

Senate Bill 637

By: Senator Smith of the 52nd

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To amend Article 10 of Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to "Joshua's Law," so as to change the membership of the Georgia Driver's Education Commission; to repeal Section 1 of an Act approved May 10, 2005 (Ga. L. 2005, p. 1461), so as to repeal a priority concerning a certain distribution of fines and forfeitures; to provide for a definition; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 10 of Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to "Joshua's Law," is amended by striking subsection (a) of Code Section 15-21-173, relating to the membership, terms, and appointment of the members of the Georgia Driver's Education Commission, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The Georgia Driver's Education Commission shall consist of ~~nine~~ eight members who shall serve for terms of four years, except that ~~with respect to the first members appointed, three members shall be appointed for terms of three years, three for terms of two years, and three for terms of one year~~ the members in office on the effective date of this subsection shall serve the terms to which they were originally appointed. The State Board of Education shall appoint one member of the commission and the Department of ~~Motor Vehicle Safety~~ Driver Services shall appoint two members of the commission. The director of the Governor's Office of Highway Safety shall appoint one member of the commission. The remaining four members of the commission shall be appointed by the Governor, two of whom shall be public school driver's education providers and the other two shall be private driver's education providers. The Governor shall also establish initial terms of office for all ~~nine~~ members of the commission within the limitations of this subsection."

SECTION 2.

An Act approved May 10, 2005 (Ga. L. 2005, p. 1461), is amended by striking Section 1 in its entirety.

SECTION 3.

Said Act is further amended by striking Sections 3 and 4 and inserting in lieu thereof new Sections 3 and 4 to read as follows:

"SECTION 3.

Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, is amended by striking Code Section 40-5-22, relating to persons not to be licensed and minimum ages for licenses, and inserting in lieu thereof a new Code Section 40-5-22 to read as follows:

'40-5-22.

(a) Except as otherwise provided in this Code section, the department shall not issue any Class C driver's license to any person who is under 18 years of age or Class M driver's license to any person who is under the age of 17 years, except that the department may, under subsection (a) of Code Section 40-5-24, issue a Class P instruction permit permitting the operation of a noncommercial Class C vehicle to any person who is at least 15 years of age, and may, under subsection (b) of Code Section 40-5-24, issue a Class D driver's license permitting the operation of a noncommercial Class C vehicle to any person who is at least 17 years of age. On and after January 1, 1985, the department shall not issue any driver's license to any person under 18 years of age unless such person presents a certificate or other evidence acceptable to the department which indicates satisfactory completion of an alcohol and drug course as prescribed in subsection (b) of Code Section 20-2-142; provided, however, that a person under 18 years of age who becomes a resident of this state and who has in his or her immediate possession a valid license issued to him or her in another state or country shall not be required to take or complete the alcohol and drug course. The department shall not issue a driver's license or a Class P instruction permit for the operation of a Class A or B vehicle or any commercial driver's license to any person who is under the age of 18 years.

(a.1)(1) The department shall not issue an instruction permit or driver's license to a person who is younger than 18 years of age unless at the time such minor submits an application for an instruction permit or driver's license the applicant presents acceptable proof that he or she has received a high school diploma, a general educational development (GED) diploma, a special diploma, or a certificate of high school completion or has terminated his or her secondary education and is enrolled in a

1 postsecondary school, is pursuing a general educational development (GED) diploma,
2 or the records of the department indicate that said applicant:

3 (A) Is enrolled in and not under ~~suspension~~ expulsion from a public or private school
4 and has satisfied relevant attendance requirements as set forth in paragraph (2) of this
5 subsection for a period of one academic year prior to application for an instruction
6 permit or driver's license; or

7 (B) Is enrolled in a home education program that satisfies the reporting requirements
8 of all state laws governing such ~~courses~~ program.

9 The department shall notify such minor of his or her ineligibility for an instruction
10 permit or driver's license at the time of such application.

