

The House Committee on Judiciary Non-Civil offers the following substitute to HB 205:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 40 and Article 7 of Chapter 8 of Title 42 of the Official Code  
2 of Georgia Annotated, relating to drivers' licenses and ignition interlock devices as condition  
3 of probation, respectively, so as to provide for changes to licensing and driving privileges for  
4 individuals arrested for driving under the influence; to provide for the issuance of an optional  
5 ignition interlock device limited driving permit upon arrest for driving under the influence  
6 under certain circumstances; to provide for submission of a report by the Department of  
7 Driver Services; to provide for procedures, conditions, fees, and limitations for the issuance  
8 of an ignition interlock device limited driving permit; to change the time frame for requesting  
9 hearings after an arrest for driving under the influence; to provide for cancellation of  
10 restrictions upon successful completion of complying with an ignition interlock device  
11 limited driving permit; to provide for conditions of maintaining ignition interlock devices and  
12 use of such devices; to revise and correct cross-references; to provide for an effective date;  
13 to provide for related matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 PART I  
16 SECTION 1-1.

17 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
18 is amended in Code Section 40-5-64, relating to limited driving permits for certain offenders,  
19 by revising subsections (a), (c) through (e), and (g) as follows:

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

21 (1) Notwithstanding any contrary provision of this Code section or Code Section  
22 40-5-57, or 40-5-63, ~~or any other Code section of this chapter 40-5-75, 40-5-121, or~~  
23 42-8-111, any person who has not been previously convicted or adjudicated delinquent  
24 for a violation of Code Section 40-6-391 within five years, as measured from the dates  
25 of previous arrests for which convictions were obtained or pleas of nolo contendere were

26 accepted to the date of the current arrest for which a conviction is obtained or a plea of  
 27 nolo contendere is accepted, may apply for a limited driving permit when ~~and only when~~  
 28 that person's driver's license had a suspension imposed prior to July 1, 2015, under Code  
 29 Section 40-5-22 or that person's driver's license has been suspended in accordance with  
 30 subsection (d) of Code Section 40-5-57, paragraph (1) of subsection (a) of Code Section  
 31 40-5-63, paragraph (1) of subsection (a) of Code Section 40-5-67.2, or subsection (a) of  
 32 Code Section 40-5-57.1, when the person is 18 years of age or older and his or her license  
 33 was suspended for exceeding the speed limit by 24 miles per hour or more but less than  
 34 34 miles per hour, and the sentencing judge, in his or her discretion, decides it is  
 35 reasonable to issue a limited driving permit.

36 ~~(2) Any person whose driver's license has been suspended as a result of a second~~  
 37 ~~conviction for violating Code Section 40-6-391 within five years, as measured from the~~  
 38 ~~dates of previous arrests for which convictions were obtained to the date of the current~~  
 39 ~~arrest for which a conviction is obtained, may apply for an ignition interlock limited~~  
 40 ~~driving permit after serving at least 120 days of the suspension required for such~~  
 41 ~~conviction and providing either a certificate of eligibility from a drug court program in~~  
 42 ~~the court in which he or she was convicted of the offense for which such suspension was~~  
 43 ~~imposed or by submitting proof of enrollment in clinical treatment as provided in Code~~  
 44 ~~Section 40-5-63.1. No person who has been granted an exemption from the ignition~~  
 45 ~~interlock device requirements of Article 7 of Chapter 8 of Title 42 shall be eligible for a~~  
 46 ~~limited driving permit, an ignition interlock device limited driving permit, or any other~~  
 47 ~~driving privilege for a period of one year.~~

48 (3) To the extent a person is subject to more than one suspension for which a limited  
 49 driving permit may be issued, the department shall not issue such permit unless the  
 50 suspensions are for a conviction for driving under the influence in violation of Code  
 51 Section 40-6-391 imposed pursuant to Code Section 40-5-63 and an administrative  
 52 suspension imposed pursuant to paragraph (1) of subsection (a) of Code Section  
 53 40-5-67.2 arising from the same incident."

