

House Bill 385 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Smith of the 175<sup>th</sup>, Turnquest of the 73<sup>rd</sup> and Dukes of the 161<sup>st</sup>

A BILL TO BE ENTITLED

AN ACT

1 To promote safe operation of motor vehicles on public roads in this state; to amend Title 40  
 2 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to  
 3 change certain provisions relating to implied consent to chemical tests; to change certain  
 4 provisions relating to suspension or revocation of license of habitually negligent or  
 5 dangerous driver and the point system; to change certain provisions relating to chemical tests  
 6 to determine whether a driver is under the influence of alcohol or drugs, implied consent  
 7 notices, rights of motorists, and administrative procedures; to change certain provisions  
 8 relating to possession of an open container of alcoholic beverage while operating vehicle; to  
 9 change certain provisions relating to driving under the influence of alcohol, drugs, or other  
 10 intoxicating substances; to change certain provisions relating to chemical tests for alcohol  
 11 or drugs; to define the offense of aggressive driving and provide punishment for such  
 12 offense; to change certain provisions relating to surrender of license plates of habitual  
 13 violators; to change certain provisions relating to revocation of licenses of persons under age  
 14 21 for certain offenses and issuance of new licenses following revocations; to change certain  
 15 provisions relating to periods of suspension and conditions to return of driver's license; to  
 16 change certain provisions relating to terms and conditions for suspension of driver's license  
 17 under subsection (c) of Code Section 40-5-67.1; to amend Article 7 of Chapter 8 of Title 42  
 18 of the Official Code of Georgia Annotated, relating to ignition interlock devices as condition  
 19 of probation, so as to change certain provisions relating to court ordered installation of  
 20 ignition interlock devices, completion of alcohol and drug reduction program, notice to the  
 21 Department of Public Safety, and fees for drivers' licenses; to change certain provisions  
 22 relating to proof of compliance required for reinstatement of certain drivers' licenses and for  
 23 obtaining probationary licenses and reporting requirements; to provide effective dates; to  
 24 repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 **PART I**

2 **SECTION 1-1.**

3 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
4 amended in Code Section 40-5-55, relating to implied consent to chemical tests, by striking  
5 subsection (a) and inserting in lieu thereof the following:

6 "(a) The State of Georgia considers that ~~the persons who are under the influence of alcohol~~  
7 ~~or drugs while operating a motor vehicle or who have a blood alcohol concentration of 0.10~~  
8 ~~grams or more at any time within three hours after operating a motor vehicle from alcohol~~  
9 ~~consumed before such driving or actual physical control ended or who have any amount~~  
10 ~~of marijuana or any controlled substance without prescription present in their blood or~~  
11 ~~urine, without regard to the presence of alcohol, while operating a motor vehicle constitute~~  
12 any person who drives or is in actual physical control of any moving vehicle in violation  
13 of any provision of Code Section 40-6-391 constitutes a direct and immediate threat to the  
14 welfare and safety of the general public. Therefore, any person who operates a motor  
15 vehicle upon the highways or elsewhere throughout this state shall be deemed to have  
16 given consent, subject to Code Section 40-6-392, to a chemical test or tests of his or her  
17 blood, breath, urine, or other bodily substances for the purpose of determining the presence  
18 of alcohol or any other drug, if arrested for any offense arising out of acts alleged to have  
19 been committed in violation of Code Section 40-6-391 or if such person is involved in any  
20 traffic accident resulting in serious injuries or fatalities. The test or tests shall be  
21 administered at the request of a law enforcement officer having reasonable grounds to  
22 believe that the person has been driving or was in actual physical control of a moving  
23 motor vehicle upon the highways or elsewhere throughout this state in violation of Code  
24 Section 40-6-391. The test or tests shall be administered as soon as possible to any person  
25 who operates a motor vehicle upon the highways or elsewhere throughout this state who  
26 is involved in any traffic accident resulting in serious injuries or fatalities. Subject to Code  
27 Section 40-6-392, the requesting law enforcement officer shall designate which of the test  
28 or tests shall be administered, provided a blood test with drug screen may be administered  
29 to any person operating a motor vehicle involved in a traffic accident resulting in serious  
30 injuries or fatalities."

31 **SECTION 1-2.**

32 Said title is further amended in Code Section 40-5-57, relating to suspension or revocation  
33 of license of habitually negligent or dangerous driver and the point system, by striking  
34 subparagraph (c)(1)(A) and inserting in lieu thereof the following:

1       "(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be  
2       assessed for each offense shall be as provided in the following schedule:

3 <u>Aggressive driving</u> .....	6 points
4       Reckless driving .....	4 points
5       Unlawful passing of a school bus .....	6 points
6       Improper passing on a hill or a curve .....	4 points
7       Exceeding the speed limit by more than 14 miles per hour but less than 19	
8       miles per hour .....	2 points
9       Exceeding the speed limit by 19 miles per hour or more but less than 24	
10      miles per hour .....	3 points
11      Exceeding the speed limit by 24 miles per hour or more but less than 34	
12      miles per hour .....	4 points
13      Exceeding the speed limit by 34 miles per hour or more .....	6 points
14      Disobedience of any traffic-control device or traffic officer .....	3 points
15      Too fast for conditions .....	0 points
16      Possessing an open container of an alcoholic beverage while driving ....	2 points
17      Failure to adequately secure a load, except fresh farm produce, resulting in	
18      loss of such load onto the roadway which results in an accident .....	2 points
19      Violation of child safety restraint requirements, first offense .....	1 point
20      Violation of child safety restraint requirements, second or subsequent	
21      offense .....	2 points
22      All other moving traffic violations which are not speed limit violations ..	3 points"

23

**SECTION 1-3.**

24   Said title is further amended in Code Section 40-5-67.1, relating to chemical tests to  
25   determine whether a driver is under the influence of alcohol or drugs, implied consent  
26   notices, rights of motorists, and administrative procedures, by striking paragraph (2) of  
27   subsection (b), subsection (c), and subparagraph (g)(2)(E) and inserting in lieu thereof the  
28   following:

29       "(2) Implied consent notice for suspects age 21 or over:

30       'Georgia law requires you to submit to state administered chemical tests of your blood,  
31       breath, urine, or other bodily substances for the purpose of determining if you are under  
32       the influence of alcohol or drugs. If you refuse this testing, your Georgia driver's license  
33       or privilege to drive on the highways of this state will be suspended for a minimum  
34       period of one year. Your refusal to submit to the required testing may be offered into  
35       evidence against you at trial. If you submit to testing and the results indicate an alcohol

1 concentration of ~~0.10~~ 0.08 grams or more, your Georgia driver's license or privilege to  
 2 drive on the highways of this state may be suspended for a minimum period of one year.  
 3 After first submitting to the required state tests, you are entitled to additional chemical  
 4 tests of your blood, breath, urine, or other bodily substances at your own expense and  
 5 from qualified personnel of your own choosing. Will you submit to the state  
 6 administered chemical tests of your (designate which tests) under the implied consent  
 7 law?"

