

Senate Bill 417

By: Senators McKoon of the 29th, Ligon, Jr. of the 3rd, Thompson of the 14th, Shafer of the 48th, Harbin of the 16th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to  
2 drivers' licenses, so as to clarify and provide for persons who may obtain certain licenses,  
3 permits, or cards; to provide for driving safety cards for persons who are current recipients  
4 of grants of deferred action on deportation which shall operate the same as drivers' licenses;  
5 to provide for exceptions; to provide for the design of driving safety cards; to provide for  
6 special identification cards for persons who are current recipients of grants of deferred action  
7 on deportation; to provide for the design of such special identification cards; to provide for  
8 criminal penalties; to provide for related matters; to provide for a contingent effective date;  
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
13 is amended by revising paragraph (15) of Code Section 40-5-1, relating to definitions, to read  
14 as follows:

15 "(15) 'Resident' means a person who has a permanent home or abode in Georgia to  
16 which, whenever such person is absent, he or she has the intention of returning. For the  
17 purposes of this chapter, there is a rebuttable presumption that the following person is a  
18 resident:

19 (A) Any person who accepts employment or engages in any trade, profession, or  
20 occupation in Georgia or enters his or her children to be educated in the private or  
21 public schools of Georgia within ten days after the commencement of such employment  
22 or education; or

23 (B) Any person who, except for infrequent, brief absences, has been present in the state  
24 for 30 or more days;

25 provided, however, that no person shall be considered a resident for purposes of this  
26 chapter unless such person is either a United States citizen or an alien ~~with legal~~

27 ~~authorization from the United States Immigration and Naturalization Service~~ having  
 28 lawful status to be present in the United States."

29 **SECTION 2.**

30 Said chapter is further amended by revising subsections (a) and (c) and adding new  
 31 subsections to Code Section 40-5-20, relating to license required, surrender of prior licenses,  
 32 and local licenses prohibited, to read as follows:

33 "(a) No person, except those expressly exempted in this chapter or in Chapter 6 of this title,  
 34 shall drive any motor vehicle upon a highway in this state unless such person has a valid  
 35 driver's license or driving safety card under this chapter for the type or class of vehicle  
 36 being driven. Any person who is a resident of this state for 30 days shall obtain a Georgia  
 37 driver's license before operating a motor vehicle in this state. Any court having jurisdiction  
 38 over traffic offenses in this state shall report to the department the name and other  
 39 identifying information of any individual convicted of driving without a license. This Code  
 40 section shall not apply to a person driving with a suspended license or license that has been  
 41 revoked. Any person convicted of violating this Code section shall be punished as  
 42 provided in subsection (a) of Code Section 40-5-121; provided, however, that if:

43 (1) Such person is driving with a driver's license issued by this state that has been  
 44 expired for less than 31 days at the time of the offense and he or she produces in court a  
 45 driver's license that would have been valid at the time of the offense, he or she shall not  
 46 be guilty of such offense; and

47 (2) Such person is driving without a valid driver's license or receipt issued by the  
 48 department reflecting issuance, renewal, replacement, or reinstatement in his or her  
 49 possession but he or she has a valid driver's license, Code Section 40-5-29 shall apply to  
 50 such offense.

51 (a.1)(1) Except as provided for in subsection (a.2) of this Code section, any person who  
 52 is a current recipient of a grant of deferred action on deportation from the United States  
 53 Department of Homeland Security shall obtain a Georgia driving safety card before  
 54 operating a motor vehicle in this state. Pursuant to the terms of this subsection, upon  
 55 payment of the required fee, the department shall issue to every applicant qualifying  
 56 therefor a driving safety card indicating the type or general class of vehicle the applicant  
 57 may drive. Notwithstanding any other provision of this title and except as otherwise  
 58 provided for in this subsection, such driving safety card shall:

59 (A) In every way operate in like manner for types or classes of vehicles as a citizen's  
 60 driver's license, including but not limited to fees, instructional permits, training,  
 61 examinations, expirations, restrictions, points, issuances, renewals, and replacements,  
 62 as if such driving safety card were a driver's license;

63 (B) Be subject to the same carrying, exhibition, reporting, and motor vehicle insurance  
64 requirements as a citizen's driver's license;

65 (C) Confer the same privileges and responsibilities for driving a motor vehicle upon  
66 a highway in this state as a citizen's driver's license; and

67 (D) Be subject to the same laws and penalties in the law, including but not limited to  
68 suspension or revocation, in the same manner as a citizen's driver's license.

