

Senate Bill 10

By: Senators Jones of the 10th, Jones II of the 22nd, Butler of the 55th, Albers of the 56th,
Seay of the 34th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 11 of Title 16 and Title 40 of the Official Code of Georgia
2 Annotated, relating to offenses against public order and motor vehicles and traffic,
3 respectively, so as to provide for an offense of knowingly attending and facilitating an illegal
4 drag race or a laying drags exhibition; to provide for punishment; to provide for offenses
5 which disqualify certain drivers from obtaining a Class C or D driver's license; to increase
6 the punishment for the offenses of reckless stunt driving; to provide for minimum periods of
7 imprisonment for such offenses in certain instances; to provide for motor vehicle forfeiture
8 in certain instances; to provide for authority to issue conditions of bond or a uniform traffic
9 citation by a court authorized to hear traffic cases when a defendant has requested the matter
10 be transferred in order to obtain a jury trial; to require any such condition relating to
11 suspension of a driver's license be communicated to the Department of Driver Services; to
12 provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public order, is amended by revising Code Section 16-11-43.1, relating to promoting or organizing drag races or laying drags exhibitions, as follows:

"16-11-43.1.

(a) Any person who knowingly promotes or organizes an exhibition of illegal drag racing, in violation of Code Section 40-6-186, or of laying drags, in violation of Code Section 40-6-251, shall be guilty of a misdemeanor of a high and aggravated nature.

(b) Any person who is knowingly present and actively facilitating an exhibition of illegal drag racing, in violation of Code Section 40-6-186, or of laying drags, in violation of Code Section 40-6-251, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$250.00. For purposes of this subsection, active facilitation may be evidenced by using a vehicle to block the portion of the roadway closest to exhibition participants allowing the event to take place."

SECTION 2.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended in Code Section 40-5-24, relating to instruction permits, graduated licensing and related restrictions, and temporary licenses, by revising division (b)(1)(A)(i) and paragraph (3) of subsection (b) as follows:

"(i) For a period of not less than 12 consecutive months prior to making application for a Class D driver's license, not been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets in violation of Code Section 40-6-186, using a motor vehicle in fleeing or attempting to elude an officer in violation of Code Section 40-6-395, reckless driving in violation of Code Section 40-6-390, reckless stunt driving in violation of Code Section 40-6-390.1, or

40 convicted of any offense for which four or more points are assessable under
41 subsection (c) of Code Section 40-5-57; and"

42 "(3) A person who has been issued a Class D driver's license under this subsection and
43 has never been issued a Class C driver's license under this chapter will become eligible
44 for a Class C driver's license under this chapter only if such person has a valid Class D
45 driver's license which is not under suspension and, for a period of not less than
46 12 consecutive months prior to making application for a Class C driver's license, has not
47 been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene
48 of an accident in violation of Code Section 40-6-270, racing on highways or streets in
49 violation of Code Section 40-6-186, using a motor vehicle in fleeing or attempting to
50 elude an officer in violation of Code Section 40-6-395, reckless driving in violation of
51 Code Section 40-6-390, reckless stunt driving in violation of Code Section 40-6-390.1,
52 or convicted of any offense for which four or more points are assessable under subsection
53 (c) of Code Section 40-5-57 and is at least 18 years of age; provided, however, that any
54 person at least 17 years of age who provides proof of military enlistment and meets all
55 other qualifications of this paragraph, except that such person has held a Class D driver's
56 license for a period of less than 12 consecutive months, shall be eligible for a Class C
57 driver's license."

58 **SECTION 3.**

59 Said title is further amended by revising Code Section 40-6-390.1, relating to reckless stunt
60 driving, as follows:

61 "40-6-390.1.

62 (a) Any person who operates any vehicle while drag racing, in violation of Code
63 Section 40-6-186, or laying drags, in violation of Code Section 40-6-251, in reckless
64 disregard for the safety of persons on a highway or upon private property without express

65 authorization from the owner of such property commits the offense of reckless stunt driving
66 and, upon conviction thereof, shall be guilty of:

67 (1) For the first conviction with no conviction of and no plea of nolo contendere accepted
68 to a charge of violating this Code section within the previous ten years, a misdemeanor
69 of a high and aggravated nature to be punished by:

70 (A) A fine of not less than ~~\$300.00~~ \$500.00 and not more than ~~\$750.00~~
71 \$1,000.00; and

72 (B) A period of imprisonment of not fewer than ten days nor more than six months;

73 (2) For the second conviction in a ten-year period of time, a misdemeanor of a high and
74 aggravated nature to be punished by:

75 (A) A fine of not less than ~~\$600.00~~ \$750.00 and not more than ~~\$1,000.00~~ \$1,500.00;
76 and

77 (B) A period of imprisonment of not fewer than 90 days and not more than 12 months;

78 (3) For the third conviction in a ten-year period of time, a misdemeanor of a high and
79 aggravated nature to be punished by:

80 (A) A fine of not less than ~~\$1,000.00~~ \$2,500.00 and not more than \$5,000.00; and

81 (B) A period of imprisonment of not fewer than 120 days and not more than 12
82 months; and

83 (4) For a fourth or subsequent conviction in a ten-year period of time, a felony to be
84 punished by:

85 (A) A fine of not less than ~~\$1,000.00~~ \$5,000.00 and not more than ~~\$5,000.00~~
86 \$7,500.00; and

87 (B) A period of imprisonment of not fewer than one year and not more than five years;
88 provided, however, that when a violation of this paragraph results in an injury to
89 another or damage to property over \$1,000.00, the first 12 months of such sentence
90 shall not be suspended, probated, deferred, or withheld by a sentencing court.

91 (b)(1) Notwithstanding the limits set forth in any municipal charter, any municipal court
92 of any municipality shall be authorized to impose the misdemeanor or high and aggravated
93 misdemeanor punishments provided for in this Code section upon a conviction of violating
94 this Code section or upon a conviction of violating any ordinance adopting the provisions
95 of this Code section.

96 ~~(2) Notwithstanding any provision of this Code section to the contrary, any court~~
97 ~~authorized to hear misdemeanor or high and aggravated misdemeanor cases involving~~
98 ~~violations of this Code section shall be authorized to exercise the power to probate,~~
99 ~~suspend, or stay any sentence imposed.~~

100 (c)(1) Any motor vehicle operated by a person who has been declared a habitual violator
101 for three violations of this Code section, whose license has been revoked, previously
102 convicted of a violation of this Code section and who is arrested and charged with a
103 violation of this Code section is declared to be contraband and subject to forfeiture in
104 accordance with the procedures set forth in Chapter 16 of Title 9.

105 (2) In any case where a vehicle which is the only family vehicle is determined to be
106 subject to forfeiture, the court may, if it determines that the financial hardship to the
107 family as a result of the forfeiture and sale outweighs the benefit to the state from such
108 forfeiture, order the title to the vehicle transferred to such other family member who is
109 a duly licensed operator and who requires the use of such vehicle for employment or
110 family transportation purposes. Such transfer shall be subject to any valid liens and shall
111 be granted only once.

112 (d) For purposes of this Code section, the occurrence of a previous conviction shall be
113 measured from the dates of previous arrests for which convictions were obtained or pleas
114 of nolo contendere were accepted to the date of the current arrest for which a conviction
115 is obtained or a plea of nolo contendere is accepted."

116 **SECTION 4.**

117 Said title is further amended by revising Code Section 40-13-23, relating to waiver of jury
118 trial and withdrawal of waiver, as follows:

119 "40-13-23.

120 (a) No court defined in this article shall have the power to dispose of traffic misdemeanor
121 cases as provided in this article unless the defendant shall first waive in writing a trial by
122 jury. If the defendant wishes a trial by jury, he or she shall notify the court and, if
123 reasonable cause exists, he or she shall be immediately bound over to the court in the
124 county having jurisdiction to try the offense, wherein a jury may be impaneled; provided,
125 however, that, after notice and a hearing, any transferring court shall be authorized, as an
126 amendment to an existing bond or as a condition of the uniform traffic citation issued in
127 lieu of formal arrest, to impose any reasonable conditions upon a defendant the court deems
128 necessary to protect the safety of any person or the public given the circumstances of the
129 alleged offense and the totality of circumstances, including, but not limited to, the
130 suspension of a driver's license or issuance of a limited driving permit. Where a cash bond,
131 property bond, or driver's license in lieu of bond has been posted or a uniform traffic
132 citation has been issued in lieu of formal arrest, the bond or the conditions placed upon a
133 uniform traffic citation, as applicable, shall be transferred to the court assuming
134 jurisdiction, and the defendant shall not be required to post a new bond by the court
135 assuming jurisdiction.

136 (b) No waiver of a trial by jury may be withdrawn when such waiver has been interposed
137 for the purpose of delay. Except with approval of the court, no waiver of a trial by jury
138 may be withdrawn after the commencement of the trial or the filing of motions on behalf
139 of the defendant, whichever comes first.

140 (c) Within five days of the issuance of any court order for the suspension of a driver's
141 license pursuant to this Code section, the court shall forward to the Department of Driver
142 Services the defendant's driver's license number. The commissioner of driver services

143 shall, upon receipt of such driver's license number, suspend such defendant's driver's
144 license and driving privilege until notified by the clerk of court that determines the final
145 disposition of the underlying citation that the accused driver's license shall be reinstated.
146 Such defendant's driver's license shall be reinstated when the Department of Driver
147 Services receives an order of reinstatement from the court that determined the final
148 disposition of the underlying citation and the defendant pays to the Department of Driver
149 Services the applicable restoration fee as set forth in Code Section 40-5-56."

150

SECTION 5.

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