

House Bill 439

By: Representatives Hitchens of the 161st, Lumsden of the 12th, Sainz of the 180th, Williams of the 145th, and Gravley of the 67th

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 40 and Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia
2 Annotated, relating to motor vehicles and traffic and ignition interlock devices, respectively,
3 so as to require the installation of ignition interlock devices in motor vehicles as a condition
4 of probation for individuals convicted of a first offense of driving under the influence; to
5 provide for conditions and terms of suspension of driver's licenses for individuals convicted
6 of a first offense of driving under the influence; to provide for a condition for reinstatement
7 of a suspended driver's license; to provide for standards for issuance, application, approval,
8 conditions, fees, duration, and revocation of limited driving permits and ignition interlock
9 device limited driving permits; to provide for eligibility for a limited driving permit or
10 ignition interlock device limited driving permit; to provide for court ordered limited driving
11 permits and ignition interlock device limited driving permits; to provide for penalties for
12 conviction of a first offense of driving under the influence; to provide for standards for
13 certificates of eligibility for an ignition interlock device limited driving permit issued by a
14 court; to provide for terms under which an ignition interlock device must be placed in a
15 motor vehicle; to provide for revocation of driving privileges in certain instances; to provide
16 for prohibited conduct in relation to ignition interlock devices; to repeal provisions relating
17 to exclusivity on conditions relative to suspension of licenses for being in control of a
18 moving vehicle while under the influence of a controlled substance or marijuana; to allow

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for a finding of undue financial hardship by the court; to provide for inclusion of an order for issuance of an ignition interlock device reduced fee voucher upon such findings; to provide for a waiver of ignition interlock device requirements in certain instances; to amend Chapter 12A of Title 43 of the Official Code of Georgia Annotated, relating to ignition interlock device providers, so as to revise a definition; to require ignition interlock device service providers to provide free and reduced services upon receipt of an ignition interlock device reduced fee voucher issued by the Department of Driver Services; to provide for penalties; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended in Code Section 40-5-22, relating to persons not to be licensed, minimum ages for licensees, school enrollment requirements, driving training requirements, limited driving permits, and expired licenses, by revising subsection (d) as follows:

"(d) The department is authorized to issue a limited driving permit to an applicant whose license is currently under suspension or revocation in any other jurisdiction upon grounds which would authorize the suspension or revocation of a license under this chapter, provided that the applicant is otherwise eligible for such limited driving permit in accordance with subsection (a) of Code Section 40-5-64 ~~and paragraph (1) or (2) of subsection (a) of Code Section 40-5-64.1.~~"

SECTION 2.

Said title is further amended in Code Section 40-5-63, relating to periods of suspension and conditions to return of driver's license, by revising subsection (a) as follows:

43 "(a) The driver's license of any person convicted of ~~an~~ a first or second offense listed in
44 Code Section 40-5-54 or ~~of violating an alcohol related offense pursuant to~~ Code Section
45 40-6-391, unless the driver's license has been previously suspended pursuant to Code
46 Sections 40-5-67.1 and 40-5-67.2, shall by operation of law be suspended and such
47 suspension shall be subject to the following terms and conditions; provided, however, that
48 any person convicted of a drug related offense pursuant to Code Section 40-6-391 shall be
49 governed by the suspension requirements of Code Section 40-5-75; and ~~further~~ provided,
50 further, that each charge for which a conviction was obtained shall be treated as a separate
51 transaction for the purpose of imposing a license suspension hereunder, even if said
52 convictions arise from a single incident; and ~~further~~ provided, further, that the department
53 shall treat each conviction received in the order in which said convictions are processed
54 even if it is not the order in which said offenses occurred:

55 (1) Upon the first conviction of any such offense, with no arrest and conviction of and
56 no plea of nolo contendere accepted to such offense within the previous five years, as
57 measured from the dates of previous arrests for which convictions were obtained to the
58 date of the current arrest for which a conviction is obtained, the period of suspension shall
59 be 12 months. ~~At the end of 120 days, the person, provided that:~~