69 (2) A driving safety card shall be valid only during the period of time of the applicant's  
70 grant of deferred action on deportation or five years, whichever occurs first.

71 (3)(A) A driving safety card shall be valid only for the privilege of operating a motor  
72 vehicle upon a highway in this state and shall not be valid for identification purposes,  
73 including but not limited to verifying the identity, residency, or citizenship status of its  
74 holder.

75 (B) It shall be a misdemeanor to attempt, with intent to deceive, to use a driving safety  
76 card for identification purposes other than presentment to a law enforcement officer.

77 (4) Prior to the issuance of a driving safety card, the department shall obtain the  
78 fingerprints of the applicant.

79 (5)(A) The department shall distinguish a driving safety card from a driver's license  
80 issued by the department by the use of font and color.

81 (B) A driving safety card shall bear the legend: 'The individual shown hereon has  
82 passed the driving skills, knowledge, and vision tests required by state law.' A driving  
83 safety card shall, in white letters displayed on a black banner positioned at the top or  
84 bottom, or both, of the driving safety card, include the terms 'DRIVING SAFETY  
85 CARD', 'NOT FOR IDENTIFICATION', 'NO LAWFUL STATUS', and 'NOT  
86 ACCEPTABLE FOR OFFICIAL PURPOSES'. The driving safety card shall have a  
87 vertical orientation. Other than as provided for in this paragraph, a driving safety card  
88 shall contain the same physical characteristics of, and be similar in form to, a driver's  
89 license issued by the department.

90 (6) The department shall not issue any temporary driving privileges as provided for in  
91 subsection (e) of Code Section 40-5-24 to any person who is a current recipient of a grant  
92 of deferred action on deportation from the United States Department of Homeland  
93 Security.

94 (a.2) No person who is a current recipient of a grant of deferred action on deportation from  
95 the United States Department of Homeland Security shall be eligible to obtain a driver's  
96 license or a special identification card other than a special identification card provided for  
97 under subsection (d) of Code Section 40-5-21.1; provided, however, that any person who  
98 is a current recipient of such grant of deferred action on deportation and who has a valid  
99 driver's license or special identification card other than a special identification card

100 provided for under subsection (d) of Code Section 40-5-21.1 shall, upon expiration of such  
101 driver's license or special identification card, be subject to the provisions of this chapter  
102 relating to a driving safety card or special identification card."

103 "(c)(1)(A) Any person who applies for a driver's license, instruction permit, or limited  
104 driving permit shall indicate on such application whether he or she is in possession of  
105 any other valid driver's license, driving safety card, or permit issued pursuant to this  
106 title or from any other jurisdiction.

107 (B) Except as provided in paragraph (2) of this subsection, no person shall receive a  
108 driver's license or driving safety card unless and until such person surrenders to the  
109 department all valid licenses or permits in such person's possession issued to him or her  
110 pursuant to this title or by any other jurisdiction. The department shall physically mark  
111 any surrendered license, card, or permit in a manner which makes it apparent that such  
112 license, card, or permit is no longer valid and return the license or permit to such  
113 person.

114 (C) The department shall issue a receipt to a person eligible to be issued a driver's  
115 license, driving safety card, instruction permit, or limited driving permit pursuant to the  
116 requirements of this title. Such receipt shall satisfy the requirements of subsection (a)  
117 of Code Section 40-5-29 regarding proof of eligibility to operate a motor vehicle until  
118 the person has received his or her permanent driver's license, driving safety  
119 card, instruction permit, or limited driving permit.

120 (D) If a surrendered driver's license or driving safety card was issued by another  
121 jurisdiction, the department shall forward the surrendered license or card information  
122 to the previous jurisdiction.

