

Senate Bill 176

By: Senators Kennedy of the 18th, Miller of the 49th, Martin of the 9th, Walker III of the 20th, Shafer of the 48th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 17 and Chapter 5 of Title 40 of the Official Code of Georgia Annotated,
2 relating to criminal procedure and drivers' licenses, respectively, so as to enact reforms
3 relating to driving privileges recommended by the Georgia Council on Criminal Justice
4 Reform; to change and provide for the procedure of issuing bench warrants for individuals
5 charged with certain traffic, motorist, and road violations; to remove a barrier to obtaining
6 a habitual violator probationary license; to change provisions relating to third and subsequent
7 convictions under Code Section 40-6-391 involving controlled substances or marijuana; to
8 change provisions relating to reinstatement of certain licenses under certain conditions; to
9 provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
13 amended by revising subsections (a) and (b) of Code Section 17-6-11, relating to the display
14 of a driver's license for violations of certain traffic related laws, as follows:

15 "(a)(1) When an individual ~~Any other laws to the contrary notwithstanding, any person~~
16 ~~who~~ is apprehended by an officer for the violation of the laws of this state or ordinances
17 relating to the offenses listed in paragraph (2) of this subsection, he or she may display
18 his or her driver's license and be issued a uniform traffic citation in lieu of being:

19 ~~(1) Traffic, including any offense under Code Section 40-5-72 or 40-6-10, but excepting~~
20 ~~any other offense for~~

21 (A) Brought before the proper magistrate or other judicial officer;

22 (B) Incarcerated;

23 (C) Ordered to post a bond; or

24 (D) Ordered a recognizance for his or her appearance for trial.

25 (2) This subsection shall apply to any violation:

26 (A) Of Title 40 except any offense:

- 27 (i) For which a license may be suspended for a first offense by the commissioner of
 28 driver services, any offense covered;
 29 (ii) Covered under Code Section 40-5-54, or any offense covered; or
 30 (iii) Covered under Article 15 of Chapter 6 of Title 40;
 31 ~~(2) The licensing and registration of motor vehicles and operators;~~
 32 ~~(3)(B) Involving the The width, height, and length of vehicles and loads;~~
 33 ~~(4)(C) Involving motor Motor common carriers and motor contract carriers;~~
 34 ~~(5) Commercial vehicle or driver safety;~~
 35 ~~(6)(D) Involving hazardous Hazardous materials transportation;~~
 36 ~~(7) Motor carrier insurance or registration; or~~
 37 ~~(8)(E) Involving road Road taxes on motor carriers as provided in Article 2 of Chapter~~
 38 ~~9 of Title 48~~

39 ~~upon being served with the official summons issued by such apprehending officer, in lieu~~
 40 ~~of being immediately brought before the proper magistrate, recorder, or other judicial~~
 41 ~~officer to enter into a formal recognizance or make direct the deposit of a proper sum of~~
 42 ~~money in lieu of a recognizance ordering incarceration, may display his or her driver's~~
 43 ~~license to the apprehending officer in lieu of bail, in lieu of entering into a recognizance~~
 44 ~~for his or her appearance for trial as set in the aforesaid summons, or in lieu of being~~
 45 ~~incarcerated by the apprehending officer and held for further action by the appropriate~~
 46 ~~judicial officer.~~

47 ~~(3) The apprehending officer shall note the~~ include the individual's driver's license
 48 number on the official summons uniform traffic citation. ~~The summons uniform traffic~~
 49 citation, ~~duly served as provided in this Code section,~~ shall give the judicial officer
 50 jurisdiction to dispose of the matter.

51 ~~(b)(4)~~ (4) Upon display of the driver's license, the apprehending officer shall release the
 52 person individual so charged for his or her further appearance before the proper judicial
 53 officer as required by the summons uniform traffic citation.