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

- 60 (1) Going to his or her place of employment or performing the normal duties of his or
- 61 her occupation;
- 62 (2) Receiving scheduled medical care or obtaining prescription drugs;

- 63 (3) Attending a college or school at which he or she is regularly enrolled as a student;  
 64 (4) Attending regularly scheduled sessions or meetings of support organizations for  
 65 persons who have addiction or abuse problems related to alcohol or other drugs, which  
 66 organizations are recognized by the commissioner;  
 67 (5) Attending under court order any driver education or improvement school or alcohol  
 68 or drug program or course approved by the court which entered the judgment of  
 69 conviction resulting in suspension of his or her driver's license or by the commissioner;  
 70 (6) Attending court, reporting to a community supervision, juvenile probation, or Article  
 71 6 of Chapter 8 of Title 42 probation office or reporting to a community supervision  
 72 officer, county or Department of Juvenile Justice juvenile probation officer, or probation  
 73 officer serving pursuant to Article 6 of Chapter 8 of Title 42 or performing community  
 74 service; or  
 75 (7) Transporting an immediate family member who does not hold a valid driver's license  
 76 for work, to obtain medical care; or prescriptions, or to school.

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

78 ~~(1)~~ The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code  
 79 section shall not apply and shall not be considered for purposes of granting a limited  
 80 driving permit or imposing conditions thereon under this Code section in the case of a  
 81 driver's license suspension imposed prior to July 1, 2015, under ~~paragraph (2) of~~  
 82 ~~subsection (a.1) of Code Section 40-5-22.~~

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

- 85 ~~(A) Going to his or her place of employment or performing the normal duties of his or~~  
 86 ~~her occupation;~~  
 87 ~~(B) Attending a college or school at which he or she is regularly enrolled as a student;~~  
 88 ~~(C) Attending regularly scheduled sessions or meetings of treatment support~~  
 89 ~~organizations for persons who have addiction or abuse problems related to alcohol or~~  
 90 ~~other drugs, which organizations are recognized by the commissioner; and~~  
 91 ~~(D) Going for monthly monitoring visits with the permit holder's ignition interlock~~  
 92 ~~device service provider.~~

93 (d) **Conditions attached.** A limited driving permit shall be endorsed with such conditions  
 94 as the commissioner deems necessary to ensure that such permit will be used by the  
 95 permittee only to avoid the conditions of extreme hardship. Such conditions may include  
 96 the following restrictions:

- 97 (1) Specific places between which the permittee may be allowed to operate a motor  
 98 vehicle;  
 99 (2) Routes to be followed by the permittee;

- 100 (3) Times of travel;
- 101 (4) The specific vehicles which the permittee may operate; and
- 102 ~~(4.1) The installation and use of an ignition interlock device in accordance with Article~~
- 103 ~~7 of Chapter 8 of Title 42, which shall be required for any permittee who is applying for~~
- 104 ~~an ignition interlock limited driving permit; and~~
- 105 (5) Such other restrictions as the department may require.

106 (e) **Fees, duration, renewal, and replacement of limited driving permit.**

107 ~~(1)~~ A limited driving permit issued pursuant to this Code section shall be \$25.00 and

108 shall become invalid upon the driver's eighteenth birthday in the case of a suspension

109 under paragraph (2) of subsection (a.1) of Code Section 40-5-22, upon the expiration of

110 one year following issuance thereof in the case of a suspension for an offense listed in

111 Code Section 40-5-54 or a suspension under Code Section 40-5-57 or a suspension in

112 accordance with paragraph (1) of subsection (a) of Code Section 40-5-63 for a violation

113 of Code Section 40-6-391, or upon the expiration of 30 days in the case of an

114 administrative license suspension in accordance with paragraph (1) of subsection (a) of

115 Code Section 40-5-67.2; except that such limited driving permit shall expire upon any

116 earlier reinstatement of the driver's license. A person may apply to the department for

117 a limited driving permit immediately following such conviction if he or she has

118 surrendered his or her driver's license to the court in which the conviction was adjudged

119 or to the department if the department has processed the ~~citation~~ administrative driver's

120 license suspension form or conviction. Upon the applicant's execution of an affidavit

121 attesting to such facts and to the fact that the court had not imposed a suspension or

122 revocation of his or her driver's license or driving privileges inconsistent with the driving

123 privileges to be conferred by the limited driving permit applied for, the department may

124 issue such person a limited driving permit. ~~Permits~~ Limited driving permits issued

125 pursuant to this Code section are renewable upon payment of a renewal fee of \$5.00.

126 ~~Permits~~ Limited driving permits may be renewed until the person has his or her license

127 reinstated for the violation that was the basis of the issuance of the limited driving permit.