11 (2) The department shall forthwith notify by certified mail or statutory overnight
12 delivery, return receipt requested, any minor issued an instruction permit or driver's
13 license in accordance with this subsection other than a minor who has terminated his
14 or her secondary education and is enrolled in a postsecondary school or who is pursuing
15 a general educational development (GED) diploma that such minor's instruction permit
16 or driver's license is suspended subject to review as provided for in this subsection if
17 the department receives notice pursuant to Code Section 20-2-701 that indicates that
18 such minor:

19 (A) Has dropped out of school without graduating and has remained out of school for
20 ten consecutive school days;

21 (B) Has ~~more than ten~~ or more school days of unexcused absences in ~~any semester~~
22 ~~or combination of two consecutive quarters~~ the current academic year or ten or more
23 school days of unexcused absences in the previous academic year; or

24 (C) Has been ~~suspended from school for~~ found in violation by a hearing officer, panel,
25 or tribunal of one of the following offenses, has received a change in placement for
26 committing one of the following offenses, or has waived his or her right to a hearing
27 and pleaded guilty to one of the following offenses:

28 (i) Threatening, striking, or causing bodily harm to a teacher or other school
29 personnel;

30 (ii) Possession or sale of drugs or alcohol on school property or at a school
31 sponsored event;

32 (iii) Possession or use of a weapon on school property or at a school sponsored
33 event. For purposes of this subparagraph, the term 'weapon' shall be defined in
34 accordance with Code Section 16-11-127.1 but shall not include any part of an
35 archeological or cultural exhibit brought to school in connection with a school
36 project;

37 (iv) Any sexual offense prohibited under Chapter 6 of Title 16; or

1 (v) Causing substantial physical or visible bodily harm to or seriously disfiguring
2 another person, including another student.

3 Notice given by certified mail or statutory overnight delivery with return receipt
4 requested mailed to the person's last known address shall be prima-facie evidence that
5 such person received the required notice. Such notice shall include instructions to the
6 minor to return immediately the instruction permit or driver's license to the department
7 and information summarizing the minor's right to request an exemption from the
8 provisions of this subsection. The minor so notified may request in writing a hearing
9 within ten business days from the date of receipt of notice. Within 30 days after
10 receiving a written request for a hearing, the department shall hold a hearing as
11 provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
12 After such hearing, the department shall sustain its order of suspension or rescind such
13 order. The department shall be authorized to grant an exemption from the provisions
14 of this subsection to a minor, upon such minor's petition, if there is clear and
15 convincing evidence that the enforcement of the provisions of this subsection upon such
16 minor would create an undue hardship upon the minor or the minor's family or if there
17 is clear and convincing evidence that the enforcement of the provisions of this
18 subsection would act as a detriment to the health or welfare of the minor. Appeal from
19 such hearing shall be in accordance with said chapter. If no hearing is requested within
20 the ten business days specified above, the right to a hearing shall have been waived and
21 the instruction permit or driver's license of the minor shall remain suspended. The
22 suspension provided for in this paragraph shall be for a period of one year or shall end
23 upon the date of such minor's eighteenth birthday or upon receipt of satisfactory proof
24 that the minor is pursuing or has received a general educational development (GED)
25 diploma, a high school diploma, a special diploma, a certificate of high school
26 completion, or has terminated his or her secondary education and is enrolled in a
27 postsecondary school, whichever comes first.

28 (3) The State Board of Education and the commissioner of ~~motor vehicle safety~~ driver
29 services are authorized to promulgate rules and regulations to implement the provisions
30 of this subsection.

31 (4) The Department of Technical and Adult Education shall be responsible for
32 compliance and noncompliance data for students pursuing a general educational
33 development (GED) diploma.

34 (a.2)(1) On and after January 1, 2002, the department shall not issue any initial Class D
35 driver's license or, in the case of a person who has never been issued a Class D driver's
36 license by the department or the equivalent thereof by any other jurisdiction, any initial
37 Class C driver's license unless such person:

(A) Is at least 16 years of age and has completed an approved driver education course in a licensed private or public driver training school and in addition a cumulative total of at least 40 hours of other supervised driving experience including at least six hours at night, all of which is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age; or

(B) Is at least 17 years of age and has completed a cumulative total of at least 40 hours of supervised driving experience including at least six hours at night, and the same is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age; provided, however, that a person 17 years of age or older who becomes a resident of this state, who meets all of the qualifications for issuance of a Class C license with the exception of the completion of an approved ~~driver's~~ driver education training course and at least 40 hours of supervised driving experience as required by this subsection, and who has in his or her immediate possession a valid license equivalent to a Class C license issued to him or her in another state or country shall be entitled to receive a Class C license.

