Senate Bill 461

By: Senators Balfour of the 9th and Levetan of the 40th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, so as to change certain provisions relating to records of certificates of registration and certificates of title; to change the length of Georgia residency required to obtain a veteran´s license; to change certain provisions relating to furnishing of information; to change certain provisions relating to suspension of drivers´ licenses; to provide that a suspension date shall commence on the date the license is surrendered to the department or a court or on the date that the court processes the citation or conviction; to provide that the department shall destroy suspended or revoked driver´s licenses, permits, or identification cards; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Said chapter is further amended in Code Section 40-5-53, relating to when courts to send licenses and reports of convictions to the department and retention of license by the department, by striking subsection (a) and inserting in its place the following:

"(a) Whenever any person is convicted of any offense for which this chapter makes mandatory the suspension of the license of such person by the department, the court in which such conviction is had shall require the surrender to it of any driver´s license then held by the person so convicted and the court shall thereupon forward the same to the department, together with the uniform citation form authorized by Article 1 of Chapter 13 of this title, within ten days after the conviction. Notwithstanding any other provision of this title, the department shall ~~retain possession of~~ destroy any suspended or revoked drivers´ licenses, permits, or identification cards forwarded to it under this or any other provision of law ~~if the license´s expiration date, as shown on the driver´s license, is one year or more away~~. The department shall ~~return the~~ issue a new driver´s ~~original~~ license, permit, or identification card upon satisfaction of the applicable reinstatement requirement, including but not limited to the payment of the applicable reinstatement fee ~~if such driver~~

~~applies for and is granted reinstatement while the original license is in the possession of the department~~. No additional fee shall be required for the ~~return of such original license~~ issuance of a replacement driver´s license, permit, or identification card. ~~The department may destroy a suspended license if the license´s expiration date, as shown on the license, is less than one year away.~~"

SECTION 2.

Said chapter is further amended in Code Section 40-5-57, relating to suspension or revocation of license of habitually negligent or dangerous driver and point system, by striking subsection (e) and inserting in its place the following:

"(e) The periods of suspension provided for in this Code section shall begin on the date the license is surrendered to and received by the department, ~~or~~ from the date a license is surrendered to a court under any provision of this chapter, or on the date that the department processes the citation or conviction, whichever date shall first occur. If the license cannot be surrendered to the department, the period of suspension may begin on the date set forth in a sworn affidavit setting forth the date and reasons for such impossibility, if the department shall have sufficient evidence to believe that the date set forth in such affidavit is true; in the absence of such evidence, the date of receipt of such affidavit shall be controlling."

SECTION 3.

Said chapter is further amended in Code Section 40-5-57.1, relating to suspension of licenses of persons under age 21 for certain offenses, suspension of licenses of persons under age 18 for certain point accumulations, and issuance of new license following suspension, by striking paragraph (1) of subsection (b) and inserting in its place the following:

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

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

(B) Upon a second or subsequent such suspension, be eligible to apply for license reinstatement and, subject to successful recompletion of the examination requirements of Code Section 40-5-27 and payment of required fees, have his or her driver´s license reinstated after 12 months ~~from the date on which the suspended license was surrendered to and received by the department~~; or".

SECTION 4.

Said chapter is further amended in Code Section 40-5-61, relating to surrender and return of license, by striking subsection (e) and inserting in its place the following:

(e) For the purpose of making any determination under this Code section relating to the return of revoked or suspended licenses to drivers, ~~no~~ the period of revocation or suspension shall begin ~~until~~ on the date the license is surrendered to the department or a court of competent jurisdiction under any provision of this chapter or on the date that the department processes the citation or conviction, whichever date shall first occur. If the license is lost, or for any other reason surrender to the department is impossible, the period of revocation or suspension may begin on the date set forth in a sworn affidavit setting forth the date and reasons for such impossibility, if the department shall have sufficient evidence to believe that the date set forth in such affidavit is true; in the absence of such evidence, the date of receipt of such affidavit by the department shall be controlling."

SECTION 5.