8 "(c) If a person under arrest or a person who was involved in any traffic accident resulting  
 9 in serious injuries or fatalities submits to a chemical test upon the request of a law  
 10 enforcement officer and the test results indicate that a suspension or disqualification is  
 11 required under this Code section, the results shall be reported to the department. Upon the  
 12 receipt of a sworn report of the law enforcement officer that the officer had reasonable  
 13 grounds to believe the arrested person had been driving or was in actual physical control  
 14 of a moving motor vehicle upon the ~~highway~~ highways or elsewhere throughout this state  
 15 in violation of Code Section 40-6-391 or that such person had been driving or was in actual  
 16 physical control of a moving motor vehicle upon the highways or elsewhere throughout this  
 17 state and was involved in a traffic accident involving serious injuries or fatalities and that  
 18 the person submitted to a chemical test at the request of the law enforcement officer and  
 19 the test results indicate either an alcohol concentration of ~~0.10~~ 0.08 grams or more or, for  
 20 a person under the age of 21, an alcohol concentration of 0.02 grams or more, the  
 21 department shall suspend the person's driver's license, permit, or nonresident operating  
 22 privilege pursuant to Code Section 40-5-67.2, subject to review as provided for in this  
 23 chapter. Upon the receipt of a sworn report of the law enforcement officer that the arrested  
 24 person had been operating or was in actual physical control of a moving commercial motor  
 25 vehicle and the test results indicate an alcohol concentration of 0.04 grams or more, the  
 26 department shall disqualify the person from operating a motor vehicle for a minimum  
 27 period of one year."

28 "(E) Whether a test or tests were administered and the results indicated an alcohol  
 29 concentration of ~~0.10~~ 0.08 grams or more or, for a person under the age of 21, an  
 30 alcohol concentration of 0.02 grams or more or, for a person operating or having actual  
 31 physical control of a commercial motor vehicle, an alcohol concentration of 0.04 grams  
 32 or more; and"

#### 33 SECTION 1-4.

34 Said title is further amended by striking Code Section 40-6-253, relating to possession of  
 35 open container of alcoholic beverage while operating vehicle, and inserting in lieu thereof  
 36 the following:

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1 "40-6-253.

2 (a) As used in this Code section, 'open the term:

3 (1) 'Alcoholic beverage' means:

4 (A) Beer, ale, porter, stout, and other similar fermented beverages, including sake or  
 5 similar products, of any name or description containing one-half of 1 percent or more  
 6 of alcohol by volume, brewed or produced from malt, wholly or in part, or from any  
 7 substitute therefor;

8 (B) Wine of not less than one-half of 1 percent of alcohol by volume; or

9 (C) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits  
 10 of wine in any form, including all dilutions and mixtures thereof from whatever source  
 11 or by whatever process produced.

12 (2) 'Open alcoholic beverage container' means any container which is immediately  
 13 capable of being consumed from or the seal of which has been broken bottle, can, or other  
 14 receptacle that:

15 (A) Contains any amount of alcoholic beverage; and

16 (B)(i) Is open or has a broken seal; or

17 (ii) The contents of which are partially removed.

18 (C) Provided, however, that "open alcoholic beverage containers" shall not include  
 19 bottles, cans, or other receptacles that are in the possession of a person who has  
 20 possession thereof solely for the purpose of collecting such bottles, cans or other  
 21 receptacles for recycling purposes, and it shall be conclusively presumed that such  
 22 person has possession for recycling purposes where such bottles, cans, or other  
 23 receptacles are in a plastic or other container in the possession of such person.

24 (3) 'Passenger area' means the area designed to seat the driver and passengers while a  
 25 motor vehicle is in operation and any area that is readily accessible to the driver or a  
 26 passenger while in his or her seating position; provided, however, that such term does not  
 27 include any locked glove compartment or, in a passenger car not equipped with a trunk,  
 28 any area behind the rearmost upright seat or not normally occupied by the driver or  
 29 passengers.

30 ~~(b)(1) No person shall possess an open container of any alcoholic beverage while~~  
 31 ~~operating a vehicle in this state.~~ A person shall not:

32 (A) Consume any alcoholic beverage; or

33 (B) Possess any open alcoholic beverage container

34 in the passenger area of any motor vehicle which is on the roadway or shoulder of any  
 35 public highway.

36 (2) The provisions of paragraph (1) of this subsection shall not apply to any passenger in  
 37 the passenger area of a motor vehicle designed, maintained, or used primarily for the

1 transportation of persons for compensation or in the living quarters of a motor home or  
 2 house trailer.

3 ~~(3) For the purposes of this Code section, an open container shall be considered to be in~~  
 4 ~~the possession of the operator of a vehicle if the container is not in the possession of a~~  
 5 ~~passenger and is not located in a locked glove compartment, locked trunk, or other locked~~  
 6 ~~nonpassenger area of the vehicle~~ Only a person who consumes an alcoholic beverage or  
 7 possesses an open alcoholic beverage container in violation of this Code section shall be  
 8 charged with such offense; provided, however, that an operator of a motor vehicle who  
 9 is alone in the passenger area of such motor vehicle shall be deemed to be in possession  
 10 of any open alcoholic beverage container in such passenger area.

11 (c) Any person who violates this Code section is subject to a fine not to exceed \$200.00.

12 ~~(d) A county or municipal corporation ordinance which imposes more stringent restrictions~~  
 13 ~~on the possession of alcoholic beverages in vehicles than those imposed by this Code~~  
 14 ~~section shall not be preempted by this Code section."~~

#### 15 SECTION 1-5.

16 Said title is further amended in Code Section 40-6-391, relating to driving under the  
 17 influence of alcohol, drugs, or other intoxicating substances, by striking paragraph (5) of  
 18 subsection (a), paragraphs (2) and (3) of subsection (c), and paragraph (4) of subsection (k)  
 19 and inserting in lieu thereof the following:

20 "(5) The person's alcohol concentration is ~~0.10~~ 0.08 grams or more at any time within  
 21 three hours after such driving or being in actual physical control from alcohol consumed  
 22 before such driving or being in actual physical control ended; or"

23 "(2) For the second conviction within a five-year period of time, as measured from the  
 24 dates of previous arrests for which convictions were obtained or pleas of nolo contendere  
 25 were accepted to the date of the current arrest for which a conviction is obtained or a plea  
 26 of nolo contendere is accepted:

27 (A) A fine of not less than \$600.00 nor more than \$1,000.00, which fine shall not,  
 28 except as provided in subsection (g) of this Code section, be subject to suspension, stay,  
 29 or probation;

30 (B) A period of imprisonment of not less than 90 days nor more than 12 months. ~~At~~  
 31 ~~the sole discretion and under such terms and conditions as the judge shall impose, the~~  
 32 ~~judge may suspend, stay, or probate all but 48 hours of any term of imprisonment~~  
 33 ~~imposed under this subparagraph~~ The judge shall probate at least a portion of such term  
 34 of imprisonment, thereby subjecting the offender to the provisions of Article 7 of  
 35 Chapter 8 of Title 42 and to such other terms and conditions as the judge may impose;  
 36 provided, however, that the offender shall be required to serve not less than five days

1 of actual incarceration unless the judge imposes a period of community service of 30  
 2 days or more pursuant to subparagraph (C) of this paragraph;

3 (C) Not less than 80 hours of community service, except that for a second conviction  
 4 for violation of subsection (k) of this Code section where the person's alcohol  
 5 concentration at the time of the offense was less than 0.08 grams, the period of  
 6 community service shall be not less than 40 hours;

7 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by  
 8 the Department of Human Resources. The sponsor of any such program shall provide  
 9 written notice of such approval to the person upon enrollment in the program;

10 (E) Undergoing a clinical evaluation as defined in Code Section 40-5-1 and, if  
 11 indicated by such evaluation, completion of a substance abuse treatment program as  
 12 defined in Code Section 40-5-1; and

13 (F) If the defendant is sentenced to a period of imprisonment for less than 12 months,  
 14 a period of probation of 12 months less any days during which the defendant is actually  
 15 incarcerated; or

16 (3) For the third or subsequent conviction within a five-year period of time, as measured  
 17 from the dates of previous arrests for which convictions were obtained or pleas of nolo  
 18 contendere were accepted to the date of the current arrest for which a conviction is  
 19 obtained or a plea of nolo contendere is accepted:

20 (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall  
 21 not, except as provided in subsection (g) of this Code section, be subject to suspension,  
 22 stay, or probation;

23 (B) A mandatory period of imprisonment of not less than 120 days nor more than 12  
 24 months. ~~At the sole discretion and under such terms and conditions as the judge shall~~  
 25 ~~impose, the judge may suspend, stay, or probate all but ten days of any term of~~  
 26 ~~imprisonment imposed under this subparagraph~~ The judge shall probate at least a  
 27 portion of such term of imprisonment, thereby subjecting the offender to the provisions  
 28 of Article 7 of Chapter 8 of Title 42 and to such other terms and conditions as the judge  
 29 may impose; provided, however, that the offender shall be required to serve not less  
 30 than ten days of actual incarceration unless the judge imposes a period of community  
 31 service of 60 days or more pursuant to subparagraph (C) of this paragraph;

32 (C) Not less than 20 days of community service, except that for a third or subsequent  
 33 conviction for violation of subsection (k) of this Code section where the person's  
 34 alcohol concentration at the time of the offense was less than 0.08 grams, the period of  
 35 community service shall be not less than 40 hours;

1 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by  
 2 the Department of Human Resources. The sponsor of any such program shall provide  
 3 written notice of such approval to the person upon enrollment in the program;

4 (E) Undergoing a clinical evaluation as defined in Code Section 40-5-1 and, if  
 5 indicated by such evaluation, completion of a substance abuse treatment program as  
 6 defined in Code Section 40-5-1; and

7 (F) If the defendant is sentenced to a period of imprisonment for less than 12 months,  
 8 a period of probation of 12 months less any days during which the defendant is actually  
 9 incarcerated."

10 ~~"(4) The driver's license of any person convicted of violating this subsection shall be~~  
 11 ~~revoked as provided by Code Section 40-5-57.1."~~

### 12 SECTION 1-6.

13 Said title is further amended in Code Section 40-6-392, relating to chemical tests for alcohol  
 14 or drugs, by striking subsection (b) and inserting in lieu thereof the following:

15 "(b) Except as provided in subsection (c) of this Code section, upon the trial of any civil  
 16 or criminal action or proceeding arising out of acts alleged to have been committed by any  
 17 person in violation of Code Section 40-6-391, the amount of alcohol in the person's blood  
 18 at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or  
 19 other bodily substance, ~~shall~~ may give rise to the following ~~presumptions~~ inferences:

20 (1) If there was at that time an alcohol concentration of 0.05 grams or less, ~~it shall be~~  
 21 ~~presumed~~ the trier of fact in its discretion may infer therefrom that the person was not  
 22 under the influence of alcohol, as prohibited by paragraphs (1), ~~(2)~~, and (4) of subsection  
 23 (a) of Code Section 40-6-391;

24 (2) If there was at that time an alcohol concentration in excess of 0.05 grams but less  
 25 than 0.08 grams, such fact shall not give rise to any ~~presumption~~ inference that the person  
 26 was or was not under the influence of alcohol, as prohibited by paragraphs (1), ~~(2)~~, and  
 27 (4) of subsection (a) of Code Section 40-6-391, but such fact may be considered by the  
 28 trier of fact with other competent evidence in determining whether the person was under  
 29 the influence of alcohol, as prohibited by paragraphs (1), ~~(2)~~, and (4) of subsection (a) of  
 30 Code Section 40-6-391; and

31 ~~(3) If there was at that time an alcohol concentration of 0.08 grams or more, it shall be~~  
 32 ~~presumed that the person was under the influence of alcohol, as prohibited by paragraphs~~  
 33 ~~(1), (2), and (4) of subsection (a) of Code Section 40-6-391; and~~

34 ~~(4)~~ (3) If there was at that time or within three hours after driving or being in actual  
 35 physical control of a moving vehicle from alcohol consumed before such driving or being

1 in actual physical control ended an alcohol concentration of ~~0.10~~ 0.08 or more grams, the  
 2 person shall be in violation of paragraph (5) of subsection (a) of Code Section 40-6-391."

### 3 SECTION 1-7.

4 Said title is further amended by adding a new Code Section 40-6-397 to read as follows:

5 "40-6-397.

6 (a) A person commits the offense of aggressive driving when he or she operates any motor  
 7 vehicle with the intent to annoy, harass, molest, intimidate, injure, or obstruct another  
 8 person, including without limitation violating Code Section 40-6-42, 40-6-48, 40-6-49,  
 9 40-6-52, 40-6-123, 40-6-184, 40-6-312, or 40-6-390 with such intent.

10 (b) Any person convicted of aggressive driving shall be guilty of a misdemeanor of a high  
 11 and aggravated nature."

### 12 SECTION 1-8.

13 Article 7 of Chapter 8 of Title 42, relating to ignition interlock devices as condition of  
 14 probation, is amended by striking Code Section 42-8-111, relating to court ordered  
 15 installation of ignition interlock devices, completion of alcohol and drug reduction program,  
 16 notice to the Department of Public Safety, and fees for drivers' licenses, and inserting in lieu  
 17 thereof the following:

18 "42-8-111.

19 (a) In addition to any other provision of probation, upon a second or subsequent conviction  
 20 of a resident of this state for violating Code Section 40-6-391 within five years, as  
 21 measured from the dates of previous arrests for which convictions were obtained to the date  
 22 of the current arrest for which a conviction is obtained, for which such person is granted  
 23 probation, the court shall order as ~~a condition~~ conditions of probation that:

24 (1) Such ~~such~~ person shall have installed and shall maintain in a each motor vehicle  
 25 registered in such person's name throughout the applicable six-month period prescribed  
 26 by subsection (b) of Code Section 42-8-112 a functioning, certified ignition interlock  
 27 device, unless the court exempts the person from the requirements of this paragraph based  
 28 upon the court's determination that such requirements would subject the person to undue  
 29 financial hardship; and ~~that such~~

30 (2) Such person shall have installed and shall maintain in any other motor vehicle to be  
 31 driven by such person during the applicable six-month period prescribed by subsection  
 32 (b) of Code Section 42-8-112 a functioning, certified ignition interlock device, and such  
 33 person shall not during such six-month period drive any motor vehicle whatsoever that  
 34 is not so equipped;

1 provided, however, that if a person subject to the provisions of this subsection is authorized  
2 under Code Section 40-5-63 to apply for reinstatement of his or her driver's license during  
3 the period of license suspension provided by said Code section, the court may in lieu of  
4 ordering such installation and use of an ignition interlock device order that such person  
5 shall not be eligible for any limited driving permit prior to license reinstatement. For the  
6 purposes of this subsection, a plea of nolo contendere shall constitute a conviction; and a  
7 conviction of any offense under the law of another state or territory substantially  
8 conforming to any offense under Code Section 40-6-391 shall be deemed a conviction of  
9 violating said Code section.

10 (b) Any resident of this state who is ordered to ~~obtain and~~ use an ignition interlock device,  
11 as a condition of probation, shall complete the DUI Alcohol or Drug Use Risk Reduction  
12 Program and submit to the court or probation department a certificate of completion of the  
13 DUI Alcohol or Drug Use Risk Reduction Program and certification of installation of a  
14 certified ignition interlock device to the extent required by subsection (a) of this Code  
15 section.

