection, the provisions of Code Section 17-6-1 shall apply. Nothing in this paragraph
 41 shall be construed to invalidate an otherwise valid arrest by citation, summons, or
 42 accusation of a person who is intoxicated and who has committed an offense under the
 43 laws of this state other than that provided for in Code Section 3-3-23.

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

52 **SECTION 2.**

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

58 "(a) A law enforcement officer may arrest a person accused of violating any law or
 59 ordinance governing the operation, licensing, registration, maintenance, or inspection of
 60 motor vehicles or violating paragraph (2), (3), or (5) of subsection (a) of Code Section
 61 3-3-23 by the issuance of a citation, provided that the offense is committed in his presence
 62 or information constituting a basis for arrest concerning the operation of a motor vehicle

63 or a violation of paragraph (2), (3), or (5) of subsection (a) of Code Section 3-3-23 was
64 received by the arresting officer from a law enforcement officer observing the offense
65 being committed, except that, where the offense results in an accident, an investigating
66 officer may issue citations regardless of whether the offense occurred in the presence of a
67 law enforcement officer. The arresting officer shall issue to such person a citation which
68 shall enumerate the specific charges against the person and the date upon which the person
69 is to appear and answer the charges or a notation that the person will be later notified of the
70 date upon which the person is to appear and answer the charges. Whenever an arresting
71 officer makes an arrest concerning the operation of a motor vehicle based on information
72 received from another law enforcement officer who observed the offense being committed,
73 the citation shall list the name of each officer and each must be present when the charges
74 against the accused person are heard."

75 **SECTION 3.**

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