60 (A) Any person whose license was suspended pursuant to this paragraph as a result of
61 a conviction of an offense listed in Code Section 40-5-54 may apply to the department
62 for early reinstatement of his or her driver's license at the end of 120 days. Such license
63 shall be reinstated if such person ~~submits proof of completion of a DUI Alcohol or~~
64 ~~Drug Use Risk Reduction Program and pays a restoration fee of \$210.00 or \$200.00~~
65 ~~when such reinstatement is processed by mail, provided that, if such license was~~
66 ~~suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such~~
67 ~~license shall be reinstated if such person~~ submits proof of completion of either a
68 defensive driving course approved by the commissioner pursuant to Code Section
69 40-5-83 or a DUI Alcohol or Drug Use Risk Reduction Program and pays the

70 ~~prescribed a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed~~
71 ~~by mail; and:~~

72 (B) Any person whose driver's license was suspended pursuant to this paragraph A
73 driver's license suspended as a result of a first conviction of a violation of an alcohol
74 related offense pursuant to Code Section 40-6-391 may apply to the department for
75 early reinstatement of his or her driver's license at the end of 180 days of successful
76 completion of ignition interlock device monitoring with an ignition interlock device
77 limited driving permit issued pursuant to paragraph (3) of subsection (a) of Code
78 Section 40-5-64.1. Such license shall not become valid and shall remain suspended
79 until such person submits proof of completion of a DUI Alcohol or Drug Use Risk
80 Reduction Program and pays the prescribed a restoration fee of \$210.00 or \$200.00
81 when such reinstatement is processed by mail.

82 For purposes of this paragraph, an accepted plea of nolo contendere to an offense listed
83 in Code Section 40-5-54 by a person who is under 18 years of age at the time of arrest
84 shall constitute a conviction. For the purposes of this paragraph only, an accepted plea
85 of nolo contendere by a person 21 years of age or older, with no conviction of and no plea
86 of nolo contendere accepted to a charge of violating Code Section 40-6-391 within the
87 previous five years, as measured from the dates of previous arrests for which convictions
88 were obtained or pleas of nolo contendere accepted to the date of the current arrest for
89 which a plea of nolo contendere is accepted, shall be considered a conviction, and the
90 court having jurisdiction shall forward, as provided in Code Section 40-6-391.1, the
91 record of such disposition of the case to the department and the record of such disposition
92 shall be kept on file for the purpose of considering and counting such accepted plea of
93 nolo contendere as a conviction under paragraphs (2) and (3) of this subsection; or
94 (2) Upon the second conviction of any such offense within five years, as measured from
95 the dates of previous arrests for which convictions were obtained to the date of the

current arrest for which a conviction is obtained, the period of suspension shall be three years; provided that at the end of 120 days:

(A) Any person whose driver's license was suspended pursuant to this paragraph as a result of a conviction of an offense listed in Code Section 40-5-54 ~~At the end of 120 days, the person may apply to the department for reinstatement of his or her driver's license; except that if such license was suspended as a result of a second conviction of a violation of Code Section 40-6-391 within five years, the person shall not be eligible to apply for license reinstatement until the end of 18 months. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail, provided that, if such license was suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated if such person submits proof of completion of either a defensive driving course approved by the commissioner pursuant to Code Section 40-5-83 or a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail; and:~~

(B) Any person whose driver's license was suspended pursuant to this paragraph ~~A driver's license suspended as a result of a second conviction of a violation of an alcohol related offense pursuant to Code Section 40-6-391 may apply to the department for early reinstatement at the end of 12 months of successful completion of ignition interlock device monitoring with an ignition interlock device limited driving permit issued pursuant to paragraph (4) of subsection (a) of Code Section 40-5-64.1. Such license shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program, provides proof of installation and maintenance of an ignition interlock device for a period of one year coinciding with the issuance of an ignition interlock device limited driving permit as provided in Code Section 40-5-64.1 unless waived due to financial hardship, and~~

pays ~~the prescribed~~ a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail.

For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period of time shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere to a charge of violating Code Section 40-6-391 and all prior accepted pleas of nolo contendere within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions; ~~or,~~

~~(3) Upon the third conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, such person shall be considered a habitual violator, and such license shall be revoked as provided for in paragraphs (1) through (3) of subsection (a) of Code Section 40-5-62. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere and all prior accepted pleas of nolo contendere to a charge of violating Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions."~~

SECTION 3.

Said title is further amended by revising Code Section 40-5-64, relating to limited driving permits for certain offenders, as follows:

"40-5-64.