54 (b) When a uniform traffic citation is issued and if the accused fails to appear for court or
 55 otherwise dispose of his or her charges before his or her scheduled court appearance, prior
 56 to the court issuing a bench warrant, the clerk of court shall notify the accused by first-class
 57 mail or by postcard at the address listed on the uniform traffic citation of his or her failure
 58 to appear and provide a new court date and time. If the accused fails to appear for the
 59 rescheduled court date, the clerk of The court in which the charges are lodged shall
 60 immediately, within five days of the failure to appear, forward to the Department of Driver
 61 Services of this state the accused's driver's license number if the person fails to appear and
 62 answer to the charge against him or her. The commissioner of driver services shall, upon
 63 receipt of a such driver's license number forwarded by the court, suspend the such

64 ~~accused's~~ driver's license and driving privilege ~~of the defaulting person~~ until notified by the
 65 ~~clerk of court~~ that the charge against the ~~person~~ accused has been finally adjudicated. Such
 66 ~~person's~~ accused's driver's license shall be reinstated if ~~the person~~ when he or she submits
 67 proof of ~~payment of the fine from the court of jurisdiction~~ the final adjudication and pays
 68 to the Department of Driver Services a restoration fee of \$50.00 or \$25.00 when such
 69 reinstatement is processed by mail."

70 **SECTION 2.**

71 Said title is further amended by revising Code Section 17-7-90, relating to "bench warrant"
 72 defined, execution, receiving bail, fixing bond, and approving sureties, as follows:

73 "17-7-90.

74 (a) A bench warrant ~~is a warrant~~ may be issued by a judge for the arrest of a person
 75 ~~accused:~~

76 (1) Accused of a crime by a grand jury ~~or for the arrest of a person;~~

77 (2) Except as otherwise provided in Code Section 17-6-11, charged with a crime who has
 78 failed to appear in court after ~~actual notice;~~

79 (A) Actual notice of the time and place to appear to the person in open court ~~or notice;~~

80 (B) Notice of the time and place to appear to the person by mailing a notice to ~~his or~~
 81 ~~her~~ such person's last known address; ~~or otherwise being notified~~

82 (C) The person has otherwise been notified of the time and place to appear personally,
 83 in writing, by a court official or officer of the court ~~of the time and place to appear or~~
 84 ~~for the arrest of a person charged; or~~

85 (3) Charged with a crime upon the filing by the prosecutor of an accusation supported
 86 by affidavit.

87 (b) Every officer is bound to execute ~~the~~ a bench warrant within his or her jurisdiction, and
 88 every person so arrested ~~must~~ shall be committed to jail until bail is tendered. Any judicial
 89 officer or the sheriff of the county where the charge was returned may receive the bail, fix
 90 the amount of the bond, and approve the sureties unless it is a case that isailable only
 91 before some particular judicial officer."

92 **SECTION 3.**

93 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
 94 is amended by revising subparagraph (e)(1)(D) of Code Section 40-5-58, relating to habitual
 95 violators and probationary licenses, as follows:

96 ~~"(D) Such person has not been convicted, or pleaded nolo contendere to a charge, of~~
 97 ~~violating any provision of Title 3, relating to alcoholic beverages, or of violating any~~
 98 ~~provision of Chapter 13 of Title 16, relating to controlled substances~~ Reserved;"

99

SECTION 4.

100 Said chapter is further amended by revising paragraph (3) of subsection (a) and paragraph
 101 (1) of subsection (g) of Code Section 40-5-75, relating to the suspension of drivers' licenses
 102 by operation of law and reinstatement, as follows:

103 ~~"(3) Upon the third or subsequent conviction of any such offense within five years, as~~
 104 ~~measured from the dates of previous arrests for which convictions were obtained to the~~
 105 ~~date of the current arrest for which a conviction is obtained, such person's license shall~~
 106 ~~be suspended for a period of five years person shall be considered a habitual violator, and~~
 107 ~~such person's license shall be revoked as provided for in Code Section 40-5-58. A~~
 108 ~~driver's license suspension imposed under this paragraph shall run concurrently with and~~
 109 ~~shall be counted toward the fulfillment of any period of revocation imposed directly~~
 110 ~~under Code Sections 40-5-58 and 40-5-62, provided that such revocation arose from the~~
 111 ~~same act for which the suspension was imposed. ~~At the end of two years, the person may~~~~
 112 ~~apply to the department for a three-year driving permit upon compliance with the~~
 113 ~~following conditions:~~