128 Upon payment of a fee in an amount the same as that provided by Code Section 40-5-25

129 for issuance of a Class C driver's license, a person may be issued a replacement for a lost

130 or destroyed limited driving permit issued to him or her.

131 ~~(2) An ignition interlock device limited driving permit shall be valid for a period of one~~

132 ~~year. Upon successful completion of one year of monitoring of such ignition interlock~~

133 ~~device, the restriction for maintaining and using such ignition interlock device shall be~~

134 ~~removed, and the permit may be renewed for additional periods of two months as~~

135 ~~provided in paragraph (1) of this subsection."~~

136 "(g) **Revocation of limited driving permit.**

137 (1)(A) Any limited driving permittee who is convicted of violating any state law or local  
 138 ordinance relating to the movement of vehicles or any limited driving permittee who is  
 139 convicted of violating the conditions endorsed on his or her limited driving permit shall  
 140 have ~~his or her~~ such permit revoked by the department. Any court in which such  
 141 conviction is had shall require ~~the~~ such permittee to surrender ~~the~~ his or her limited  
 142 driving permit to the court, and the court shall forward it to the department within ten  
 143 days after the conviction, with a copy of the conviction.

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

152 ~~(C) Upon receipt of notice from a provider center for ignition interlock devices that an~~  
 153 ~~ignition interlock device which a permittee is required to use has been tampered with~~  
 154 ~~or the permittee has failed to report for monitoring of such device as required by law,~~  
 155 ~~the department shall revoke such permittee's limited driving permit and, by regular mail~~  
 156 ~~to his or her last known address, notify such person of such revocation. Such notice of~~  
 157 ~~revocation shall inform the person of the grounds for and effective date of the~~  
 158 ~~revocation and of the right to review. The notice of revocation shall be deemed~~  
 159 ~~received three days after mailing.~~

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

166 **SECTION 1-2.**

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

168 "40-5-64.1.

169 **(a) To whom issued.**

170 (1) Any person who has not been previously convicted or adjudicated delinquent for a  
 171 violation of Code Section 40-6-391 within five years, as measured from the dates of

172 previous arrests for which convictions were obtained or pleas of nolo contendere were  
 173 accepted to the date of the current arrest for which a conviction is obtained or a plea of  
 174 nolo contendere is accepted and whose driver's license is subject to an administrative  
 175 driver's license suspension pursuant to subsections (c) and (d) of Code Section 40-5-67.1,  
 176 may apply for an ignition interlock device limited driving permit with the department.

177 (2) Any person whose driver's license has been suspended as a result of a second  
 178 conviction for violating Code Section 40-6-391 within five years, as measured from the  
 179 dates of previous arrests for which convictions were obtained to the date of the current  
 180 arrest for which a conviction is obtained, may apply for an ignition interlock device  
 181 limited driving permit after serving at least 120 days of the suspension required for such  
 182 conviction.

183 **(b) Application form.** Applications for ignition interlock device limited driving permits  
 184 shall be made upon such forms as the commissioner may prescribe. All applications shall  
 185 be signed by the applicant before a person authorized to administer oaths.

186 **(c) Standards for approval.**

187 (1) The department shall issue an ignition interlock device limited driving permit for a  
 188 fee of \$25.00 and:

189 (A) For an applicant eligible for an ignition interlock device limited driving permit  
 190 pursuant to paragraph (1) of subsection (a) of this Code section:

191 (i) Within 30 days from the date on which notice was given pursuant to  
 192 subsection (g) of Code Section 40-5-67.1;

193 (ii) Upon surrender of the applicant's driver's license; and

194 (iii) Upon the applicant's execution of an affidavit attesting that the hearing afforded  
 195 under subsection (g) of Code Section 40-5-67.1 has been waived; or

196 (B) For an applicant eligible for an ignition interlock device limited driving permit  
 197 pursuant to paragraph (2) of subsection (a) of this Code section, upon the submission  
 198 of either a certificate of eligibility from a drug court program in the court in which he  
 199 or she was convicted of the offense for which such suspension was imposed or the  
 200 submission of proof of enrollment in a substance abuse treatment program as provided  
 201 in Code Section 40-5-63.1 and the surrender of his or her driver's license to the court  
 202 in which the conviction was adjudged or to the department if the department has  
 203 processed the administrative driver's license suspension form or conviction.