(a) **To whom issued.**

(1) Notwithstanding any contrary provision of this Code section or Code Section 40-5-57, 40-5-63, 40-5-75, 40-5-121, or 42-8-111, any person who has not been previously convicted or adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest, may apply for a limited driving permit when that person's driver's license had a suspension imposed prior to July 1, 2015, under Code Section 40-5-22 or that person's driver's license has been suspended in accordance with subsection (d) of Code Section 40-5-57, ~~paragraph (1) of subsection (a) subparagraph (a)(1)(A) of Code Section 40-5-63,~~ paragraph (1) of subsection (a) of Code Section 40-5-67.2, or subsection (a) of Code Section 40-5-57.1, when the person is 18 years of age or older and his or her license was suspended for exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour, and the sentencing judge, in his or her discretion, decides it is reasonable to issue a limited driving permit.

~~(2) No person who has been granted an exemption from the ignition interlock device requirements of Article 7 of Chapter 8 of Title 42 due to undue financial hardship under Code Section 42-8-111 shall be eligible for a limited driving permit, an ignition interlock device limited driving permit, or any other driving privilege for a period of one year.~~

~~(3)(2) If To the extent~~ a person is subject to more than one suspension for which a limited driving permit may be issued, the department shall not issue ~~such a permit unless the suspensions are for a conviction for driving under the influence in violation of Code Section 40-6-391 imposed pursuant to Code Section 40-5-63 and an administrative suspension imposed pursuant to paragraph (1) of subsection (a) of Code Section 40-5-67.2 arising from the same incident~~ authorized by this Code section.

(b) **Application form.** Applications for limited driving permits shall be made upon such forms as the commissioner may prescribe. Such forms shall require such information as is necessary for the department to determine the need for such permit. All applications shall be signed by the applicant before a person authorized to administer oaths.

(c) **Standards for approval.** The department shall issue a limited driving permit if the application indicates that refusal to issue such permit would cause extreme hardship to the applicant. ~~Except as otherwise provided by subsection (c.1) of this Code section, for~~
For the purposes of this Code section, the term 'extreme hardship' means that the applicant cannot reasonably obtain other transportation, and therefore the applicant would be prohibited from:

- (1) Going to his or her place of employment or performing the normal duties of his or her occupation;
- (2) Receiving scheduled medical care or obtaining prescription drugs;
- (3) Attending a college or school at which he or she is regularly enrolled as a student;
- (4) Attending regularly scheduled sessions or meetings of support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner;
- (5) Attending under court order any driver education or improvement school or alcohol or drug program or course approved by the court which entered the judgment of conviction resulting in suspension of his or her driver's license or by the commissioner;
- (6) Attending court; reporting to a community supervision, juvenile probation, or Article 6 of Chapter 8 of Title 42 probation office; reporting to a community supervision officer, county or Department of Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42; or performing community service;
- (7) Transporting an immediate family member who does not hold a valid driver's license for work, to obtain medical care or prescriptions, or to school; or

(8) Attending any program, event, treatment, or activity ordered by a judge presiding in an accountability court, as such term is defined in Code Section 15-1-18.

~~(c.1) **Exception to standards for approval.** The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code section shall not apply and shall not be considered for purposes of granting a limited driving permit or imposing conditions thereon under this Code section in the case of a driver's license suspension under paragraph (2) of subsection (a.1) of Code Section 40-5-22.~~

(d) **Conditions attached.** A limited driving permit shall be endorsed with such conditions as the commissioner deems necessary to ensure that such permit will be used by the permittee only to avoid the conditions of extreme hardship. Such conditions may include the following restrictions:

- (1) Specific places between which the permittee may be allowed to operate a motor vehicle;
- (2) Routes to be followed by the permittee;
- (3) Times of travel;
- (4) The specific vehicles which the permittee may operate; and
- (5) Such other restrictions as the department may require.

(e) **Fees, duration, renewal, and replacement of limited driving permit.** A limited driving permit issued pursuant to this Code section shall be \$25.00 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 issuance thereof 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 ~~or 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,~~ or 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; except that such limited driving permit shall expire upon any earlier reinstatement of the

driver's license. A person may apply to the department for a limited driving permit immediately following such conviction or suspension if he or she has surrendered his or her driver's license to the court in which the conviction was adjudged or to the department if the department has processed the administrative driver's license suspension form 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. Limited driving permits issued pursuant to this Code section are renewable upon payment of a renewal fee of \$5.00. Such permits may be renewed one time after the person is eligible to reinstate his or her driver's license for the violation that was the basis of the issuance of the permit. Upon payment of a fee in an amount the same as that provided by Code Section 40-5-25 for issuance of a Class C driver's license, a person may be issued a replacement for a lost or destroyed limited driving permit issued to him or her.