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

117 ~~(B) Such person submits proof of completion of a licensed drug treatment program.~~
 118 ~~Such proof shall be submitted within two years of the license suspension and prior to~~
 119 ~~the issuance of the three-year driving permit. Such licensed drug treatment program~~
 120 ~~shall be paid for by the offender. The offender shall pay a permit fee of \$25.00 to the~~
 121 ~~department;~~

122 ~~(C) Such person submits proof of financial responsibility as provided in Chapter 9 of~~
 123 ~~this title; and~~

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

128 ~~(i) Going to his or her place of employment or performing the normal duties of his~~
 129 ~~or her occupation;~~

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

131 ~~(iii) Attending a college or school at which he or she is regularly enrolled as a~~
 132 ~~student; or~~

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

136 ~~Any three-year driving permittee who is convicted of violating any state law or local~~
 137 ~~ordinance relating to the movement of vehicles or any such permittee who is convicted~~
 138 ~~of violating the conditions endorsed on his or her three-year driving permit shall have his~~
 139 ~~or her permit revoked by the department. Any court in which such conviction is had shall~~
 140 ~~require the permittee to surrender the three-year driving permit to the court, and the court~~
 141 ~~shall forward it to the department within ten days after the conviction, with a copy of the~~
 142 ~~conviction. Any person whose three-year driving permit has been revoked shall not be~~
 143 ~~eligible to apply for a driver's license until six months from the date such permit was~~
 144 ~~surrendered to the department. At the end of five years from the date on which the~~
 145 ~~license was suspended, the person may apply to the department for reinstatement of his~~
 146 ~~or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use~~
 147 ~~Risk Reduction Program and paying to the department a restoration fee of \$410.00 or~~
 148 ~~\$400.00 when such reinstatement is processed by mail. The restoration fee paid to~~
 149 ~~reinstate a driver's license that was suspended under this paragraph shall be counted~~
 150 ~~toward the fulfillment of the restoration fee required by subsection (c) of Code Section~~
 151 ~~40-5-62, provided that such revocation arose from the same act for which the suspension~~
 152 ~~was imposed."~~

153 "(g)(1)(A) Effective Upon July 1, 2016, the department shall be authorized to reinstate,
 154 instanter, a driver's license that was suspended pursuant to this Code section for a
 155 violation of Article 2 of Chapter 13 of Title 16, or the equivalent law of any other
 156 jurisdiction, that occurred prior to July 1, 2015, provided that the driver's license has
 157 not been previously reinstated. The provisions of this paragraph subparagraph shall not
 158 apply to a suspension imposed pursuant to this Code section for a violation of
 159 paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391, or the equivalent
 160 law of any other jurisdiction, that occurred prior to July 1, 2015, unless ordered by a
 161 judge presiding in a drug court division, mental health court division, veterans court
 162 division, or operating under the influence court division in accordance with subsection
 163 (a) of Code Section 40-5-76.

164 (B) Effective July 1, 2017, the department shall be authorized to reinstate, instanter,
 165 a driver's license that was suspended pursuant to this Code section for a violation of
 166 Article 1 of Chapter 13 of Title 16, or the equivalent law of any other jurisdiction, that
 167 occurred prior to July 1, 2015, provided that the driver's license has not been previously
 168 reinstated. The provisions of this subparagraph shall not apply to a suspension imposed
 169 pursuant to this Code section for a violation of paragraph (2), (4), or (6) of
 170 subsection (a) of Code Section 40-6-391, or the equivalent law of any other jurisdiction,
 171 that occurred prior to July 1, 2015, unless ordered by a judge presiding in a drug court

172 division, mental health court division, veterans court division, or operating under the
173 influence court division in accordance with subsection (a) of Code Section 40-5-76."

174 **SECTION 5.**

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