16 (c)(1) ~~If use of an ignition interlock device is ordered~~ In the case of any person subject to  
17 the provisions of subsection (a) of this Code section, the court shall include in the record  
18 of conviction or violation submitted to the Department of Public Safety or its successor  
19 agency notice of the requirement for, and the period of the requirement for, the use of a  
20 certified ignition interlock device. Such notice shall specify any exemption from the  
21 installation requirements of paragraph (1) of subsection (a) of this Code section and any  
22 vehicles subject to the installation requirements of paragraph (2) of said subsection. The  
23 records of the Department of Public Safety or its successor agency shall contain a record  
24 reflecting mandatory use of such device and the person's driver's license or limited driving  
25 permit shall contain a notation that the person may only operate a motor vehicle equipped  
26 with a functioning, certified ignition interlock device.

27 (2) ~~In the case of any person subject to the provisions of subsection (a) of this Code~~  
28 ~~section, unless and until the Department of Public Safety has received notice from the~~  
29 ~~court that issuance of a limited driving permit prior to license reinstatement has been~~  
30 ~~prohibited, the records of said department shall reflect that installation and use of an~~  
31 ~~ignition interlock device has been required:~~

32 (3) ~~If an order prohibiting issuance of a limited driving permit prior to license~~  
33 ~~reinstatement is issued pursuant to subsection (a) of this Code section, the court shall~~  
34 ~~include in the record of conviction or violation submitted to the Department of Public~~  
35 ~~Safety notice of such prohibition. The records of the Department of Public Safety shall~~  
36 ~~contain a record reflecting such prohibition:~~

1 (d) Except as provided in Code Section 42-8-112, no provision of this article shall be  
2 deemed to reduce any period of driver's license suspension or revocation otherwise  
3 imposed by law.

4 (e) The fee for issuance of any driver's license indicating that use of an ignition interlock  
5 device is required shall be as prescribed for a regular driver's license in Code Section  
6 40-5-25, and the fee for issuance of any limited driving permit indicating that use of an  
7 ignition interlock device is required shall be as prescribed for a limited driving permit in  
8 Code Section 40-5-64; except that, for habitual violators required to use an ignition  
9 interlock device as a condition of a probationary license, the fee shall be as prescribed for  
10 a probationary license in Code Section 40-5-58."

### 11 SECTION 1-9.

12 Said article is further amended by striking Code Section 42-8-112, relating to proof of  
13 compliance required for reinstatement of certain drivers' licenses and for obtaining  
14 probationary licenses and reporting requirements, and inserting in lieu thereof the following:

15 "42-8-112.

16 (a) In any case where the court imposes the use of an ignition interlock device as a  
17 condition of probation on a resident of this state whose driving privilege is not suspended  
18 or revoked, the court shall require the person to surrender his or her driver's license to the  
19 court immediately and provide proof of compliance with such order to the court or the  
20 probation officer and obtain an ignition interlock device restricted driving license within  
21 30 days. Upon expiration of the period of time for which such person is required to use an  
22 ignition interlock device, the person may apply for and receive a regular driver's license  
23 upon payment of the fee provided for in Code Section 40-5-25. If such person fails to  
24 provide proof of installation to the extent required by subsection (a) of Code Section  
25 42-8-111 and receipt of the restricted driving license within such period, absent a finding  
26 by the court of good cause for that failure, which finding is entered in the court's record,  
27 the court shall revoke or terminate the probation.

28 (b)(1) In any case where the court imposes the use of an ignition interlock device as a  
29 condition of probation on a resident of this state whose driving privilege is suspended or  
30 revoked, the court shall require the person to provide proof of compliance with such order  
31 to the court or the probation officer and the Department of Public Safety or its successor  
32 agency not later than the date on which such suspension or revocation concludes. If such  
33 person fails to provide proof of installation to the extent required by subsection (a) of  
34 Code Section 42-8-111 within the period required by this subsection, the department shall  
35 not reinstate such person's driver's license and, absent a finding by the court of good

1 cause for that failure, which finding is entered on the court's record, the court shall  
2 revoke or terminate the probation.

3 (2) If the person subject to court ordered ~~installation and~~ use of an ignition interlock  
4 device as a condition of probation is authorized under Code Section 40-5-63 or 40-5-67.2  
5 to apply for reinstatement of his or her driver's license during the period of suspension,  
6 such person shall, prior to applying for reinstatement of the license, have an ignition  
7 interlock device installed and shall maintain such ignition interlock device in a motor  
8 vehicle or vehicles to the extent required by subsection (a) of Code Section 42-8-111 for  
9 a period of six months running concurrently with that of an ignition interlock device  
10 limited driving permit, which permit shall not be issued until such person submits to the  
11 department proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program,  
12 proof of having undergone any clinical evaluation and of having enrolled in any  
13 substance abuse treatment program required by Code Section 40-5-63.1, and proof of  
14 installation of an ignition interlock device on ~~his or her~~ a vehicle or vehicles to the extent  
15 required by subsection (a) of Code Section 42-8-111. Such a person may apply for and  
16 be issued an ignition interlock device limited driving permit at the end of ~~120 days~~ 12  
17 months after the suspension of the driver's license. At the expiration of such six-month  
18 ignition interlock device limited driving permit, the driver may, if otherwise qualified,  
19 apply for reinstatement of a regular driver's license upon payment of the fee provided in  
20 Code Section 40-5-25.

21 (3) If the person subject to court ordered ~~installation and~~ use of an ignition interlock  
22 device as a condition of probation is authorized under Code Section 40-5-58 or under  
23 Code Section 40-5-67.2 to obtain a habitual violator's probationary license, such person  
24 shall, if such person is a habitual violator as a result of two or more convictions for  
25 driving under the influence of alcohol or drugs, have an ignition interlock device  
26 installed, ~~shall maintain such device~~ and maintained in a motor vehicle or vehicles to the  
27 extent required by subsection (a) of Code Section 42-8-111 for a period of six months  
28 following issuance of the probationary license, and such person shall not during such  
29 six-month period drive any motor vehicle that is not so equipped, all as conditions of such  
30 probationary license. Following expiration of such six-month period with no violation of  
31 the conditions of the probationary license, the person may apply for a habitual violator  
32 probationary license without such ignition interlock device condition.

33 (4) In any case where ~~use~~ installation of an ignition interlock device is required, failure  
34 to show proof of such device shall be grounds for refusal of reinstatement of such license  
35 or issuance of such habitual violator's probationary license or the immediate suspension  
36 or revocation of such license.

1 (c) Each resident of this state who is required to ~~use~~ have an ignition interlock device  
 2 installed pursuant to this article shall report to the provider center every 30 days for the  
 3 purpose of monitoring the operation of each ~~interlocking~~ required ignition interlock device  
 4 ~~in the person's vehicle or vehicles~~. If at any time it is determined that a person has  
 5 tampered with the device, the probation officer or the court ordering use of such device or,  
 6 in the case of a driver who is not on probation, the Department of Public Safety or its  
 7 successor agency shall be given written notice within five days. If an ignition interlock  
 8 device is found to be malfunctioning, it shall be replaced or repaired, as ordered by the  
 9 court or the Department of Public Safety or its successor agency, at the expense of the  
 10 provider."

## 11 PART II

### 12 SECTION 2-1.

13 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
 14 amended by striking Code Section 40-2-136, relating to surrender of license plates of  
 15 habitual violators, and inserting in lieu thereof the following:

16 "40-2-136.