(f) **Liability of issuing officer.** No official or employee of the department shall be criminally or civilly liable or subject to being held in contempt of court for issuing a limited driving permit in reliance on the truth of the affidavits required by this Code section.

(g) **Revocation of limited driving permit.**

(1) Any limited driving permittee who is convicted of violating any state law relating to the movement of vehicles or any limited driving permittee who is convicted of violating the conditions endorsed on his or her limited driving permit shall have such permit revoked by the department. Any court in which such conviction is had shall require such permittee to surrender his or her limited driving permit to the court, and the court shall forward it to the department within ten days after the conviction, with a copy of the conviction.

(2) Any person whose limited driving permit has been revoked shall not be eligible to apply for a driver's license until six months from the date such permit was surrendered to the department. In any case of revocation of a limited driving permit pursuant to paragraph (1) of this subsection, the department may impose an additional period of suspension for the conviction upon which revocation of the permit was based.

(h) **Hearings.** Any person whose permit has been revoked or who has been refused a permit by the department may make a request in writing for a hearing to be provided by the department. Such hearing shall be provided by the department within 30 days after the receipt of such request and shall follow the procedures required by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Appeal from such hearing shall be in accordance with said chapter.

(i) **Rules and regulations.** The commissioner may promulgate such rules and regulations as are necessary to implement this Code section.

(j) **Penalty.** Any permittee who operates a motor vehicle in violation of any condition specified on the permit shall be guilty of a misdemeanor."

SECTION 4.

Said title is further amended by revising Code Section 40-5-64.1, relating to ignition interlock device limited driving permits, as follows:

"40-5-64.1.

(a) **To whom issued.**

(1) Any person who has not been previously convicted or adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest, and whose driver's license is subject to an administrative driver's license suspension pursuant to subsection (c) of Code

Section 40-5-67.1, may apply for an ignition interlock device limited driving permit with the department.

(2) Any person who has not been previously convicted or adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest, and whose driver's license is subject to an administrative driver's license suspension pursuant to subsection (d) of Code Section 40-5-67.1, may apply for an ignition interlock device limited driving permit with the department.

(3) Any person whose driver's license was suspended as a result of a first conviction of an alcohol related offense pursuant to Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, may apply for an ignition interlock device limited driving permit with the department.

~~(4)~~ Any person whose driver's license ~~has been~~ was suspended as a result of a second conviction ~~for violating~~ of an alcohol related offense pursuant to Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, may apply within the department for an ignition interlock device limited driving permit after serving at least 120 days of the suspension required for such conviction.

~~(4)(5)~~ The department shall not issue an ignition interlock device limited driving permit to any person:

- (A) Under 21 years of age;
- (B) Who is not currently licensed to operate a motor vehicle in this state;
- (C) Who currently holds a license to drive a commercial motor vehicle;
- (D) Whose driver's license is subject to an administrative suspension for involvement in a traffic accident resulting in injuries or fatalities; or

(E) Whose driver's license is subject to a suspension, revocation, or cancellation for any reason other than as contemplated by this Code section.

(b) **Application form.** Applications for ignition interlock device limited driving permits shall be made upon such forms as the commissioner may prescribe. All applications shall be signed by the applicant before a person authorized to administer oaths.

(c) **Standards for approval.**

(1) The department shall issue an ignition interlock device limited driving permit for a fee of \$25.00 and:

(A) For an applicant eligible for an ignition interlock device limited driving permit pursuant to paragraph (1) or (2) of subsection (a) of this Code section:

(i) Within 30 days from the date on which notice was given pursuant to subsection (g) of Code Section 40-5-67.1;

(ii) Upon surrender of the applicant's driver's license; and

(iii) Upon the applicant's execution of an affidavit attesting that the hearing afforded under subsection (g) of Code Section 40-5-67.1 has been waived; ~~or~~

(B) For an applicant eligible for an ignition interlock device limited driving permit pursuant to paragraph (3) of subsection (a) of this Code section, upon the submission of proof of the conviction from the court or submission of a certificate of eligibility from an accountability court, as such term is defined in Code Section 15-1-18, and the surrender of his or her driver's license to such court or to the department if the department has processed the administrative driver's license suspension form or conviction; or

~~(C)~~ For an applicant eligible for an ignition interlock device limited driving permit pursuant to paragraph ~~(3)~~ (4) of subsection (a) of this Code section, upon the submission of proof of the conviction from the court, the submission of a certificate of eligibility from an accountability court, as such term is defined in Code Section 15-1-18, or the submission of proof of enrollment in a substance abuse treatment

program as provided in Code Section 40-5-63.1 and the surrender of his or her driver's license to such court or to the department if the department has processed the administrative driver's license suspension form or conviction.