204 (2) No person who has been granted an exemption from the ignition interlock device  
 205 requirements of Article 7 of Chapter 8 of Title 42 shall be eligible for a limited driving  
 206 permit or any other driving privilege for a period of one year.

207 **(d) Duration, renewal fees, and replacement of ignition interlock device limited**  
208 **driving permit.**

209 (1) An ignition interlock device limited driving permit issued pursuant to this Code  
210 section shall become invalid upon the expiration of one year following issuance thereof  
211 or upon any earlier reinstatement of the driver's license.

212 (2) Ignition interlock device limited driving permits issued pursuant to this Code section  
213 shall be renewable upon payment of a renewal fee of \$5.00. Such permits may be  
214 renewed for additional periods of two months and until the person has his or her license  
215 reinstated.

216 (3) Upon payment of a fee in the same amount as that provided by Code Section 40-5-25  
217 for the issuance of a Class C driver's license, a person may be issued a replacement for  
218 a lost or destroyed ignition interlock device limited driving permit previously issued to  
219 him or her.

220 **(e) Revocation of ignition interlock device limited driving permit.**

221 (1)(A) Any permittee eligible for an ignition interlock device limited driving permit  
222 pursuant to paragraph (1) of subsection (a) of this Code section who is convicted of  
223 violating Code Section 40-6-391 shall have his or her permit revoked by the  
224 department. Any court in which such conviction is had shall require such permittee to  
225 surrender the ignition interlock device limited driving permit to the court, and the court  
226 shall forward it to the department within ten days after the conviction, with a copy of  
227 the conviction.

228 (B) The department shall revoke the ignition interlock device limited driving permit  
229 of any permittee who is required to complete a substance abuse treatment program  
230 pursuant to Code Section 40-5-63.1 and enrolled but failed to attend or complete such  
231 program as scheduled upon receipt of notice of such information from the Department  
232 of Behavioral Health and Developmental Disabilities. The department shall notify the  
233 permittee of such revocation by regular mail to his or her last known address. Such  
234 notice of revocation shall inform the permittee of the grounds for and effective date of  
235 the revocation and of the right to review. The notice of revocation shall be deemed  
236 received three days after mailing.

237 (C) The department shall revoke the ignition interlock device limited driving permit  
238 of a permittee upon receipt of notice from an ignition interlock device service provider  
239 that an ignition interlock device has been tampered with or a permittee has failed to  
240 report for monitoring as required by law.

241 (2) The department shall notify the permittee of such revocation by regular mail to his  
242 or her last known address. Such notice of revocation shall inform the permittee of the

243 grounds for and effective date of the revocation and of the right to review. The notice of  
 244 revocation shall be deemed received three days after mailing.

245 (3) Any person whose ignition interlock device limited driving permit has been revoked  
 246 for the first time shall not be eligible to apply for a driver's license until 12 months from  
 247 the date such permit was surrendered to the department. Any person whose ignition  
 248 interlock device limited driving permit has previously been revoked shall not be eligible  
 249 to apply for a driver's license until two years from the date such permit was surrendered  
 250 to the department.

251 (f) **Hearings.** Any person whose ignition interlock device limited driving permit has been  
 252 revoked or who has been refused such permit by the department may make a request in  
 253 writing for a hearing to be provided by the department. Such hearing shall be provided by  
 254 the department within 30 days after the receipt of such request and shall follow the  
 255 procedures required by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'  
 256 Appeal from such hearing shall be in accordance with such chapter.

257 (g) **Rules and regulations.** The commissioner may promulgate rules and regulations as  
 258 are necessary to implement this Code section.

259 (h) **Penalty.** Any permittee who operates a motor vehicle in violation of an ignition  
 260 interlock device limited driving permit shall be guilty of a misdemeanor.

261 40-5-64.2.

262 (a) The commissioner shall submit a report to the Senate Public Safety Committee and the  
 263 House Committee on Motor Vehicles detailing the annual number of optional ignition  
 264 interlock device limited driving permits issued under paragraph (1) of subsection (a) of  
 265 Code Section 40-5-64.1. Such report shall be made no later than the last day of December  
 266 of each year.

267 (b) This Code section shall stand repealed on January 1, 2019."

