

The Senate Committee on Public Safety offered the following substitute to HB 375:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, so
2 as to provide for different criteria for driving under the influence of marijuana; to correct a
3 cross-reference; to provide for related matters; to provide for an effective date; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
8 by revising subsections (a) and (b) of Code Section 40-5-75, relating to suspension of driver's
9 licenses by operation of law, as follows:

10 "(a) The driver's license of any person convicted of driving or being in actual physical
11 control of any moving vehicle while under the influence of a controlled substance ~~or~~
12 ~~marijuana~~ in violation of paragraph (2), (4), ~~or (6)~~, or (7) of subsection (a) of Code Section
13 40-6-391 or the law of any other jurisdiction, shall by operation of law be suspended, and
14 such suspension shall be subject to the following terms and conditions:

15 (1) Upon the first conviction of any such offense, with no arrest and conviction of and
16 no plea of nolo contendere accepted to such offense within the previous five years, as
17 measured from the dates of previous arrests for which convictions were obtained to the
18 date of the current arrest for which a conviction is obtained, the period of suspension shall
19 be for not less than 180 days. At the end of 180 days, the person may apply to the
20 department for reinstatement of his or her driver's license. Such license shall be
21 reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use
22 Risk Reduction Program and pays to the department a restoration fee of \$210.00 or
23 \$200.00 when such reinstatement is processed by mail;

24 (2) Upon the second conviction of any such offense within five years, as measured from
25 the dates of previous arrests for which convictions were obtained to the date of the
26 current arrest for which a conviction is obtained, the period of suspension shall be for
27 three years, provided that after one year from the date of the conviction, the person may

28 apply to the department for reinstatement of his or her driver's license by submitting proof
29 of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the
30 department a restoration fee of \$310.00 or \$300.00 when such reinstatement is processed
31 by mail; and

32 (3) Upon the third or subsequent conviction of any such offense within five years, as
33 measured from the dates of previous arrests for which convictions were obtained to the
34 date of the current arrest for which a conviction is obtained, such person's license shall
35 be suspended for a period of five years. At the end of two years, the person may apply
36 to the department for a three-year driving permit upon compliance with the following
37 conditions:

38 (A) Such person has not been convicted or pleaded nolo contendere to any drug related
39 offense, including driving under the influence, for a period of two years immediately
40 preceding the application for such permit;

41 (B) Such person submits proof of completion of a licensed drug treatment program.
42 Such proof shall be submitted within two years of the license suspension and prior to
43 the issuance of the permit. Such licensed drug treatment program shall be paid for by
44 the offender. The offender shall pay a permit fee of \$25.00 to the department;

45 (C) Such person submits proof of financial responsibility as provided in Chapter 9 of
46 this title; and

47 (D) Refusal to issue such permit would cause extreme hardship to the applicant. For
48 the purposes of this subparagraph, the term 'extreme hardship' means that the applicant
49 cannot reasonably obtain other transportation, and, therefore, the applicant would be
50 prohibited from:

51 (i) Going to his or her place of employment or performing the normal duties of his
52 or her occupation;

53 (ii) Receiving scheduled medical care or obtaining prescription drugs;

54 (iii) Attending a college or school at which he or she is regularly enrolled as a
55 student; or

56 (iv) Attending regularly scheduled sessions or meetings of support organizations for
57 persons who have addiction or abuse problems related to alcohol or other drugs,
58 which organizations are recognized by the commissioner.

59 Any permittee who is convicted of violating any state law or local ordinance relating to
60 the movement of vehicles or any permittee who is convicted of violating the conditions
61 endorsed on his or her permit shall have his or her permit revoked by the department.
62 Any court in which such conviction is had shall require the permittee to surrender the
63 permit to the court, and the court shall forward it to the department within ten days after
64 the conviction, with a copy of the conviction. Any person whose limited driving permit

65 has been revoked shall not be eligible to apply for a driver's license until six months from
 66 the date such permit was surrendered to the department. At the end of five years from the
 67 date on which the license was suspended, the person may apply to the department for
 68 reinstatement of his or her driver's license by submitting proof of completion of a DUI
 69 Alcohol or Drug Use Risk Reduction Program and paying to the department a restoration
 70 fee of \$410.00 or \$400.00 when such reinstatement is processed by mail.

71 (b) Except as provided in Code Section 40-5-76, whenever a person is convicted of driving
 72 or being in actual physical control of any moving vehicle while under the influence of a
 73 controlled substance ~~or marijuana~~ in violation of paragraph (2), (4), ~~or (6), or (7)~~ of
 74 subsection (a) of Code Section 40-6-391 or the law of any other jurisdiction, the court in
 75 which such conviction is had shall require the surrender to it of any driver's license then
 76 held by the person so convicted, and the court shall thereupon forward such license and a
 77 copy of its order to the department within ten days after the conviction. The periods of
 78 suspension provided for in this Code section shall begin on the date of surrender of the
 79 driver's license or on the date that the department processes the conviction or citation,
 80 whichever shall first occur."

81 SECTION 2.

82 Said title is further amended in subsection (a) of Code Section 40-6-391, relating to driving
 83 under the influence of alcohol, drugs, or other intoxicating substances, by deleting "or" at the
 84 end of paragraph (5), by revising paragraph (6), and by adding a new paragraph to read as
 85 follows:

86 "(6) Subject to the provisions of subsection (b) of this Code section, there is any amount
 87 of ~~marijuana~~ or a controlled substance, as defined in Code Section 16-13-21, present in
 88 the person's blood or urine, or both, including the metabolites and derivatives of ~~each~~ or
 89 ~~both~~ a controlled substance without regard to whether or not any alcohol is present in the
 90 person's breath or blood; or

91 (7) The concentration of delta 9-tetrahydrocannabinol is two nanograms per milliliter or
 92 more as shown by analysis of the person's blood, without regard to whether or not any
 93 alcohol is present in the person's breath or blood, at any time within three hours after such
 94 driving or being in actual physical control from delta 9-tetrahydrocannabinol ingested
 95 before such driving or being in actual physical control ended."

96 SECTION 3.

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

98 SECTION 4.

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