(2) ~~No person who has been granted an exemption from the ignition interlock device requirements of Article 7 of Chapter 8 of Title 42 due to undue financial hardship under Code Section 42-8-111 shall be eligible for a limited driving permit pursuant to Code Section 40-5-64 or any other driving privilege for a period of one year.~~ Upon request of a qualified applicant or permit holder, the department shall make a determination as to whether the installation of an ignition interlock device and the requirements of this Code section would result in undue financial hardship. The department shall issue an ignition interlock device reduced fee voucher to any applicant or permit holder who demonstrates that undue financial hardship would be caused through the proof of any of the following:

(A) A copy of the person's most recent federal income tax return that shows that the person's income or household income does not exceed 125 percent of the federal poverty level according to the most recent data available by the federal Office of Management and Budget;

(B) A copy of the person's most recent statement of wages that shows that the person's income or household income does not exceed 125 percent of the federal poverty level according to the most recent data available by the federal Office of Management and Budget; or

(C) Documentation from a federal agency, state agency, or school district that indicates that the person or his or her household receives assistance from the following public assistance programs:

(i) Temporary Assistance for Needy Families (TANF);

(ii) Supplemental Security Income (SSI);

(iii) Supplemental Nutrition Assistance Program (SNAP); or

(iv) Low Income Home Energy Assistance Program (LIHEAP).

(d) **Duration, renewal, and replacement of ignition interlock device limited driving permit.**

(1) An ignition interlock device limited driving permit shall be valid for a period of one year. Upon successful completion of one year of monitoring of such ignition interlock device, the restriction for maintaining and using such ignition interlock device shall be removed, and such permit may be renewed for additional periods of two months upon payment of a renewal fee of \$5.00, but it may only be renewed one time after such person is eligible to reinstate his or her driver's license.

(2) Upon payment of a fee in the same amount as that provided by Code Section 40-5-25 for the issuance of a Class C driver's license, a person may be issued a replacement for a lost or destroyed ignition interlock device limited driving permit previously issued to him or her.

~~(e) **Exceptions to standards for approval.** An ignition interlock device limited driving permit shall be restricted to allow the holder thereof to drive solely for the following purposes:~~

~~(1) Going to his or her place of employment or performing the normal duties of his or her occupation;~~

~~(2) Receiving scheduled medical care or obtaining prescription drugs;~~

~~(3) Attending a college or school at which he or she is regularly enrolled as a student;~~

~~(4) Attending regularly scheduled sessions or meetings of treatment support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner;~~

~~(5) Attending under court order any driver education or improvement school or alcohol or drug program or course approved by the court which entered the judgment of conviction resulting in suspension of his or her driver's license or by the commissioner;~~

~~(6) Attending court, reporting to a community supervision, juvenile probation, or Article 6 of Chapter 8 of Title 42 probation office, reporting to a community supervision~~

officer, county or Department of Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42, or performing community service;

(7) Transporting an immediate family member who does not hold a valid driver's license for work, to obtain medical care or prescriptions, or to school;

(8) Attending any program, event, treatment, or activity ordered by a judge presiding in an accountability court, as such term is defined in Code Section 15-1-18; or

(9) Going for monthly monitoring visits with the permit holder's ignition interlock device service provider Reserved.

(f) Revocation of ignition interlock device limited driving permit.

(1)(A) The department shall revoke the ignition interlock device limited driving permit of any permittee issued such permit pursuant to ~~paragraph (1) or (2) of subsection (a)~~ of this Code section who is convicted of ~~violating any state law relating to the movement of vehicles or convicted of driving a motor vehicle in violation of an ignition interlock device limited driving permit~~ or violating any state law regarding the movement of vehicles; provided, however, that the department shall not revoke such permit for a conviction of Code Section 40-6-391 for which the permit was originally issued. Any court in which such conviction is had shall require such permittee to surrender the ignition interlock device limited driving permit to the court, and the court shall forward it to the department within ten days after the conviction, with a copy of the conviction.

