

The Senate Committee on Public Safety offered the following substitute to HB 258:

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 define terms; to provide for driving privilege cards for persons who
4 possess Employment Authorization Documents from the United States Department of
5 Homeland Security with certain codes thereon which shall operate the same as drivers'
6 licenses; to provide for exceptions; to provide for the design of driving privilege cards; to
7 provide for special identification cards for persons who possess Employment Authorization
8 Documents from the United States Citizenship and Immigration Services with certain codes
9 thereon; to provide for the design of such special identification cards; to provide for criminal
10 penalties; to provide for related matters; to provide for a contingent effective date; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 SECTION 1.

14 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
15 is amended by revising paragraph (15) of and adding a new paragraph to Code Section
16 40-5-1, relating to definitions, to read as follows:

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

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

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

27 provided, however, that no person shall be considered a resident for purposes of this
 28 chapter unless such person is either a United States citizen or an alien with ~~legal~~
 29 ~~authorization from the United States Immigration and Naturalization Service~~ lawful status
 30 as reflected by an Employment Authorization Document code from the United States
 31 Citizenship and Immigration Services."

32 "(19) 'Unlawful status EAD code' means a code placed on such Employment
 33 Authorization Document that indicates such person is not present in the United States
 34 under a lawful status, including, but not limited to, code A10, A11, A13, A14, C13, C14,
 35 C18, and C33."

36 SECTION 2.

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

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

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

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

58 (a.1)(1) Except as provided for in subsection (a.2) of this Code section, any person
 59 possessing an Employment Authorization Document from the United States Citizenship
 60 and Immigration Services with an unlawful status EAD code shall obtain a Georgia
 61 driving privilege card before operating a motor vehicle in this state. Pursuant to the terms
 62 of this subsection, upon payment of the required fee, the department shall issue to every

63 applicant qualifying therefor a driving privilege card indicating the type or general class
64 of vehicle the applicant may drive. Notwithstanding any other provision of this title and
65 except as otherwise provided for in this subsection, such driving privilege card shall:

66 (A) In every way operate in like manner for types or classes of vehicles as a United
67 States citizen's driver's license, including but not limited to fees, instructional permits,
68 training, examinations, expirations, restrictions, points, issuances, renewals, and
69 replacements, as if such driving privilege card were a driver's license;

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

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

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

76 (2) A driving privilege card shall be valid only during the period of time of the
77 applicant's having a valid and current Employment Authorization Document from the
78 United States Citizenship and Immigration Services with a code thereon that is not an
79 unlawful status EAD code or five years, whichever occurs first; provided, however, that
80 such applicant shall notify the department within ten days after any change in an EAD
81 code.

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

86 (B) It shall be a misdemeanor to attempt, with intent to deceive, to use a driving
87 privilege card for identification purposes other than presentment to a law enforcement
88 officer.

89 (4) Prior to the issuance of a driving privilege card, the department shall obtain the
90 fingerprints of the applicant.

91 (5)(A) The department shall distinguish a driving privilege card from a driver's license
92 issued by the department by the use of a unique design and color.

93 (B) A driving privilege card shall bear the legend: 'The individual shown hereon has
94 passed the driving skills, knowledge, and vision tests required by state law.' A driving
95 privilege card shall, in white letters displayed on a black banner positioned at the top
96 or bottom, or both, of the driving privilege card, include the terms 'DRIVING
97 PRIVILEGE CARD', 'NON-CITIZEN', and 'NOT FOR FEDERAL
98 IDENTIFICATION'. Other than as provided for in this paragraph, a driving privilege

99 card shall contain the same physical characteristics of, and be similar in form to, a
100 driver's license issued by the department.

101 (6) The department shall not issue any temporary driving privileges as provided for in
102 subsection (e) of Code Section 40-5-24 to any person who presents an Employment
103 Authorization Document from the United States Citizenship and Immigration Services
104 with an unlawful status EAD code.

105 (a.2) No person possessing an Employment Authorization Document from the United
106 States Citizenship and Immigration Services with an unlawful status EAD code shall be
107 eligible to obtain a driver's license or a special identification card other than a special
108 identification card provided for under subsection (d) of Code Section 40-5-21.1; provided,
109 however, that any person who possesses an Employment Authorization Document from the
110 United States Citizenship and Immigration Services with an unlawful status EAD code and
111 who has a valid driver's license or special identification card other than a special
112 identification card provided for under subsection (d) of Code Section 40-5-21.1 shall, upon
113 expiration of such driver's license or special identification card, be subject to the provisions
114 of this chapter relating to a driving privilege card or special identification card."

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

119 (B) Except as provided in paragraph (2) of this subsection, no person shall receive a
120 driver's license or driving privilege card unless and until such person surrenders to the
121 department all valid licenses or permits in such person's possession issued to him or her
122 pursuant to this title or by any other jurisdiction. The department shall physically mark
123 any surrendered license, card, or permit in a manner which makes it apparent that such
124 license, card, or permit is no longer valid and return the license or permit to such
125 person.

126 (C) The department shall issue a receipt to a person eligible to be issued a driver's
127 license, driving privilege card, instruction permit, or limited driving permit pursuant to
128 the requirements of this title. Such receipt shall satisfy the requirements of subsection
129 (a) of Code Section 40-5-29 regarding proof of eligibility to operate a motor vehicle
130 until the person has received his or her permanent driver's license, driving privilege
131 card, instruction permit, or limited driving permit.

