

The House Committee on Judiciary Non-civil offers the following substitute to SB 160:

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to prohibited acts regarding alcoholic beverages, so as to revise penalties for a violation of Code Section 3-3-23; to amend Article 2 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest by law enforcement officers generally, so as to revise procedures for arrest by citation; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to prohibited acts regarding alcoholic beverages, is amended by revising subsections (d) and (e) of Code Section 3-3-23.1, relating to procedure and penalties upon violation of Code Section 3-3-23, as follows:

"(d)(1) ~~Unless the officer has reasonable cause to believe such person is intoxicated;~~
Except as provided for in paragraph (2) of this subsection, a law enforcement officer ~~may~~
shall arrest by issuance of a citation, ~~summons, or accusation~~ a pursuant to Code Section
17-4-23, any person accused of violating any provision paragraph (2), (3), or (5) of
subsection (a) of Code Section 3-3-23. The citation, ~~summons, or accusation~~ shall
enumerate the specific charges against the person and either the date upon which the
person is to appear and answer the charges or a notation that the person will be later
notified of the date upon which the person is to appear and answer the charges. If the
person charged shall fail to appear as required, the judge having jurisdiction of the
offense may issue a warrant or other order directing the apprehension of such person and
commanding that such person be brought before the court to answer the charges
contained within the citation, ~~summons, or accusation~~ and the charge of his or her failure
to appear as required. Nothing in this ~~subsection~~ paragraph shall be construed to
invalidate an otherwise valid arrest by citation, summons, or accusation of a person who

is intoxicated and who has committed an offense under the laws of this state other than that provided for in Code Section 3-3-23. Nothing in this paragraph shall be construed to restrict the discretion of the prosecuting attorney to use a uniform traffic citation as the formal charging document.

(2) If the arresting officer provided for in paragraph (1) of this subsection has probable cause to believe that a person accused of violating paragraph (2), (3), or (5) of subsection (a) of Code Section 3-3-23 is intoxicated to the extent that he or she poses a danger to himself or herself or to the person or property of another, the arresting officer may effect a custodial arrest of such person in addition to the issuance of a citation, summons, or accusation. The citation, summons, or accusation shall enumerate the specific charges against the person and either the date upon which the person is to appear and answer the charges or a notation that the person will be later notified of the date upon which the person is to appear and answer the charges. In all such cases provided for under this subsection, the provisions of Code Section 17-6-1 shall apply. Nothing in this paragraph shall be construed to invalidate an otherwise valid arrest by citation, summons, or accusation of a person who is intoxicated and who has committed an offense under the laws of this state other than that provided for in Code Section 3-3-23.

(e) A law enforcement officer arresting a person by the issuance of a citation, ~~summons, or accusation~~ under paragraph (1) of subsection (d) of this Code section may require any such person having a driver's license or instruction permit to deposit such license or permit with the arresting officer in order to ensure the appearance of such person to answer the charges against him or her. The procedures and rules connected with the acceptance of such license or permit and subsequent disposition of the case shall be the same as provided for the acceptance of a driver's license as bail on arrest for traffic offenses pursuant to Code Section 17-6-11."

SECTION 2.

Article 2 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest by law enforcement officers generally, is amended by revising subsection (a) of Code Section 17-4-23, relating to procedure for arrests by citation for motor vehicle violations, issuance of warrants for arrest for failure of persons charged to appear in court, and bond, as follows:

"(a) A law enforcement officer may arrest a person accused of violating any law or ordinance governing the operation, licensing, registration, maintenance, or inspection of motor vehicles or violating any provision of Code Section 3-3-23 by the issuance of a citation, provided that the offense is committed in his presence or information constituting a basis for arrest concerning the operation of a motor vehicle or a violation of any provision

63 of Code Section 3-3-23 was received by the arresting officer from a law enforcement
64 officer observing the offense being committed, except that, where the offense results in an
65 accident, an investigating officer may issue citations regardless of whether the offense
66 occurred in the presence of a law enforcement officer. The arresting officer shall issue to
67 such person a citation which shall enumerate the specific charges against the person and
68 the date upon which the person is to appear and answer the charges or a notation that the
69 person will be later notified of the date upon which the person is to appear and answer the
70 charges. Whenever an arresting officer makes an arrest concerning the operation of a
71 motor vehicle based on information received from another law enforcement officer who
72 observed the offense being committed, the citation shall list the name of each officer and
73 each must be present when the charges against the accused person are heard."

74 **SECTION 3.**

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