(B) The department shall revoke the ignition interlock device limited driving permit of any permittee who is required to complete a substance abuse treatment program pursuant to Code Section 40-5-63.1 and enrolled but failed to attend or complete such program as scheduled upon receipt of notice of such information from the Department of Behavioral Health and Developmental Disabilities. The department shall notify the permittee of such revocation by regular mail to his or her last known address. Such

notice of revocation shall inform the permittee of the grounds for and effective date of the revocation and of the right to review. The notice of revocation shall be deemed received three days after mailing.

(C) The department shall revoke the ignition interlock device limited driving permit of a permittee upon receipt of notice from an ignition interlock device service provider that an ignition interlock device has been tampered with, a permittee has failed to report for monitoring as required by law, or an ignition interlock device has been removed from any motor vehicle to be driven by a permittee prior to successful completion of the required term of monitoring under Code Section 42-8-110.1 or 42-8-111.

(2) The department shall notify the permittee of such revocation by regular mail to his or her last known address. Such notice of revocation shall inform the permittee of the grounds for and effective date of the revocation and of the right to review. The notice of revocation shall be deemed received three days after mailing.

(3) Any person whose ignition interlock device limited driving permit has been revoked for the first time shall not be eligible to apply for a driver's license until six months from the date such permit was surrendered to the department. Any person whose ignition interlock device limited driving permit has previously been revoked shall not be eligible to apply for a driver's license until two years from the date such permit was surrendered to the department.

(g) **Hearings.** Any person whose ignition interlock device limited driving permit has been revoked ~~or~~, who has been refused such permit by the department, or who has been refused an ignition interlock device reduced fee voucher by the department may make a request in writing for a hearing to be provided by the department. Such hearing shall be provided by the department within 30 days after the receipt of such request and shall follow the procedures required by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Appeal from such hearing shall be in accordance with such chapter.

(h) **Rules and regulations.** The commissioner may promulgate rules and regulations as are necessary to implement this Code section.

(i) **Penalty.** Any person issued an ignition interlock device limited driving permit who operates a motor vehicle in violation of the terms of such permit, as described in ~~Code Section 42-8-110.1~~ or subsection (e) or (f) of this Code section or Code Section 42-8-110.1 or 42-8-111, commits the offense of violation of an ignition interlock device limited driving permit. Any person who commits the offense of violation of an ignition interlock device limited driving permit shall be guilty of a misdemeanor."

SECTION 5.

Said title is further amended in Code Section 40-5-67.2, relating to terms and conditions for implied consent license suspension, administrative license suspensions in relation to post-conviction suspension, and eligibility for limited driving permit or ignition interlock device limited driving permit, by revising subsections (b) and (d) as follows:

"(b)(1) An administrative license suspension pursuant to Code Section 40-5-67.1 shall be counted toward fulfillment of any period of suspension subsequently imposed as a result of a conviction of violating Code Section 40-6-391 which arises out of the same violation for which the administrative license suspension was imposed. An administrative license suspension pursuant to Code Section 40-5-67.1 shall run concurrently with any revocation of such driver's license pursuant to a subsequent determination that such person is a habitual violator.

(2) Any time during which a person held a valid ignition interlock device limited driving permit pursuant to Code Section 40-5-64.1 shall be counted toward the fulfillment of any period of an administrative license suspension required pursuant to Code Section 40-5-67.1 or any period of suspension subsequently imposed as a result of a conviction of violating Code Section 40-6-391 which arises out of the same violation for which the administrative license suspension was imposed."

~~"(d) Any other provision of law to the contrary notwithstanding, a driver with no previous conviction for a violation of Code Section 40-6-391 within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest, during the period of administrative suspension contemplated under this chapter, shall be entitled to a limited driving permit or an ignition interlock device limited driving permit as provided in Code Sections 40-5-64 and 40-5-64.1."~~

SECTION 6.

Said title is further amended by moving Code Section 40-5-75, relating to suspension of licenses for being in control of a moving vehicle under the influence of a controlled substance or marijuana by operation of law, and Code Section 40-5-76, relating to court ordered reinstatement or suspension of license or issuance of limited driving permit or ignition interlock device limited driving permit and time credited toward fulfillment of period of license suspension, to Article 3 of Chapter 5 and by repealing the designation of Article 3A of such chapter.