268 **SECTION 1-3.**

269 Said chapter is further amended by revising subsection (b) of Code Section 40-5-67, relating  
 270 to seizure and disposition of driver's license of persons charged with driving under the  
 271 influence, as follows:

272 "(b)(1) At the time the law enforcement officer takes the driver's license, the officer shall  
 273 issue a temporary driving permit to the person as follows:

274 (~~H~~)(A) If the driver refuses to submit to a test or tests to determine the presence of  
 275 alcohol or drugs as required in Code Section 40-5-55, the officer shall issue a ~~30~~ 45 day  
 276 temporary driving permit;

277 ~~(2)(B)~~ If the driver's license is required to be suspended under Code Section 40-5-67.1,  
 278 the officer shall issue a ~~30~~ 45 day temporary driving permit; or  
 279 ~~(3)(C)~~ If the test or tests administered pursuant to Code Section 40-5-55 indicate an  
 280 alcohol concentration in violation of Code Section 40-6-391 but less than the level for  
 281 an administrative suspension of the license under subsection (c) of Code Section  
 282 40-5-67.1, the officer shall issue a 180 day temporary driving permit.  
 283 (2) A This temporary driving permit issued under this subsection shall be valid for the  
 284 stated period or until the person's driving privilege is suspended or revoked under any  
 285 provision of this title. The department, at its sole discretion, may delay the expiration date  
 286 of the such temporary driving permit, but in no event shall this delay extend beyond the  
 287 date when such person's driving privilege is suspended or revoked under any provision  
 288 of this title. The department shall by rules and regulations establish the conditions under  
 289 which the expiration of the a temporary driving permit may be delayed."

290

#### SECTION 1-4.

291 Said chapter is further amended in Code Section 40-5-67.1, relating to chemical tests,  
 292 implied consent notices, rights of motorists, test results, refusal to submit, suspensions and  
 293 denials, and right to a hearing and review, by revising paragraph (1) of subsection (f) and  
 294 paragraphs (1), (3), and (4) of subsection (g) as follows:

295 "(f)(1) The law enforcement officer, acting on behalf of the department, shall personally  
 296 serve the notice of intention to suspend or disqualify the license of the arrested person or  
 297 other person refusing such test on such person at the time of the person's refusal to submit  
 298 to a test or at the time at which such a test indicates that suspension or disqualification  
 299 is required under this Code section. The law enforcement officer shall take possession  
 300 of any driver's license or permit held by any person whose license is subject to suspension  
 301 pursuant to subsection (c) or (d) of this Code section, if any, and shall issue a ~~30~~ 45 day  
 302 temporary driving permit. The officer shall forward the person's driver's license to the  
 303 department along with the notice of intent to suspend or disqualify and the report required  
 304 by subsection (c) or (d) of this Code section within ten calendar days after the date of the  
 305 arrest of such person. This paragraph shall not apply to any person issued a 180 day  
 306 temporary driving permit pursuant to subsection (b) of Code Section 40-5-67. The failure  
 307 of the officer to transmit the report required by this Code section within ten calendar days  
 308 shall not prevent the department from accepting such report and utilizing it in the  
 309 suspension of a driver's license as provided in this Code section."

310 "(g)(1) A person whose driver's license is suspended or who is disqualified from  
 311 operating a commercial motor vehicle pursuant to this Code section shall remit to the  
 312 department a \$150.00 filing fee together with a request, in writing, for a hearing within

313 ~~ten business~~ 30 days from the date of personal notice or receipt of notice sent by certified  
 314 mail or statutory overnight delivery, return receipt requested, or the right to said hearing  
 315 shall be deemed waived. The issuance of an ignition interlock device limited driving  
 316 permit to a person eligible for such permit under paragraph (1) of subsection (a) of Code  
 317 Section 40-5-64.1 shall constitute a waiver of the right to a hearing under this subsection.

318 Within 30 days after receiving a written request for a hearing, the department shall hold  
 319 a hearing as is provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure  
 320 Act.' The hearing shall be recorded."

321 "(3) The hearing officer shall, within five calendar days after such hearing, forward a  
 322 decision to the department to rescind or sustain the driver's license suspension or  
 323 disqualification. If no hearing is requested within the ~~ten business~~ 30 days specified  
 324 above in paragraph (1) of this subsection, and the failure to request such hearing is due  
 325 in whole or in part to the reasonably avoidable fault of the person, the right to a hearing  
 326 shall have been waived. The issuance of an ignition interlock device limited driving  
 327 permit to a person eligible for such permit under paragraph (1) of subsection (a) of Code  
 328 Section 40-5-64.1 shall constitute a waiver of the right to a hearing under this subsection.