132 (D) If a surrendered driver's license or driving privilege card was issued by another
133 jurisdiction, the department shall forward the surrendered license or card information
134 to the previous jurisdiction.

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

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

147 **SECTION 3.**

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

151 "40-5-21.1.

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

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

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

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

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

159 (5) Approved deferred action on deportation status;

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

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

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

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

171 (c) Any noncitizen applicant whose Georgia driver's license or identification card has
172 expired, or will expire within 30 days, and who has filed, or on whose behalf has been
173 filed, a request for an extension with the United States Department of Homeland Security,
174 or similar such federal issuing agency, for time to remain lawfully within the United States
175 shall be issued a temporary driving permit or identification card valid for 120 days from
176 the date of the expiration of his or her valid driver's license or identification card. The
177 noncitizen applicant shall be required to present evidence of the application for extension
178 by submitting a copy or copies of documentation designated by the department. A
179 temporary driving permit or identification card shall be issued upon submission of the
180 required documentation and an application fee in an amount to be determined by the
181 department. Upon the expiration of the temporary driving permit or identification card, no
182 further consecutive temporary permits or identification cards shall be authorized; provided,
183 however, that application may be made following the expiration of an additional valid
184 Georgia driver's license or identification card.

185 (d)(1) Notwithstanding any other provision of this title, an applicant who possesses an
186 Employment Authorization Document from the United States Citizenship and
187 Immigration Services with an unlawful status EAD code may be issued a special
188 identification card which shall be valid only during the period of time of the applicant's
189 possession of an unlawful status EAD code or two years, whichever occurs first.
190 Notwithstanding any other provision of this title and except as otherwise provided for in
191 this subsection, such special identification card shall in every way conform to the
192 provisions governing personal identification cards provided for by this title, including but
193 not limited to fees, proof of birth date, unlawful use, issuances, renewals, and
194 replacements.

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

198 (3)(A) The department shall distinguish the special identification card provided for in
199 this subsection from other personal identification cards issued by the department by the
200 use of a unique design and color.

201 (B) A special identification card provided for in this subsection shall, in white letters
202 displayed on a black banner positioned at the top or bottom, or both, of the special
203 identification card, include the term 'NOT FOR FEDERAL IDENTIFICATION'. Other
204 than as provided for in this paragraph, such special identification card shall contain the
205 same physical characteristics of, and be similar in form to, other personal identification
206 cards issued by the department.'

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SECTION 4.

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

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

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

(2) If the SAVE program does not provide sufficient information to the department to make a determination, the department shall be authorized to accept verbal ~~or~~, e-mail, or other means of confirmation of the ~~legal~~ lawful status of the applicant from the Department of Homeland Security, including, but not limited to, confirmation of such noncitizen's possession of an Employment Authorization Document and whether such Employment Authorization Document contains an unlawful status EAD code."

"(e) A person determined to possess an Employment Authorization Document from the United States Citizenship and Immigration Services with an unlawful status EAD code pursuant to this Code section shall be eligible for a card as provided for in subsection (a.1) of Code Section 40-5-20 or subsection (d) of Code Section 40-5-21.1.

(f) The department shall maintain a permanent record of the codes on Employment Authorization Documents that the department uses in issuing an identification card, license, permit, driving privilege card, or other official document to an applicant under this chapter.

(g) For purposes of this chapter, lawful status shall be as provided for by the United States Citizenship and Immigration Services as reflected in Employment Authorization Document code definitions issued by the United States Citizenship and Immigration Services."

SECTION 5.

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

"(a) Except as provided in subsection (c) of this Code section, the department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall be upon a form prescribed by the department and which shall bear thereon a distinguishing number assigned to the licensee, a photograph of the licensee, the licensee's full legal name, either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with a pen and ink immediately upon receipt of the license, and such other information or identification as is required by the department. No license

243 shall be valid until it has been so signed by the licensee. Except as provided for under
 244 Code Section 40-5-20 or 40-5-21.1, the The department shall not require applicants to
 245 submit or otherwise obtain from applicants any fingerprints or any other biological
 246 characteristic or information which uniquely identifies an individual, including without
 247 limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but
 248 not including a photograph, by any means upon application."

249 **SECTION 6.**

250 Said chapter is further amended by revising paragraphs (1), (2), and (3) of Code Section
 251 40-5-120, relating to the unlawful use of license or identification card and penalties for
 252 violations of chapter generally, as follows:

- 253 "(1) Display or cause or permit to be displayed or have in his or her possession any
 254 canceled, revoked, or suspended driver's license or personal identification card issued
 255 pursuant to ~~Code Section 40-5-100~~ this chapter;
- 256 (2) Fail or refuse to surrender to the department upon lawful demand any driver's license
 257 or personal identification card issued pursuant to ~~Code Section 40-5-100~~ this chapter
 258 which has been suspended, revoked, disqualified, or canceled;
- 259 (3) Permit any unlawful use of a driver's license or personal identification card issued
 260 pursuant to ~~Code Section 40-5-100~~ this chapter issued to such person;"

261 **SECTION 7.**

- 262 (a) This Act shall become effective only if funds are specifically appropriated for purposes
 263 of this Act in an appropriations Act enacted by the General Assembly.
- 264 (b) If funds are so appropriated, then this Act shall become effective on the later of:
- 265 (1) The date on which such appropriations Act becomes effective; or
- 266 (2) The beginning date of the fiscal year for which such appropriations are made.

267 **SECTION 8.**

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