17 (a) ~~If a person is convicted of violating Code Section 40-6-391 and the person's driver's~~  
 18 ~~license is suspended or revoked pursuant to Code Section 40-5-58, the court shall issue an~~  
 19 ~~order requiring that the license plate of the motor vehicle which such person was operating~~  
 20 ~~at the time of violating Code Section 40-6-391 be surrendered to the court, provided that~~  
 21 ~~such motor vehicle is registered in such person's name. In the event a person was~~  
 22 ~~operating a motor vehicle not registered in such person's name at the time of violating~~  
 23 ~~Code Section 40-6-391~~ Upon any person's second or subsequent conviction of violating  
 24 Code Section 40-6-391 within five years, as measured from the dates of previous arrests  
 25 for which convictions were obtained to the date of the current arrest for which a conviction  
 26 is obtained, the court shall issue an order requiring that the license plate of any motor  
 27 vehicle registered in such person's name be surrendered to the court. The court shall notify  
 28 the commissioner of public safety and the commissioner of revenue within ten days after  
 29 issuing any such order, and the commissioner of revenue shall revoke any such license  
 30 plate upon receiving such notice. The court shall issue a receipt for the surrendered license  
 31 plate or plates. The court shall forward the surrendered license plate or plates to the local  
 32 tag agent immediately upon receipt. For purposes of this subsection, a plea of nolo  
 33 contendere shall constitute a conviction.

34 (b) Except as provided in subsection (c) of this Code section, no new license plate or plates  
 35 may be issued to a person subject to a court order issued pursuant to subsection (a) of this

1 Code section until such person has been issued a limited driving permit or probationary  
 2 driver's license in accordance with Code Section 42-8-112 or the driver's license of such  
 3 person has been reissued or reinstated, whichever first occurs; and, except as provided in  
 4 this subsection or subsection (c) of this Code section, it shall be a misdemeanor for such  
 5 person to obtain a new license plate or plates.

6 (c)(1) A person who is subject to a court order issued pursuant to subsection (a) of this  
 7 Code section may apply to the commissioner of public safety for authorization to obtain  
 8 a new license plate or plates bearing a special series of numbers and letters so as to be  
 9 identifiable by law enforcement officers. Such license plate shall not, in and of itself,  
 10 constitute probable cause to authorize a traffic stop, search of a motor vehicle, or seizure.  
 11 The commissioner of public safety shall ~~determine whether the applicant has a valid~~  
 12 ~~limited driving permit or probationary license or whether~~ authorize the issuance of such  
 13 a special license plate only if he or she determines that there is another member of such  
 14 person's household who possesses a valid driver's license and that a co-owner of the  
 15 vehicle or a member of the offender's family, other than the offender, is completely  
 16 dependent upon the motor vehicle for the necessities of life and would be subjected to  
 17 undue hardship without such special license plate; ~~and~~ in no event shall such  
 18 ~~determination~~ decision take more than five business days. A local tag agent shall not

19 issue any plates except on written approval of the commissioner of public safety, payment  
 20 of a \$20.00 fee for each vehicle for which a special plate is issued, and compliance by the  
 21 applicant with all applicable state laws. The written authorization from the commissioner  
 22 of public safety shall specify the maximum number of license plates a person may obtain.

23 (2) A motor vehicle owned or leased by a person subject to a court order issued pursuant  
 24 to subsection (a) of this Code section or for which a license plate has been issued subject  
 25 to paragraph (1) of this subsection may not be sold or conveyed unless the commissioner  
 26 of revenue determines, upon receipt of proper application, that the proposed sale or  
 27 conveyance is in good faith, that the person subject to such court order will be deprived  
 28 of custody or control of the motor vehicle, and that the sale or conveyance is not for the  
 29 purpose of circumventing the provisions of this Code section. Upon making such  
 30 determination, the commissioner of revenue shall transfer the certificate of title to such  
 31 vehicle and issue a new certificate of registration and license plate.

32 (3) If the title to a motor vehicle owned by a person subject to a court order issued  
 33 pursuant to subsection (a) of this Code section or for which a license plate has been  
 34 issued pursuant to paragraph (1) of this subsection is transferred by the foreclosure,  
 35 cancellation of a conditional sales contract, sale upon execution, or order of a court of  
 36 competent jurisdiction, the commissioner of revenue shall transfer the certificate of title

1 as provided in Code Section 40-3-34 and issue a new license plate to the new registered  
2 owner.

3 (4) Upon full restoration of the driving privileges of a person subject to a court order  
4 under subsection (a) of this Code section, the commissioner of public safety shall  
5 authorize the person to apply for a regular issue license plate. The fee for a regular issue  
6 license plate shall be as provided by Code Section 48-10-2. As a condition of obtaining  
7 any regular issue license plate, the person shall surrender his or her special issue license  
8 plate to the local tag agent.

9 (5) Nothing in this Code section shall be deemed to waive any lawful requirement for the  
10 issuance of a license plate including, but not limited to, proof of financial responsibility.

11 (6) Display of a license plate issued pursuant to paragraph (1) of this subsection shall not  
12 constitute probable cause for stopping or detaining a vehicle.

13 (7) Any person aggrieved by a decision of the commissioner of public safety pursuant  
14 to paragraph (1) of this subsection may make a request in writing to the Office of State  
15 Administrative Hearings for a hearing. Such hearing shall follow the procedures required  
16 by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

## 17 SECTION 2-2.

18 Said title is further amended by striking Code Section 40-5-57.1, relating to revocation of  
19 licenses of persons under age 21 for certain offenses and issuance of new licenses following  
20 revocations, and inserting in lieu thereof the following:

21 "40-5-57.1.

22 (a) Notwithstanding any other provision of this chapter, the driver's license of any person  
23 under 21 years of age convicted of hit and run or leaving the scene of an accident in  
24 violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle  
25 in fleeing or attempting to elude an officer, reckless driving, any offense for which four  
26 or more points are assessable under subsection (c) of Code Section 40-5-57, purchasing an  
27 alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23,  
28 or violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23, or violation  
29 of Code Section 40-6-391 shall be ~~revoked~~ suspended by the department as provided by  
30 this Code section, and a person whose driver's license has been suspended under this  
31 subsection shall be eligible for and may be issued a Class P instruction permit at any time  
32 during the suspension period provided by this Code section ~~driver's license revoked under~~  
33 ~~this subsection shall not be reinstated~~. A plea of nolo contendere shall be considered a  
34 conviction for purposes of this subsection. Notice of ~~revocation~~ suspension shall be given  
35 by certified mail or statutory overnight delivery, return receipt requested; or, in lieu thereof,  
36 notice may be given by personal service upon such person. Such license shall be

1 surrendered within ten days of notification of such ~~revocation~~ suspension. Notice given  
 2 by certified mail or statutory overnight delivery, return receipt requested, mailed to the  
 3 person's last known address shall be prima-facie evidence that such person received the  
 4 required notice.

5 (b) A person whose driver's license has been ~~revoked~~ suspended under subsection (a)  
 6 of this Code section shall:

7 (1) ~~Except~~ Subject to the requirements of subsection (c) of this Code section and  
 8 except as otherwise provided by paragraph (2) of this subsection:

9 (A) Upon a first such ~~revocation~~ suspension, be eligible to apply for license  
 10 reinstatement and, subject to successful recompletion of the examination requirements  
 11 of Code Section 40-5-27 and payment of required fees, ~~be issued a new driver's~~  
 12 ~~license~~ have his or her driver's license reinstated six months from the date on which  
 13 the ~~revoked~~ suspended license was surrendered to and received by the department;  
 14 and

15 (B) Upon a second or subsequent such ~~revocation~~ suspension, be eligible to apply for  
 16 license reinstatement and, subject to successful recompletion of the examination  
 17 requirements of Code Section 40-5-27 and payment of required fees, ~~be issued a new~~  
 18 ~~driver's license~~ have his or her driver's license reinstated 12 months from the date on  
 19 which the ~~revoked~~ suspended license was surrendered to and received by the  
 20 department; or

21 (2) If the driver's license was ~~revoked~~ suspended upon conviction for violation of Code  
 22 Section 40-6-391, be subject to the provisions of Code Section 40-5-63; except that if  
 23 such driver was convicted of driving under the influence of alcohol or of having an  
 24 unlawful alcohol concentration and is otherwise subject to the provisions of paragraph  
 25 (1) of subsection (a) of Code Section 40-5-63, then:

26 (A) If the driver's alcohol concentration at the time of the offense was less than 0.08  
 27 grams, he or she shall not be eligible for license reinstatement until the end of 6  
 28 months; or

29 (B) If ~~and~~ the driver's alcohol concentration at the time of the offense was 0.08  
 30 grams or more, he or she shall not be eligible for license reinstatement until the end  
 31 of 12 months.