329 The request for a hearing shall not stay the suspension of the driver's license; provided,  
 330 however, that if the hearing is timely requested and is not held before the expiration of  
 331 the temporary permit and the delay is not due in whole or in part to the reasonably  
 332 avoidable fault of the person, the suspension shall be stayed until such time as the hearing  
 333 is held and the hearing officer's decision is made.

334 (4) In the event the person is acquitted of a violation of Code Section 40-6-391 or such  
 335 charge is initially disposed of other than by a conviction or plea of nolo contendere, then  
 336 the suspension shall be terminated and deleted from the driver's license record, and if  
 337 such person had obtained an ignition interlock device limited driving permit under  
 338 paragraph (1) of subsection (a) of Code Section 40-5-64.1, then the permit shall be  
 339 revoked and the driver's license shall be reinstated without a fee. An accepted plea of  
 340 nolo contendere shall be entered on the driver's license record and shall be considered and  
 341 counted as a conviction for purposes of any future violations of Code Section 40-6-391.  
 342 In the event of an acquittal or other disposition other than by a conviction or plea of nolo  
 343 contendere, the driver's license restoration fee shall be promptly returned by the  
 344 department to the licensee."

#### 345 **SECTION 1-5.**

346 Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to  
 347 ignition interlock devices as condition of probation, is amended in Code Section 42-8-110,  
 348 relating to definitions, by revising subsection (b) as follows:

349 "(b) As used in this article, the term 'provider center' means a facility established for the  
 350 purpose of providing and installing ignition interlock devices when their use is required by  
 351 or as a result of an order of a court or as required in order to maintain an ignition interlock  
 352 device limited driving permit in accordance with Code Section 40-5-64.1."

### 353 SECTION 1-6.

354 Said article is further amended by adding a new Code section to read as follows:

355 "42-8-110.1.

356 (a) Any person arrested for violating Code Section 40-6-391 with no previous conviction  
 357 of and no previous plea of nolo contendere accepted to a charge of violating such Code  
 358 section within the previous five years, as measured from the dates of previous arrests for  
 359 which convictions were obtained or pleas of nolo contendere were accepted to the date of  
 360 the current arrest, may apply for an ignition interlock device limited driving permit in  
 361 accordance with Code Section 40-5-64.1. For purposes of determining previous  
 362 convictions under this subsection, a person who has been convicted of a crime under the  
 363 laws of any other state or territory of the United States which, if committed in this state,  
 364 would be a violation of Code Section 40-6-391 shall be deemed to have a prior conviction.

365 (b) Issuance of an ignition interlock device limited driving permit in accordance with  
 366 subparagraph (c)(1)(A) of Code Section 40-5-64.1 shall constitute a waiver of the right to  
 367 a hearing under subsection (g) of Code Section 40-5-67.1 and shall serve as notice of  
 368 suspension of a driver's license.

369 (c) Any person qualified under this Code section to be issued an ignition interlock device  
 370 limited driving permit shall, upon issuance thereof, have installed and shall maintain in any  
 371 motor vehicle to be driven by such person for a period of not less than four months a  
 372 functioning, certified ignition interlock device, and such person shall not drive any motor  
 373 vehicle whatsoever that is not so equipped during such period.

374 (d) The restriction for maintaining and using an ignition interlock device shall be cancelled  
 375 by the department upon payment to the department of a \$100 fee or \$90 when such fee is  
 376 processed by mail and upon successful completion of four months of monitoring of an  
 377 ignition interlock device; provided, however, that the restriction shall remain in effect for  
 378 12 months for any person who refused to submit to a test under Code Section 40-5-67.1.

379 (e) Any ignition interlock device limited driving permit issued shall bear a restriction  
 380 reflecting that the person shall only operate a motor vehicle equipped with a functional  
 381 ignition interlock device.

382 (f) The fee for issuance of an ignition interlock device limited driving permit shall be as  
 383 prescribed in Code Section 40-5-64.1."