Said chapter is further amended in Code Section 40-5-62, relating to periods of revocation and conditions to restoration of license or issuance of new license, by striking paragraph (1) of subsection (a) and inserting in its place the following:

"(1) Five years from the date on which the revoked license was surrendered to and received by the department pursuant to a person´s having been declared a habitual violator under Code Section 40-5-58 or from the date on which the department processed the citation or conviction, reduced by a period of time equal to that period of time which elapses between the date the person surrenders his driver´s license to the court after conviction for the offense for which the person is declared a habitual violator and the date the department receives such license from the court; or".

SECTION 6.

Said chapter is further amended in Code Section 40-5-64, relating to limited driving permits for certain offenders, by striking subsection (e) and inserting in its place the following:

"(e) *Duration of permit.* A permit issued pursuant to this Code section shall be $25.00 and shall be nonrenewable and shall become invalid upon the driver´s eighteenth birthday in the case of a suspension under paragraph (2) of subsection (a.1) of Code Section 40-5-22, upon the expiration of one year following the effective date of suspension of the applicant´s driver´s license in the case of a suspension for an offense listed in Code Section 40-5-54 or a suspension under Code Section 40-5-57, upon the expiration of 120 days following conviction in the case of a suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-63 for a violation of Code Section 40-6-391, upon the expiration of

30 days in the case of an administrative license suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-67.2, or upon the expiration of six months following proof of installation of an ignition interlock device in the case of a limited driving permit issued to a person subject to a court order for installation and use of such a device pursuant to Article 7 of Chapter 8 of Title 42; except that such limited driving permit shall expire upon any earlier reinstatement of the driver´s license. A person ~~convicted of such offense whose driver´s license had been surrendered to the court in which in which such conviction was adjudged~~ may apply to the department for a limited driving permit immediately following such conviction if he or she has surrendered his or her driver´s license to the court in which the conviction was adjudged, to the department, or if the department has processed the citation or conviction. Upon the applicant´s execution of an affidavit attesting to such facts and to the fact that the court had not imposed a suspension or revocation of his or her driver´s license or driving privileges inconsistent with the driving privileges to be conferred by the limited driving permit applied for, the department may issue such person a limited driving permit. ~~A person convicted of such offense whose driver´s license had not been surrendered to such court immediately following such conviction may apply to the department for a permit. Upon the applicant´s surrender to the department of his or her driver´s license and the execution of a similar affidavit, or if the driver´s license has been lost, upon execution of an additional affidavit to that effect, the department may issue such person a limited driving permit.~~"

SECTION 7.

Said chapter is further amended in Code Section 40-5-75, relating to suspension of licenses by operation of law, by striking subsection (b) and inserting in its place the following:

"(b) Whenever a person is convicted of possession, distribution, manufacture, cultivation, sale, transfer of, the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer a controlled substance or marijuana, or driving or being in actual physical control of any moving vehicle while under the influence of such substance in violation of subsection (b) of Code Section 16-13-2, subsection (a), (b), or (j) of Code Section 16-13-30, or Code Section 16-13-33; paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391; or the law of any other jurisdiction, the court in which such conviction is had shall require the surrender to it of any driver´s license then held by the person so convicted and the court shall thereupon forward such license and a copy of its order to the department within ten days after the conviction. The periods of suspension provided for in this Code section shall begin on the date of surrender of the driver´s license or on the date that the department processes the conviction or citation, whichever shall first occur ~~of such person´s conviction for the offense resulting in such suspension; provided, however, that,~~

~~effective July 1, 1994, if, at the time of conviction of any offense listed in subsection (a) of this Code section, the person does not have a driver´s license or the person´s driver´s license has been previously suspended, the periods of suspension specified by this Code section shall not commence until the person applies for the issuance or reinstatement of a driver´s license~~.″

SECTION 8.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended by striking Code Section 40-2-130, relating to records of certificates of registrations, and inserting in its place the following:

″40-2-130.

(a) A record of certificates of registration shall be maintained by the commissioner or the commissioner´s duly authorized county tag agent. All certificates of registration shall be issued:

(1) Under a distinctive tag registration number assigned to the vehicle;

(2) Under the identifying number of the vehicle;

(3) Alphabetically, under the name of the owner;

(4) Under the vehicle title number; and

(5) In the discretion of the commissioner, in any other method the commissioner determines.