(2) The commissioner shall by rule or regulation establish standards for approval of any driver education course for purposes of subparagraph (A) of paragraph (1) of this subsection, provided that such course shall be designed to educate young drivers about safe driving practices and the traffic laws of this state and to train young drivers in the safe operation of motor vehicles.

(3) For purposes of supervised driving experience under paragraph (1) of this subsection, supervision shall be provided by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver.

(4) For the purposes of this Code section, the term "approved driver education training course" shall include those driver education training courses approved by the Department of Driver Services.

(b) Notwithstanding the provisions of subsection (a) of this Code section, any person 14 years of age who has a parent or guardian who is medically incapable of being licensed to operate a motor vehicle due to visual impairment may apply for and, subject to the approval of the commissioner, may be issued a restricted noncommercial Class P instruction permit for the operation of a noncommercial Class C vehicle. Any person permitted pursuant to this subsection shall be accompanied by such visually impaired parent or guardian whenever operating a motor vehicle.

1 (c) The department shall not issue any driver's license to nor renew the driver's license
2 of any person:

3 (1) Whose license has been suspended during such suspension, or whose license has
4 been revoked, except as otherwise provided in this chapter;

5 (2) Whose license is currently under suspension or revocation in any other jurisdiction
6 upon grounds which would authorize the suspension or revocation of a license under
7 this chapter;

8 (3) Who is a habitual user of alcohol or any drug to a degree rendering him or her
9 incapable of safely driving a motor vehicle;

10 (4) Who has previously been adjudged to be afflicted with or suffering from any
11 mental disability or disease and who has not at the time of application been restored to
12 competency by the methods provided by law;

13 (5) Who is required by this chapter to take an examination, unless such person shall
14 have successfully passed such examination;

15 (6) Who the commissioner has good cause to believe would not, by reason of physical
16 or mental disability, be able to operate a motor vehicle with safety upon the highway;
17 or

18 (7) Whose license issued by any other jurisdiction is suspended or revoked by such
19 other jurisdiction during the period such license is suspended or revoked by such other
20 jurisdiction.'

21 SECTION 4.

22 Said article is further amended by striking Code Section 40-5-24, relating to instruction
23 permits and graduated licensing, and inserting in lieu thereof a new Code Section 40-5-24
24 to read as follows:

25 '40-5-24.

26 (a)(1) Any resident of this state who is at least 15 years of age may apply to the
27 department for an instruction permit to operate a noncommercial Class C vehicle. The
28 department shall, after the applicant has successfully passed all parts of the examination
29 referred to in Code Section 40-5-27 other than the driving test, issue to the applicant an
30 instruction permit which shall entitle the applicant, while having such permit in his or
31 her immediate possession, to drive a Class C vehicle upon the public highways for a
32 period of two years when accompanied by a person at least 21 years of age who is
33 licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and
34 capable of exercising control over the vehicle, and who is occupying a seat beside the
35 driver.

(2) A person who has been issued an instruction permit under this subsection and has never been issued a Class D driver's license under subsection (b) of this Code section will become eligible for a Class D driver's license under subsection (b) of this Code section only if such person is at least 17 years of age, has a valid instruction permit which is not under suspension, and, for a period of not less than 12 consecutive months prior to making application for a Class D driver's license, has not been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, or convicted of any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of this paragraph except for age who has completed an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22 will be eligible for a Class D driver's license.

(3) This subsection does not apply to instruction permits for the operation of motorcycles.

(b)(1) Any resident of this state who is at least 17 years of age and who, for a period of at least 12 months, had a valid instruction permit issued under subsection (a) of this Code section may apply to the department for a Class D driver's license to operate a noncommercial Class C vehicle if such resident has otherwise complied with all prerequisites for the issuance of such Class D driver's license as provided in subsection (a) of this Code section, provided that a resident at least 17 years of age who has at any age surrendered to the department a valid instruction permit or driver's license issued by another state or the District of Columbia or who has submitted to the department proof, to the satisfaction of the department, of a valid instruction permit or driver's license issued by another state or the District of Columbia may apply his or her driving record under such previously issued permit or driver's license toward meeting the eligibility requirements for a Class D driver's license the same as if such previously issued permit or driver's license were an instruction permit issued under subsection (a) of this Code section; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of this paragraph except for age who has completed an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22 may apply for a Class D driver's license.