384 **SECTION 1-7.**

385 Said article is further amended in Code Section 42-8-111, relating to court issuance of  
 386 certificate for installation of ignition interlock devices, exceptions, and fees, by revising  
 387 subsections (a), (d), and (e) as follows:

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

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

397 (2) Such person shall have installed and shall maintain in any other motor vehicle to be  
 398 driven by such person for a period of not less than one year a functioning, certified  
 399 ignition interlock device, and such person shall not drive any motor vehicle whatsoever  
 400 that is not so equipped during such period. Upon successful completion of one year of  
 401 monitoring of such ignition interlock device, the restriction for maintaining and using  
 402 such ignition interlock device shall be removed, and the permit may be renewed for  
 403 additional periods of two months as provided in ~~paragraph (1) of subsection (e)~~ (d) of  
 404 Code Section ~~40-5-64~~ 40-5-64.1; and

405 (3) Such person shall participate in a substance abuse treatment program as defined in  
 406 paragraph (16.2) of Code Section 40-5-1 or a drug court program in compliance with  
 407 Code Section 15-1-15 for a period of not less than 120 days.

408 For the purposes of this subsection, a plea of nolo contendere shall constitute a conviction;  
 409 and a conviction of any offense under the ~~law of another~~ laws of any other state or territory  
 410 ~~substantially conforming to any offense under~~ of the United States which, if committed in  
 411 this state, would be a violation of Code Section 40-6-391 shall be deemed a conviction of  
 412 violating ~~said~~ such Code section."

413 "(d) Except as provided in Code ~~Section~~ Sections 42-8-110.1 and 42-8-112, no provision  
 414 of this article shall be deemed to reduce any period of driver's license suspension or  
 415 revocation otherwise imposed by law.

416 (e) The fee for issuance of any driver's license indicating that use of an ignition interlock  
 417 device is required shall be as prescribed for a regular driver's license in Code Section  
 418 40-5-25, and the fee for issuance of any limited driving permit indicating that use of an  
 419 ignition interlock device is required shall be as prescribed ~~for a limited driving permit~~ in  
 420 Code Section ~~40-5-64~~ 40-5-64.1; except that, for habitual violators required to use an

421 ignition interlock device as a condition of a probationary license, the fee shall be as  
422 prescribed for a probationary license in Code Section 40-5-58."

423 **SECTION 1-8.**

424 Said article is further amended in Code Section 42-8-112, relating to timing for issuance of  
425 ignition interlock device limited driving permit and documentation and reporting  
426 requirements, by revising paragraph (1) of subsection (d) as follows:

427 "(d)(1) If a person required to report to an ignition interlock provider as required by  
428 subsection (c) of this Code section fails to report to the provider as required or receives  
429 an unsatisfactory report from the provider at any time during the ~~one-year~~ permit period,  
430 the Department of Driver Services shall revoke such person's ignition interlock device  
431 limited driving permit immediately upon notification from the provider of the failure to  
432 report or failure to receive a satisfactory report. Except as provided in paragraph (2) of  
433 this subsection, within 30 days after such revocation, the person may make a written  
434 request for a hearing and remit to the Department of Driver Services a payment of  
435 \$250.00 for the cost of the hearing. Within 30 days after receiving a written request for  
436 a hearing and a payment of \$250.00, the Department of Driver Services shall hold a  
437 hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure  
438 Act.' The hearing shall be recorded."

439 **PART II**

440 **SECTION 2-1.**

441 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
442 is amended in Code Section 40-5-22, relating to minimum ages for licenses and limited  
443 driving permits, by revising subsection (d) as follows:

444 "(d) The department is authorized to issue a limited driving permit to an applicant whose  
445 license is currently under suspension or revocation in any other jurisdiction upon grounds  
446 which would authorize the suspension or revocation of a license under this chapter,  
447 provided that the applicant is otherwise eligible for such limited driving permit in  
448 accordance with ~~paragraph (1) of subsection (a) of Code Section 40-5-64~~ and paragraph  
449 (1) of subsection (a) of Code Section 40-5-64.1."