SECTION 7.

Said title is further amended by revising Code Section 40-5-76, relating to court ordered reinstatement or suspension of license or issuance of limited driving permit or ignition interlock device limited driving permit and time credited toward fulfillment of period of license suspension, as follows:

~~"40-5-76.~~

(a)(1) A judge presiding in a drug court division, mental health court division, veterans court division, or operating under the influence court division, as a reward or sanction to the defendant's behavior in such court division, may order the department to:

(A) Reinstatement a defendant's Georgia driver's license that has been or should be suspended under the laws of this state;

(B) Issue to a defendant a limited driving permit using the guidance set forth in subsections (c), ~~(c.1)~~, and (d) of Code Section 40-5-64 or with whatever conditions the court determines to be appropriate under the circumstances;

(C) Issue to a defendant an ignition interlock device limited driving permit using the guidance set forth in ~~subsections~~ subsection (c) and ~~(e)~~ of Code Section 40-5-64.1 or with whatever conditions the court determines to be appropriate under the circumstances; ~~or~~

(D) Issue to a defendant an ignition interlock device reduced fee voucher; or

(E) Suspend or revoke such license, limited driving permit, or ignition interlock device limited driving permit.

(2) The court shall require the defendant to pay to the department the fee normally required for the reinstatement of such driver's license or issuance of such limited driving permit or ignition interlock device limited driving permit or waive such fee.

(3) The court may order the department to issue to a defendant a limited driving permit or ignition interlock device limited driving permit pursuant to this subsection for a one-year period, and may allow such permit to be renewed for a one-year period, and shall provide the department with such order.

(b)(1) If the offense for which the defendant was convicted was for an alcohol related offense pursuant to Code Section 40-6-391, a judge presiding in any court of competent jurisdiction may order the department to:

(A) Issue to the defendant an ignition interlock device limited driving permit using the guidance set forth in subsection (c) of Code Section 40-5-64.1;

(B) Issue to the defendant an ignition interlock device reduced fee voucher; or

(C) Suspend or revoke such ignition interlock device limited driving permit.

(2) The court shall require the defendant to pay to the department the fee normally required for the issuance of such ignition interlock device limited driving permit.

(3) The court may order the department to issue to the defendant an ignition interlock device limited driving permit pursuant to this subsection for a one-year period, may allow such permit to be renewed for a one-year period, and shall provide the department with such order.

~~(b)~~(c) If the offense for which the defendant was convicted did not directly relate to the operation of a motor vehicle, a judge presiding in any court, other than the court divisions specified in subsection (a) of this Code section, may order the department to reinstate a defendant's driver's license that has been or should be suspended, issue to a defendant a limited driving permit using the guidance set forth in subsections (c), ~~(c.1)~~, and (d) of Code Section 40-5-64, or issue to a defendant an ignition interlock device limited driving permit using the guidance set forth in ~~subsections~~ subsection (c) ~~and (e)~~ of Code Section 40-5-64.1. The court shall require the defendant to pay to the department the fee normally required for the reinstatement of such driver's license or issuance of such limited driving permit or ignition interlock device limited driving permit or waive such fee. Such judge may also order the department to suspend a defendant's driver's license, limited driving permit, or ignition interlock device limited driving permit as a consequence of the defendant's violation of the terms of his or her probation.

~~(c)~~(d)(1) The department shall make a notation on a person's driving record when his or her driver's license was reinstated or suspended or he or she was issued a limited driving permit or ignition interlock device limited driving permit under this Code section, and such information shall be made available in accordance with Code Section 40-5-2.

(2) The driver's license of any person who has a driver's license reinstated or suspended in accordance with this Code section shall remain subject to any applicable disqualifications specified in Article 7 of this chapter.

~~(d)~~(e) The department shall credit any time during which a defendant was issued a limited driving permit or ignition interlock device limited driving permit under subsection (a) or

543 (b) of this Code section toward the fulfillment of the period of a driver's license suspension
544 for which such permit was issued."

545 **SECTION 8.**

546 Said title is further amended by repealing Code Section 40-5-87, relating to exclusivity on
547 conditions of article relative to suspension of licenses for being in control of a moving
548 vehicle under the influence of a controlled substance or marijuana, and designating said Code
549 section as reserved.