123 (E) Except as provided for in paragraph (2) of this subsection, no person shall be  
124 permitted to have more than one valid driver's license or driving safety card at any time.

125 (2) Any noncitizen who is eligible for issuance of a driver's license, instruction permit,  
126 or limited driving permit pursuant to the requirements of this title and is in possession of  
127 a valid driver's license or permit issued by a foreign jurisdiction may be issued a driver's  
128 license, instruction permit, or limited driving permit without surrendering the foreign  
129 driver's license or permit. This exemption shall not apply to a person who is required to  
130 terminate any previously issued driver's license pursuant to federal law. The department  
131 shall make a notation on the driving record of any person who retains a foreign driver's  
132 license, and this information shall be made available to law enforcement officers and  
133 agencies on such person's driving record through the Georgia Crime Information Center."

134 **SECTION 3.**

135 Said chapter is further amended by revising Code Section 40-5-21.1, relating to temporary  
 136 licenses, permits, or special identification cards, foreign licenses or identification cards as  
 137 evidence of legal presence in the United States, and extensions, as follows:

138 "40-5-21.1.

139 (a) Except as provided for in subsections (a.1) and (a.2) of Code Section 40-5-20,  
 140 notwithstanding ~~Notwithstanding~~ any other provision of this title, an applicant who  
 141 presents in person valid documentary evidence of:

142 (1) Admission to the United States in a valid, unexpired nonimmigrant status;

143 (2) A pending or approved application for asylum in the United States;

144 (3) Admission into the United States in refugee status;

145 (4) An approved application for temporary protected status in the United States;

146 (5) Approved deferred action on deportation status;

147 (6) Other federal documentation verified by the United States Department of Homeland  
 148 Security to be valid documentary evidence of lawful presence in the United States under  
 149 federal immigration law; or

150 (7) Verification of lawful presence as provided by Code Section 40-5-21.2

151 may be issued a temporary license, permit, or special identification card. Such temporary  
 152 license, permit, or special identification card shall be valid only during the period of time  
 153 of the applicant's authorized stay in the United States or five years, whichever occurs first.

154 (b) A driver's license or identification card issued by any state or territory which, on or  
 155 after July 1, 2006, authorized such driver's license or identification card to be issued to  
 156 persons not lawfully present in the United States may not be accepted as evidence of legal  
 157 presence in the United States.

158 (c) Any noncitizen applicant whose Georgia driver's license or identification card has  
 159 expired, or will expire within 30 days, and who has filed, or on whose behalf has been  
 160 filed, a request for an extension with the United States Department of Homeland Security,  
 161 or similar such federal issuing agency, for time to remain lawfully within the United States  
 162 shall be issued a temporary driving permit or identification card valid for 120 days from  
 163 the date of the expiration of his or her valid driver's license or identification card. The  
 164 noncitizen applicant shall be required to present evidence of the application for extension  
 165 by submitting a copy or copies of documentation designated by the department. A  
 166 temporary driving permit or identification card shall be issued upon submission of the  
 167 required documentation and an application fee in an amount to be determined by the  
 168 department. Upon the expiration of the temporary driving permit or identification card, no  
 169 further consecutive temporary permits or identification cards shall be authorized; provided,

170 however, that application may be made following the expiration of an additional valid  
171 Georgia driver's license or identification card.

172 (d)(1) Notwithstanding any other provision of the title, an applicant who is a current  
173 recipient of a grant of deferred action on deportation from the United States Department  
174 of Homeland Security may be issued a special identification card which shall be valid  
175 only during the period of time of the applicant's grant of deferred action on deportation  
176 or five years, whichever occurs first. Notwithstanding any other provision of this title  
177 and except as otherwise provided for in this subsection, such special identification card  
178 shall in every way conform to the provisions governing personal identification cards  
179 provided for by this title, including but not limited to fees, proof of birth date, unlawful  
180 use, issuances, renewals, and replacements.

181 (2) Prior to the issuance of such special identification card as provided for in  
182 paragraph (1) of this subsection, the department shall obtain the fingerprints of the  
183 applicant.