450 **SECTION 2-2.**

451 Said chapter is further amended in Code Section 40-5-39, relating to endorsements on  
452 licenses of limousine chauffeurs, by revising paragraph (2) of subsection (b) as follows:

453 "(2) Possess a valid Georgia driver's license which is not limited as defined in Code  
454 Section 40-5-64 or 40-5-64.1;"

455 **SECTION 2-3.**

456 Said chapter is further amended in Code Section 40-5-63, relating to periods of suspension  
457 and conditions for return of a license, by revising paragraph (2) of subsection (a) as follows:

458 "(2) Upon the second conviction of any such offense within five years, as measured from  
459 the dates of previous arrests for which convictions were obtained to the date of the  
460 current arrest for which a conviction is obtained, the period of suspension shall be three  
461 years. At the end of 120 days, the person may apply to the department for reinstatement  
462 of his or her driver's license; except that if such license was suspended as a result of a  
463 second conviction of a violation of Code Section 40-6-391 within five years, the person  
464 shall not be eligible to apply for license reinstatement until the end of 18 months. Such  
465 license shall be reinstated if such person submits proof of completion of a DUI Alcohol  
466 or Drug Use Risk Reduction Program and pays a restoration fee of \$210.00 or \$200.00  
467 when such reinstatement is processed by mail, provided that, if such license was  
468 suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such  
469 license shall be reinstated if such person submits proof of completion of either a  
470 defensive driving course approved by the commissioner pursuant to Code Section  
471 40-5-83 or a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed  
472 restoration fee. A driver's license suspended as a result of a conviction of a violation of  
473 Code Section 40-6-391 shall not become valid and shall remain suspended until such  
474 person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction  
475 Program, provides proof of installation and maintenance of an ignition interlock device  
476 for a period of one year coinciding with the issuance of an ignition interlock device  
477 limited driving permit as provided in Code Section ~~40-5-64~~ 40-5-64.1 unless waived due  
478 to financial hardship, and pays the prescribed restoration fee. For purposes of this  
479 paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere  
480 to an offense listed in Code Section 40-5-54 within such five-year period of time shall  
481 constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere to  
482 a charge of violating Code Section 40-6-391 and all prior accepted pleas of nolo  
483 contendere within five years, as measured from the dates of previous arrests for which  
484 convictions were obtained or pleas of nolo contendere were accepted to the date of the  
485 current arrest for which a plea of nolo contendere is accepted, shall be considered and  
486 counted as convictions; or"

487 **SECTION 2-4.**

488 Said chapter is further amended in Code Section 40-5-66, relating to appeals from decisions  
 489 of the department, by revising subsection (a) as follows:

490 "(a) Except as provided in subsection (h) of Code Section 40-5-67.1, ~~and~~ subsection (h)  
 491 of Code Section 40-5-64, and subsection (f) of Code Section 40-5-64.1, any decision  
 492 rendered by the department shall be final unless the aggrieved person shall desire an  
 493 appeal. In such case, such person shall have the right to enter an appeal in the superior  
 494 court of the county of his residence or in the Superior Court of Fulton County. Such appeal  
 495 shall name the commissioner as defendant and must be filed within 30 days from the date  
 496 the department enters its decision or order. The person filing the appeal shall not be  
 497 required to post any bond nor to pay the costs in advance."

498 **SECTION 2-5.**

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

502 "(d) Any other provision of law to the contrary notwithstanding, a driver with no previous  
 503 conviction for a violation of Code Section 40-6-391 within the previous five years, as  
 504 measured from the dates of previous arrests for which convictions were obtained to the date  
 505 of the current arrest, during the period of administrative suspension contemplated under  
 506 this chapter, shall be entitled to a limited driving permit or an ignition interlock device  
 507 limited driving permit as provided in Code Section Sections 40-5-64 and 40-5-64.1."

508 **SECTION 2-6.**

509 Said chapter is further amended in Code Section 40-5-76, relating to judicial restoration of  
 510 a driver's license or issuance of a limited driving permit, by revising subsection (a) as  
 511 follows:

512 "(a) A judge presiding in a drug court division, mental health court division, or veterans  
 513 court division may order the department to restore a defendant's driver's license that has  
 514 been or should be suspended pursuant to Code Section 40-5-75, suspend such license, issue  
 515 a defendant an ignition interlock device limited driving permit in accordance with Code  
 516 Section 40-5-64.1, or issue a defendant a limited driving permit in accordance with the  
 517 provisions set forth in subsections (c) and (d) of Code Section 40-5-64 or with whatever  
 518 conditions the court determines to be appropriate under the circumstances as a reward or  
 519 sanction to the defendant's behavior in such court division. The court shall determine what  
 520 fees, if any, shall be paid to the department for such reward or sanction, provided that such  
 521 fee shall not be greater than the fee normally imposed for such services."

522

**PART III**

523

**SECTION 3-1.**

524 This Act shall become effective on January 1, 2017.

525

**SECTION 3-2.**

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