(b) The commissioner is authorized and empowered to provide for photographic and photostatic recording of certificate of registration records in such manner as he may deem expedient. The photographic or photostatic copies authorized in this subsection shall be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted.

(c) The motor vehicle registration records which the commissioner is required to maintain under this Code section or any other provision are exempt from the provisions of any law of this state requiring that such records be open for public inspection; provided, however, that, subject to subsection (d) of this Code section, the records ~~of any particular motor vehicle may be available for inspection~~ may be disclosed for use as provided in the federal Driver´s Privacy Protection Act of 1994, 18 U.S.C. Chapter 123, and by the following:

~~(1) Any law enforcement officer for official law enforcement investigations or for identifying the registrant of a motor vehicle for purposes of use of a traffic-control signal monitoring device pursuant to subsection (f) of Code Section 40-6-20, as certified by the commanding officer of the law enforcement agency making such request;~~

~~(2) The owner of the vehicle. When the title or registration records maintained by the commissioner have not been changed to reflect a new owner of the vehicle, proof of proprietary interest must be submitted prior to release of the information;~~

~~(3) Any judgment creditor of the owner of the vehicle upon the presentation of a fi. fa.;~~

~~(4) Any individual or an authorized agent or representative of such individual involved in a motor vehicle accident either as an operator of a motor vehicle, a passenger in a motor vehicle, or a pedestrian;~~

~~(5)~~(1) Any licensed dealer of new or used motor vehicles;

~~(6) Any person for the purposes of a manufacturer´s recall;~~

~~(7)~~(2) Any tax collector, tax receiver, or tax commissioner;

~~(8)~~(3) The director of the Environmental Protection Division of the Department of Natural Resources or his or her designee; and

~~(9)~~(4) Any private person who has met the requirements of Code Section 40-2-25, provided that the information shall be used for the sole purpose of effectuating the registration or renewal of motor vehicles by electronic or similar means and that the private person requesting the information has entered into an agreement to provide electronic services to the commissioner or a county tag agent; provided, further, that the information made available pursuant to this paragraph for such purpose shall be limited to the vehicle identification number, the license tag number, the date of expiration of registration, and the amount of tax owed.

(d) ~~The commissioner may, in his or her discretion, authorize the release of registration records to any appropriate governmental official, entity, or agency for the purposes of carrying out official governmental functions or legitimate governmental duties.~~ Except as otherwise required in the federal Driver´s Privacy Protection Act of 1994, 18 U.S.C. Chapter 123, personal information furnished under paragraphs (1) through (4) of subsection (c) of this Code section shall be limited to the natural person´s name, address, and driver identification number. The personal information obtained by a business under this Code section shall not be resold or redisclosed for any purposes other than those permitted under the federal Driver´s Privacy Protection Act of 1994, 18 U.S.C. Chapter 123, without the written consent of the individual. Furnishing of information to a business under this Code section shall be pursuant to a contract entered into by such business and the state which specifies the consideration to be paid by such business to the state for such information and the frequency of updates.″

SECTION 9.

Said title is further amended by striking Code Section 40-3-23 of the Official Code of Georgia Annotated, relating to issuance of certificate of title, maintenance of record of certificates issued, public inspection, furnishing records for fee, and publishing statistical reports, and inserting in its place the following:

″40-3-23.

(a) The commissioner or the commissioner´s duly authorized county tag agent shall file each application received and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of title of the vehicle.

(b) The commissioner or the commissioner´s duly authorized county tag agent shall maintain a record of all certificates of title issued:

(1) Under a distinctive title number assigned to the vehicle;

(2) Under the identifying number of the vehicle;

(3) Alphabetically, under the name of the owner;

(4) Under the vehicle tag registration number; and

(5) In the discretion of the commissioner, in any other method the commissioner determines.

(c) The commissioner or the commissioner´s duly authorized county tag agent is authorized and empowered to provide for photographic and photostatic recording of certificate of title records in such manner as the commissioner or the commissioner´s duly authorized county tag agent may deem expedient. The photographic or photostatic copies authorized in this subsection shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted.