32 Any driver subject to the provisions of this paragraph shall, as an additional prerequisite  
 33 for license reinstatement, be required to successfully recomplete ~~be eligible to apply for~~  
 34 ~~and, subject to the examination requirements of Code Section 40-5-27 and payment of~~  
 35 ~~required fees, be issued a new driver's license 12 months from the date on which the~~  
 36 ~~revoked license was surrendered to and received by the department.~~

1 (b.1) In any case where a person's driver's license was administratively suspended as a  
 2 result of the offense for which the person's driver's license has been ~~revoked~~ suspended  
 3 pursuant to this Code section, the administrative license suspension period and the license  
 4 ~~revocation~~ suspension period provided by this Code section may run concurrently, and  
 5 any completed portion of such administrative license suspension period shall apply  
 6 toward completion of the license ~~revocation~~ suspension period provided by this Code  
 7 section.

8 ~~(c) Any person whose driver's license is revoked under subsection (a) of this Code~~  
 9 ~~section for violation of Code Section 40-6-391 shall not be issued a new driver's license~~  
 10 ~~without submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction~~  
 11 ~~Program approved by the Department of Human Resources and payment of a fee~~  
 12 ~~equivalent to that required for restoration of a suspended driver's license under paragraph~~  
 13 ~~(1) of subsection (a) of Code Section 40-5-67.2; provided, however, that such fee shall~~  
 14 ~~not be required for the issuance of a new driver's license under this subsection if such~~  
 15 ~~person's driver's license was administratively suspended as a result of the offense for~~  
 16 ~~which the person's driver's license has been revoked pursuant to this Code section and~~  
 17 ~~the restoration fee was paid for such suspended driver's license.~~

18 ~~(d)~~(c) Any person whose driver's license is ~~revoked~~ suspended under subsection (a) of  
 19 this Code section for commission of any offense other than violation of Code Section  
 20 40-6-391 shall not be issued a new driver's license without submitting become valid and  
 21 shall remain suspended until such person submits proof of completion of a defensive  
 22 driving program approved by the Department of Public Safety and ~~payment of~~ pays a fee  
 23 equivalent to that required for restoration of a suspended driver's license under paragraph  
 24 (1) of subsection (a) of Code Section 40-5-63; provided, however, that such fee shall not  
 25 be required ~~for the issuance of a new driver's license~~ under this subsection if such  
 26 person's driver's license was administratively suspended as a result of the offense for  
 27 which the person's driver's license has been ~~revoked~~ suspended pursuant to this Code  
 28 section and the restoration fee was paid for such administratively suspended driver's  
 29 license."

### 30 SECTION 2-3.

31 Said title is further amended in Code Section 40-5-63, relating to periods of suspension and  
 32 conditions to return of license, by striking paragraph (2) of subsection (a) and inserting in  
 33 lieu thereof the following:

34 "(2) Upon the second conviction of any such offense within five years, as measured  
 35 from the dates of previous arrests for which convictions were obtained to the date of the  
 36 current arrest for which a conviction is obtained, the period of suspension shall be for

1 three years. At the end of 120 days, the person may apply to the Department of Public  
 2 Safety for reinstatement of said driver's license; except that if such license was  
 3 suspended as a result of a second conviction of a violation of Code Section 40-6-391  
 4 within five years, the person shall not be eligible to apply for license reinstatement until  
 5 the end of ~~ten~~ 18 months. Such license shall be reinstated if such person submits proof  
 6 of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the  
 7 Department of Human Resources and pays a restoration fee of \$210.00 or \$200.00  
 8 when processed by mail, provided that, if such license was suspended as a result of a  
 9 conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated  
 10 if such person submits proof of completion of either a defensive driving program  
 11 approved by the Department of Public Safety or a DUI Alcohol or Drug Use Risk  
 12 Reduction Program approved by the Department of Human Resources and pays the  
 13 prescribed restoration fee. A driver's license suspended as a result of a conviction of  
 14 a violation of Code Section 40-6-391 shall not become valid and shall remain  
 15 suspended until such person submits proof of completion of a DUI Alcohol or Drug  
 16 Use Risk Reduction Program approved by the Department of Human Resources and  
 17 pays the prescribed restoration fee. For purposes of this paragraph, a plea of nolo  
 18 contendere and all previous accepted pleas of nolo contendere to an offense listed in  
 19 Code Section 40-5-54 within such five-year period of time shall constitute a conviction.  
 20 For the purposes of this paragraph, a plea of nolo contendere to a charge of violating  
 21 Code Section 40-6-391 and all prior accepted pleas of nolo contendere within five  
 22 years, as measured from the dates of previous arrests for which convictions were  
 23 obtained or pleas of nolo contendere were accepted to the date of the current arrest for  
 24 which a plea of nolo contendere is accepted, shall be considered and counted as  
 25 convictions; or"

#### 26 **SECTION 2-4.**

27 Said title is further amended in Code Section 40-5-67.2, relating to terms and conditions  
 28 for suspension of license under subsection (c) of Code Section 40-5-67.1, by striking  
 29 paragraph (2) of subsection (a) and inserting in lieu thereof the following:

30 "(2) Upon the second suspension pursuant to subsection (c) of Code Section 40-5-67.1  
 31 within five years, as measured from the dates of previous arrests for which suspensions  
 32 were obtained to the date of the current arrest for which a suspension is obtained, the  
 33 period of suspension shall be for three years. ~~Not sooner than 120 days following the~~  
 34 ~~effective date of suspension, the person may apply to the Department of Public Safety~~  
 35 ~~for reinstatement of the person's driver's license; except that if such license was~~  
 36 ~~suspended as a result of a second arrest for violation of Code Section 40-6-391 within~~

1 ~~five years, the~~ The person shall be eligible to apply to the department for license  
 2 reinstatement not sooner than ~~ten~~ 18 months following the effective date of suspension.  
 3 Such license shall be reinstated if such person submits proof of completion of a DUI  
 4 Alcohol or Drug Use Risk Reduction Program approved by the Department of Human  
 5 Resources and pays a restoration fee of \$210.00 or \$200.00 when processed by mail.  
 6 A driver's license suspended pursuant to Code Section 40-5-67.1 shall not become valid  
 7 and shall remain suspended until such person submits proof of completion of a DUI  
 8 Alcohol or Drug Use Risk Reduction Program approved by the Department of Human  
 9 Resources and pays the prescribed restoration fee."

### 10 PART III

#### 11 SECTION 3-1.

12 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic,  
 13 is amended by striking Code Section 40-2-136, relating to surrender of license plates of  
 14 habitual violators, and inserting in lieu thereof the following:

15 "40-2-136.