184 (3)(A) The department shall distinguish the special identification card provided for in  
185 this subsection from other personal identification cards issued by the department by the  
186 use of font and color.

187 (B) A special identification card provided for in this subsection shall, in white letters  
188 displayed on a black banner positioned at the top or bottom, or both, of the special  
189 identification card, include the terms 'NO LAWFUL STATUS' and 'NOT  
190 ACCEPTABLE FOR OFFICIAL PURPOSES'. Other than as provided for in this  
191 paragraph, such special identification card shall contain the same physical  
192 characteristics of, and be similar in form to, other personal identification cards issued  
193 by the department."

194 **SECTION 4.**

195 Said chapter is further amended by revising subsection (b) and adding a new subsection to  
196 Code Section 40-5-21.2, relating to compliance with the Systematic Alien Verification for  
197 Entitlements Program, application, and implementation, to read as follows:

198 "(b) The department shall utilize the following procedures in this subsection before issuing  
199 an identification card, license, permit, or other official document to an applicant who is a  
200 noncitizen:

201 (1) The department shall attempt to confirm through the SAVE program that the  
202 applicant is lawfully present in the United States; and

203 (2) If the SAVE program does not provide sufficient information to the department to  
204 make a determination, the department shall be authorized to accept verbal or, e-mail, or

205 other means of confirmation of the legal status of the applicant from the Department of  
 206 Homeland Security."

207 "(e) A person determined to be a current recipient of a grant of deferred action on  
 208 deportation from the United States Department of Homeland Security pursuant to this Code  
 209 section shall be eligible for a card as provided for in subsection (a.1) of Code Section  
 210 40-5-20 or subsection (d) of Code Section 40-5-21.1."

211 **SECTION 5.**

212 Said chapter is further amended by revising subsection (a) of Code Section 40-5-28, relating  
 213 to the issuance of licenses and contents, as follows:

214 "(a) Except as provided in subsection (c) of this Code section, the department shall, upon  
 215 payment of the required fee, issue to every applicant qualifying therefor a driver's license  
 216 indicating the type or general class of vehicles the licensee may drive, which license shall  
 217 be upon a form prescribed by the department and which shall bear thereon a distinguishing  
 218 number assigned to the licensee, a photograph of the licensee, the licensee's full legal name,  
 219 either a facsimile of the signature of the licensee or a space upon which the licensee shall  
 220 write his or her usual signature with a pen and ink immediately upon receipt of the license,  
 221 and such other information or identification as is required by the department. No license  
 222 shall be valid until it has been so signed by the licensee. Except as provided for under  
 223 Code Section 40-5-20 or 40-5-21.1, the ~~The~~ department shall not require applicants to  
 224 submit or otherwise obtain from applicants any fingerprints or any other biological  
 225 characteristic or information which uniquely identifies an individual, including without  
 226 limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but  
 227 not including a photograph, by any means upon application."

228 **SECTION 6.**

229 Said chapter is further amended by revising paragraphs (1), (2), and (3) of Code Section  
 230 40-5-120, relating to the unlawful use of license or identification card and penalties for  
 231 violations of chapter generally, as follows:

232 "(1) Display or cause or permit to be displayed or have in his or her possession any  
 233 canceled, revoked, or suspended driver's license or personal identification card issued  
 234 pursuant to ~~Code Section 40-5-100~~ this chapter;

235 (2) Fail or refuse to surrender to the department upon lawful demand any driver's license  
 236 or personal identification card issued pursuant to ~~Code Section 40-5-100~~ this chapter  
 237 which has been suspended, revoked, disqualified, or canceled;

238 (3) Permit any unlawful use of a driver's license or personal identification card issued  
 239 pursuant to ~~Code Section 40-5-100~~ this chapter issued to such person;"

240

**SECTION 7.**

241 (a) This Act shall become effective only if funds are specifically appropriated for purposes  
242 of this Act in an appropriations Act enacted by the General Assembly.

243 (b) If funds are so appropriated, then this Act shall become effective on the later of:

244 (1) The date on which such appropriations Act becomes effective; or

245 (2) The beginning date of the fiscal year for which such appropriations are made.

246

**SECTION 8.**

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