(2) The department shall, after all applicable requirements have been met, issue to the applicant a Class D driver's license which shall entitle the applicant, while having such license in his or her immediate possession, to drive a Class C vehicle upon the public highways of this state under the following conditions:

(A) Any Class D license holder shall not drive a Class C motor vehicle on the public roads, streets, or highways of this state between the hours of 12:00 Midnight and 6:00 A.M. eastern standard time or eastern daylight time, whichever is applicable; and

(B)(i) Any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when more than three other passengers in the vehicle who are not members of the driver's immediate family are less than 21 years of age.

(ii) During the six-month period immediately following issuance of such license, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when any other passenger in the vehicle is not a member of the driver's immediate family.

(iii) Notwithstanding the provisions of division (i) of this subparagraph, during the second six-month period immediately following issuance of such license, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when more than one other passenger in the vehicle who is not a member of the driver's immediate family is less than 21 years of age;

provided, however, that a Class D license holder shall not be charged with a violation of this paragraph alone but may be charged with violating this paragraph in addition to any other traffic offense.

(3) A person who has been issued a Class D driver's license under this subsection and has never been issued a Class C driver's license under this chapter will become eligible for a Class C driver's license under this chapter only if such person has a valid Class D driver's license which is not under suspension and, for a period of not less than 12 consecutive months prior to making application for a Class C driver's license, has not been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, or convicted of any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57 and is at least 18 years of age.

(c) Any resident of this state who is at least 17 years of age may apply to the department for a noncommercial Class M motorcycle instruction permit. The department shall, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his or her immediate possession, to drive a motorcycle or a motor driven cycle upon the public highways for a period of six months; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of

1 this subsection except for age who has completed an approved driver education training
2 course as provided in subsection (a.2) of Code Section 40-5-22 may apply for a Class M
3 motorcycle instruction permit. A motorcycle instruction permit shall not be valid when
4 carrying passengers, on a limited access highway, or at night.

5 (d) Any resident of this state who is at least 18 years of age may apply to the department
6 for an instruction permit to operate noncommercial vehicles in Classes A and B. Such
7 permits may be issued only to persons with valid commercial or noncommercial Class C
8 licenses or persons who have passed all required tests for a commercial or
9 noncommercial Class C license. The department shall, after the applicant has
10 successfully passed all parts of the appropriate examination other than the skill and
11 driving test, issue to the applicant an instruction permit which shall entitle the applicant,
12 while having the permit in his or her immediate possession, to operate a vehicle of the
13 appropriate noncommercial class upon the public highways for a period of 12 months
14 when accompanied by a licensed driver, qualified in the vehicle being operated, who is
15 fit and capable of exercising control over the vehicle, and who is occupying a seat beside
16 the driver as an instructor. Prior to being issued a driver's license for Classes A and B,
17 the applicant shall pass a knowledge and skill test for driving a Class A or B vehicle as
18 provided by the commissioner.

19 (e) The department shall issue a temporary driver's permit to an applicant for a driver's
20 license permitting him or her to operate a specified type or class of motor vehicle while
21 the department is completing its investigation and determination of all facts relative to
22 such applicant's eligibility to receive a driver's license. Such permit must be in his or her
23 immediate possession while operating a motor vehicle, and it shall be invalid when the
24 applicant's license has been issued or for good cause has been refused. Such permit shall
25 be valid for no more than 45 days. When a license has been refused, the permit shall be
26 returned to the department within ten days of receipt of written notice of refusal.

27 (f) For the purposes of this Code section, the term "approved driver education training
28 course" shall include those driver education training courses approved by the Department
29 of Driver Services."

30 SECTION 4.

31 This Act shall become effective upon its approval by the Governor or upon its becoming law
32 without such approval.

33 SECTION 5.

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