16 (a) ~~If a person is convicted of violating Code Section 40-6-391 and the person's driver's~~  
 17 ~~license is suspended or revoked pursuant to Code Section 40-5-58, the court shall issue~~  
 18 ~~an order requiring that the license plate of the motor vehicle which such person was~~  
 19 ~~operating at the time of violating Code Section 40-6-391 be surrendered to the court,~~  
 20 ~~provided that such motor vehicle is registered in such person's name. In the event a~~  
 21 ~~person was operating a motor vehicle not registered in such person's name at the time of~~  
 22 ~~violating Code Section 40-6-391~~ Upon any person's second or subsequent conviction of  
 23 violating Code Section 40-6-391 within five years, as measured from the dates of  
 24 previous arrests for which convictions were obtained to the date of the current arrest for  
 25 which a conviction is obtained, the court shall issue an order requiring that the license  
 26 plate of any motor vehicle registered in such person's name be surrendered to the court.  
 27 The court shall notify the commissioner within ten days after issuing any such order, and  
 28 the commissioner shall revoke any such license plate upon receiving such notice. The  
 29 court shall issue a receipt for the surrendered license plate or plates. The court shall  
 30 forward the surrendered license plate or plates to the local tag agent immediately upon  
 31 receipt. For purposes of this subsection, a plea of nolo contendere shall constitute a  
 32 conviction.

33 (b) Except as provided in subsection (c) of this Code section, no new license plate or  
 34 plates may be issued to a person subject to a court order issued pursuant to subsection (a)  
 35 of this Code section until such person has been issued a limited driving permit or

1 probationary driver's license in accordance with Code Section 42-8-112 or the driver's  
 2 license of such person has been reissued or reinstated, whichever first occurs; and, except  
 3 as provided in this subsection or subsection (c) of this Code section, it shall be a  
 4 misdemeanor for such person to obtain a new license plate or plates.

5 (c)(1) A person who is subject to a court order issued pursuant to subsection (a) of this  
 6 Code section may apply to the commissioner for authorization to obtain a new license  
 7 plate or plates bearing a special series of numbers and letters so as to be identifiable by  
 8 law enforcement officers. Such license plate shall not, in and of itself, constitute  
 9 probable cause to authorize a traffic stop, search of a motor vehicle, or seizure. The  
 10 commissioner shall ~~determine whether the applicant has a valid limited driving permit~~  
 11 ~~or probationary license or whether~~ authorize the issuance of such a special license plate  
 12 only if he or she determines that there is another member of such person's household  
 13 who possesses a valid driver's license and that a co-owner of the vehicle or a member  
 14 of the offender's family, other than the offender, is completely dependent upon the  
 15 motor vehicle for the necessities of life and would be subjected to undue hardship  
 16 without such special license plate; and in no event shall such ~~determination~~ decision  
 17 take more than five business days. A local tag agent shall not issue any plates except  
 18 on written approval of the commissioner, payment of a \$20.00 fee for each vehicle for  
 19 which a special plate is issued, and compliance by the applicant with all applicable state  
 20 laws. The written authorization from the commissioner shall specify the maximum  
 21 number of license plates a person may obtain.

22 (2) A motor vehicle owned or leased by a person subject to a court order issued  
 23 pursuant to subsection (a) of this Code section or for which a license plate has been  
 24 issued subject to paragraph (1) of this subsection may not be sold or conveyed unless  
 25 the commissioner determines, upon receipt of proper application, that the proposed sale  
 26 or conveyance is in good faith, that the person subject to such court order will be  
 27 deprived of custody or control of the motor vehicle, and that the sale or conveyance is  
 28 not for the purpose of circumventing the provisions of this Code section. Upon making  
 29 such determination, the commissioner shall transfer the certificate of title to such  
 30 vehicle and issue a new certificate of registration and license plate.

31 (3) If the title to a motor vehicle owned by a person subject to a court order issued  
 32 pursuant to subsection (a) of this Code section or for which a license plate has been  
 33 issued pursuant to paragraph (1) of this subsection is transferred by the foreclosure,  
 34 cancellation of a conditional sales contract, sale upon execution, or order of a court of  
 35 competent jurisdiction, the commissioner shall transfer the certificate of title as  
 36 provided in Code Section 40-3-34 and issue a new license plate to the new registered  
 37 owner.

1 (4) Upon full restoration of the driving privileges of a person subject to a court order  
 2 under subsection (a) of this Code section, the commissioner shall authorize the person  
 3 to apply for a regular issue license plate. The fee for a regular issue license plate shall  
 4 be as provided by Code Section 48-10-2. As a condition of obtaining any regular issue  
 5 license plate, the person shall surrender his or her special issue license plate to the local  
 6 tag agent.

7 (5) Nothing in this Code section shall be deemed to waive any lawful requirement for  
 8 the issuance of a license plate including, but not limited to, proof of financial  
 9 responsibility.

10 (6) Display of a license plate issued pursuant to paragraph (1) of this subsection shall  
 11 not constitute probable cause for stopping or detaining a vehicle.

12 (7) Any person aggrieved by a decision of the commissioner pursuant to paragraph (1)  
 13 of this subsection may make a request in writing to the Office of State Administrative  
 14 Hearings for a hearing. Such hearing shall follow the procedures required by Chapter  
 15 13 of Title 50, the 'Georgia Administrative Procedure Act.'

### 16 SECTION 3-2.

17 Said title is further amended by striking Code Section 40-5-57.1, relating to revocation of  
 18 licenses of persons under age 21 for certain offenses and issuance of new licenses  
 19 following revocations, and inserting in lieu thereof the following:

20 "40-5-57.1.

21 (a) Notwithstanding any other provision of this chapter, the driver's license of any  
 22 person under 21 years of age convicted of hit and run or leaving the scene of an accident  
 23 in violation of Code Section 40-6-270, racing on highways or streets, using a motor  
 24 vehicle in fleeing or attempting to elude an officer, reckless driving, any offense for  
 25 which four or more points are assessable under subsection (c) of Code Section 40-5-57,  
 26 purchasing an alcoholic beverage in violation of paragraph (2) of subsection (a) of Code  
 27 Section 3-3-23, violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23,  
 28 or violation of Code Section 40-6-391 shall be ~~revoked~~ suspended by the department as  
 29 provided by this Code section, and a person whose driver's license has been suspended  
 30 under this subsection shall be eligible for and may be issued a Class P instruction permit  
 31 at any time during the suspension period provided by this Code section ~~driver's license~~  
 32 ~~revoked under this subsection shall not be reinstated.~~ A plea of nolo contendere shall be  
 33 considered a conviction for purposes of this subsection. Notice of ~~revocation~~ suspension  
 34 shall be given by certified mail or statutory overnight delivery, return receipt requested;  
 35 or, in lieu thereof, notice may be given by personal service upon such person. Such  
 36 license shall be surrendered within ten days of notification of such ~~revocation~~ suspension.

1 Notice given by certified mail or statutory overnight delivery, return receipt requested,  
 2 mailed to the person's last known address shall be prima-facie evidence that such person  
 3 received the required notice.

4 (b) A person whose driver's license has been ~~revoked~~ suspended under subsection (a) of  
 5 this Code section shall:

6 (1) ~~Except~~ Subject to the requirements of subsection (c) of this Code section and  
 7 except as otherwise provided by paragraph (2) of this subsection:

8 (A) Upon a first such ~~revocation~~ suspension, be eligible to apply for license  
 9 reinstatement and, subject to successful recompletion of the examination requirements  
 10 of Code Section 40-5-27 and payment of required fees, be issued a new driver's  
 11 license have his or her driver's license reinstated six months from the date on which  
 12 the ~~revoked~~ suspended license was surrendered to and received by the department;  
 13 and

14 (B) Upon a second or subsequent such ~~revocation~~ suspension, be eligible to apply for  
 15 license reinstatement and, subject to successful recompletion of the examination  
 16 requirements of Code Section 40-5-27 and payment of required fees, be issued a new  
 17 driver's license have his or her driver's license reinstated 12 months from the date on  
 18 which the revoked license was surrendered to and received by the department; or

19 (2) If the driver's license was ~~revoked~~ suspended upon conviction for violation of Code  
 20 Section 40-6-391, be subject to the provisions of Code Section 40-5-63; except that if  
 21 such driver was convicted of driving under the influence of alcohol or of having an  
 22 unlawful alcohol concentration and is otherwise subject to the provisions of paragraph  
 23 (1) of subsection (a) of Code Section 40-5-63, then:

24 (A) If the driver's alcohol concentration at the time of the offense was less than 0.08  
 25 grams, he or she shall not be eligible for license reinstatement until the end of six  
 26 months; or

27 (B) If and the driver's alcohol concentration at the time of the offense was 0.08 grams  
 28 or more, he or she shall not be eligible for license reinstatement until the end of 12  
 29 months.