(d) The motor vehicle records which the commissioner or the commissioner´s duly authorized county tag agent is required to maintain under this Code section or any other provision are exempt from the provisions of any law of this state requiring that such records be open for public inspection; provided, however, that, subject to subsection (f) of this Code section, the records ~~of any particular motor vehicle may be available for inspection~~ may be disclosed for use as provided in the federal Driver´s Privacy Protection Act of 1994, 18 U.S.C. Chapter 123, and by the following:

~~(1) Any law enforcement officer for official law enforcement investigations as certified by the commanding officer of the law enforcement agency making such request;~~

~~(2) The owner of the vehicle. When the title or registration records of the department have not been changed to reflect a new owner of the vehicle, proof of proprietary interest must be submitted prior to release of the information;~~

~~(3) Any judgment creditor of the owner of the vehicle upon the presentation of a fi. fa.;~~

~~(4) Any individual or an authorized agent or representative of such individual involved in a motor vehicle accident either as an operator of a motor vehicle, a passenger in a motor vehicle, or a pedestrian;~~

~~(5)~~(1) Any licensed dealer of new or used motor vehicles; and

~~(6) Any person for the purposes of a manufacturer´s recall; and~~

~~(7)~~(2) Any tax collector, tax receiver, or tax commissioner.

~~(d.1)~~(e) In addition to any public inspection of records authorized under subsection (d) of this Code section~~:~~.

~~(1) Motor~~ motor vehicle records consisting of vehicle description, title status, title brands, last recorded mileage, recorded liens, or recorded security interests which the commissioner or the commissioner´s duly authorized county tag agent is required to maintain under this Code section shall, in such manner and under such conditions as prescribed by the commissioner, be furnished individually or in bulk to any person upon payment of a reasonable fee, for any purpose not otherwise prohibited by law, including without limitation for the purpose of providing information to allow for informed motor vehicle purchase and safety decisions. Records furnished in accordance with this ~~paragraph~~ subsection may be subsequently transferred to third parties. Personal information of any registrant, including name, address, date of birth, or driver´s license or social security number, shall not be furnished or transferred by or to any person pursuant to this ~~paragraph; and~~ subsection.

~~(2) The commissioner may in his or her discretion publish or permit to be published statistical reports from records maintained under this Code section, provided that such reports shall not disclose any natural person´s name, address, date of birth, or driver´s license or social security number.~~

~~(e) The commissioner may, in his or her discretion, authorize the release of title records to any appropriate governmental official, entity, or agency for the purposes of carrying out official governmental functions or legitimate governmental duties.~~

(f) Except as otherwise required in the federal Driver´s Privacy Protection Act of 1994, 18 U.S.C. Chapter 123, personal information furnished under paragraphs (1) and (2) of subsection (d) of this Code section shall be limited to the natural person´s name, address, and driver identification number. The personal information obtained by a business under this Code section shall not be resold or redisclosed for any purposes other than those permitted under the federal Driver´s Privacy Protection Act of 1994, 18 U.S.C. Chapter 123, without the written consent of the individual. Furnishing of information to a business under this Code section shall be pursuant to a contract entered into by such business and the state which specifies the consideration to be paid by such business to the state for such information and the frequency of updates.″

SECTION 10.

Said title is further amended by striking paragraph (1) of subsection (c) of Code Section 40-5-36, relating to veterans´ licenses, honorary licenses, and other distinctive licenses, and inserting in its place the following:

"(1) Veterans who were residents of Georgia at the time of enlistment or commissioning and are residents at the time of application for the license, or who have been residents of Georgia for at least ~~five~~ two years immediately preceding the date of application for the license, who served on active duty in the armed forces of the United States or on active duty in a reserve component of the armed forces of the United States, including the National Guard, during wartime or any conflict when personnel were committed by the President of the United States, whether or not such veteran was assigned to a unit or division which directly participated in such war or conflict, except for periodic transfer from reserve status to active duty status for training purposes, and who were discharged or separated under honorable conditions; and".

SECTION 11.

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