30 Any driver subject to the provisions of this paragraph shall, as an additional prerequisite  
 31 for license reinstatement, be required to successfully recomplete ~~be eligible to apply for~~  
 32 ~~and, subject to the examination requirements of Code Section 40-5-27 and payment of~~  
 33 ~~required fees, be issued a new driver's license 12 months from the date on which the~~  
 34 ~~revoked license was surrendered to and received by the department.~~

35 (b.1) In any case where a person's driver's license was administratively suspended as a  
 36 result of the offense for which the person's driver's license has been ~~revoked~~ suspended  
 37 pursuant to this Code section, the administrative license suspension period and the license

1 ~~revocation~~ suspension period provided by this Code section may run concurrently, and  
 2 any completed portion of such administrative license suspension period shall apply  
 3 toward completion of the license ~~revocation~~ suspension period provided by this Code  
 4 section.

5 ~~(c) Any person whose driver's license is revoked under subsection (a) of this Code~~  
 6 ~~section for violation of Code Section 40-6-391 shall not be issued a new driver's license~~  
 7 ~~without submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction~~  
 8 ~~Program approved by the Department of Human Resources and payment of a fee~~  
 9 ~~equivalent to that required for restoration of a suspended driver's license under paragraph~~  
 10 ~~(1) of subsection (a) of Code Section 40-5-67.2; provided, however, that such fee shall~~  
 11 ~~not be required for the issuance of a new driver's license under this subsection if such~~  
 12 ~~person's driver's license was administratively suspended as a result of the offense for~~  
 13 ~~which the person's driver's license has been revoked pursuant to this Code section and~~  
 14 ~~the restoration fee was paid for such suspended driver's license.~~

15 ~~(d)~~(c) Any person whose driver's license is ~~revoked~~ suspended under subsection (a) of  
 16 this Code section for commission of any offense other than violation of Code Section  
 17 40-6-391 shall not be issued a new driver's license ~~without submitting~~ become valid and  
 18 shall remain suspended until such person submits proof of completion of a defensive  
 19 driving program approved by the department and ~~payment of~~ pays a fee equivalent to that  
 20 required for restoration of a suspended driver's license under paragraph (1) of subsection  
 21 (a) of Code Section 40-5-63; provided, however, that such fee shall not be required ~~for~~  
 22 ~~the issuance of a new driver's license~~ under this subsection if such person's driver's  
 23 license was administratively suspended as a result of the offense for which the person's  
 24 driver's license has been ~~revoked~~ suspended pursuant to this Code section and the  
 25 restoration fee was paid for such administratively suspended driver's license."

### 26 SECTION 3-3.

27 Said title is further amended in Code Section 40-5-63, relating to periods of suspension and  
 28 conditions to return of license, by striking paragraph (2) of subsection (a) and inserting in  
 29 lieu thereof the following:

30 "(2) Upon the second conviction of any such offense within five years, as measured  
 31 from the dates of previous arrests for which convictions were obtained to the date of the  
 32 current arrest for which a conviction is obtained, the period of suspension shall be for  
 33 three years. At the end of 120 days, the person may apply to the department for  
 34 reinstatement of said driver's license; except that if such license was suspended as a  
 35 result of a second conviction of a violation of Code Section 40-6-391 within five years,  
 36 the person shall not be eligible to apply for license reinstatement until the end of ~~ten~~ 18

1 months. Such license shall be reinstated if such person submits proof of completion of  
 2 a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of  
 3 Human Resources and pays a restoration fee of \$210.00 or \$200.00 when processed by  
 4 mail, provided that, if such license was suspended as a result of a conviction of an  
 5 offense listed in Code Section 40-5-54, such license shall be reinstated if such person  
 6 submits proof of completion of either a defensive driving program approved by the  
 7 department or a DUI Alcohol or Drug Use Risk Reduction Program approved by the  
 8 Department of Human Resources and pays the prescribed restoration fee. A driver's  
 9 license suspended as a result of a conviction of a violation of Code Section 40-6-391  
 10 shall not become valid and shall remain suspended until such person submits proof of  
 11 completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the  
 12 Department of Human Resources and pays the prescribed restoration fee. For purposes  
 13 of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo  
 14 contendere to an offense listed in Code Section 40-5-54 within such five-year period  
 15 of time shall constitute a conviction. For the purposes of this paragraph, a plea of nolo  
 16 contendere to a charge of violating Code Section 40-6-391 and all prior accepted pleas  
 17 of nolo contendere within five years, as measured from the dates of previous arrests for  
 18 which convictions were obtained or pleas of nolo contendere were accepted to the date  
 19 of the current arrest for which a plea of nolo contendere is accepted, shall be considered  
 20 and counted as convictions; or"

#### 21 SECTION 3-4.

22 Said title is further amended in Code Section 40-5-67.2, relating to terms and conditions  
 23 for suspension of license under subsection (c) of Code Section 40-5-67.1, by striking  
 24 paragraph (2) of subsection (a) and inserting in lieu thereof the following:

25 "(2) Upon the second suspension pursuant to subsection (c) of Code Section 40-5-67.1  
 26 within five years, as measured from the dates of previous arrests for which suspensions  
 27 were obtained to the date of the current arrest for which a suspension is obtained, the  
 28 period of suspension shall be for three years. ~~Not sooner than 120 days following the~~  
 29 ~~effective date of suspension, the person may apply to the department for reinstatement~~  
 30 ~~of the person's driver's license, except that if such license was suspended as a result of~~  
 31 ~~a second arrest for violation of Code Section 40-6-391 within five years, the~~ The person  
 32 shall be eligible to apply to the department for license reinstatement not sooner than ~~ten~~  
 33 18 months following the effective date of suspension. Such license shall be reinstated  
 34 if such person submits proof of completion of a DUI Alcohol or Drug Use Risk  
 35 Reduction Program approved by the Department of Human Resources and pays a  
 36 restoration fee of \$210.00 or \$200.00 when processed by mail. A driver's license

1 suspended pursuant to Code Section 40-5-67.1 shall not become valid and shall remain  
2 suspended until such person submits proof of completion of a DUI Alcohol or Drug  
3 Use Risk Reduction Program approved by the Department of Human Resources and  
4 pays the prescribed restoration fee."

5 **PART IV**

6 **SECTION 4-1.**

7 (a) This Act shall become effective July 1, 2001, except as otherwise provided by  
8 subsection (b) of this section.

9 (b) Each provision amended in Part III of this Act shall become effective and supersede  
10 that respective provision amended in Part II of this Act on July 1, 2001, or on such date  
11 thereafter as that same provision, as amended by an Act approved April 28, 2000 (Ga. L.  
12 2000, p. 951), becomes fully effective pursuant to Section 13-1 of that 2000 Act,  
13 whichever is later.

14 **SECTION 4-2.**

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