550 **SECTION 9.**

551 Said title is further amended in Code Section 40-6-391, relating to driving under the
552 influence of alcohol, drugs, or other intoxicating substances, penalties, publication of notice
553 of conviction for persons convicted for second time, and endangering a child, by revising
554 paragraphs (1) and (2) of subsection (c) as follows:

555 "(1) For the first First conviction with no conviction of and no plea of nolo contendere
556 accepted to a charge of violating this Code section within the previous ten years, as
557 measured from the dates of previous arrests for which convictions were obtained or pleas
558 of nolo contendere were accepted to the date of the current arrest for which a conviction
559 is obtained or a plea of nolo contendere is accepted:

560 (A) A fine of not less than \$300.00 and not more than \$1,000.00, which fine shall not,
561 except as provided in subsection (g) of this Code section, be subject to suspension, stay,
562 or probation;

563 (B) A period of imprisonment of not fewer than ten days nor more than 12
564 months, ~~which period of imprisonment may, at the sole discretion of the judge, be~~
565 ~~suspended, stayed, or probated, except that if the offender's alcohol concentration at the~~
566 ~~time of the offense was 0.08 grams or more, the judge may suspend, stay, or probate all~~
567 ~~but 24 hours of any term of imprisonment imposed under this subparagraph. The judge~~

shall probate at least a portion of such term of imprisonment in accordance with subparagraph (F) of this paragraph and such other terms and conditions as the judge may impose including, when applicable, relevant provisions of Article 7 of Chapter 8 of Title 42; provided, however, that the offender shall be required to serve not fewer than 24 hours of actual incarceration if the offender's alcohol concentration at the time of the offense was 0.08 grams or more;

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

(D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program within 120 days following his or her conviction; provided, however, that if the defendant is incarcerated and such program cannot be completed within 120 days, it shall be completed within 90 days of his or her release from custody. The sponsor of any such program shall provide written notice of the Department of Driver Services' certification of the program to the person upon enrollment in the program;

(E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as a part of such evaluation, completion of a substance abuse treatment program as defined in Code Section 40-5-1; provided, however, that in the court's discretion such evaluation may be waived; and

(F) ~~A If the person is sentenced to a period of imprisonment for fewer than 12 months,~~ a period of probation of 12 months less any days during which the person is actually incarcerated;

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

(A) A fine of not less than \$600.00 and not more than \$1,000.00, which fine shall not, except as provided in subsection (g) of this Code section, be subject to suspension, stay, or probation;

(B) A period of imprisonment of not fewer than 90 days and not more than 12 months. The judge shall probate at least a portion of such term of imprisonment; in accordance with subparagraph (F) of this paragraph, ~~thereby subjecting the offender to the provisions of Article 7 of Chapter 8 of Title 42 and to such other terms and conditions as the judge may impose~~ including, when applicable, relevant provisions of Article 7 of Chapter 8 of Title 42; provided, however, that the offender shall be required to serve not fewer than 72 hours of actual incarceration;

(C) Not fewer than 30 days of community service;

(D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program within 120 days following his or her conviction; provided, however, that if the defendant is incarcerated and such program cannot be completed within 120 days, it shall be completed within 90 days of his or her release from custody. The sponsor of any such program shall provide written notice of the Department of Driver Services' certification of the program to the person upon enrollment in the program;

(E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as a part of such evaluation, completion of a substance abuse treatment program as defined in Code Section 40-5-1; and

(F) A period of probation of 12 months less any days during which the person is actually incarcerated;"

SECTION 10.

Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to ignition interlock devices, is amended by revising Code Section 42-8-111, relating to court issuance of certificate for installation of ignition interlock devices, exceptions, completion

of alcohol and drug use risk reduction program, notice of requirements, and fees for driver's license, as follows:

"42-8-111.

(a) Upon a first conviction of a resident of this state for an alcohol related offense pursuant to Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, for which such person is granted probation, the court shall issue a certificate of eligibility for an ignition interlock device limited driving permit, subject to the following conditions:

(1) Such person shall have installed and shall maintain in each motor vehicle registered in such person's name and any other motor vehicle to be driven by such person, for a period of not less than 180 days, a functioning, certified ignition interlock device. Such person shall not drive any motor vehicle that is not so equipped during such period;

(2) Upon successful completion of 180 days of monitoring of such ignition interlock device, the restriction for maintaining and using such ignition interlock device shall be removed; and

(3) Such permit may be renewed for additional periods of two months as provided in paragraph (1) of subsection (d) of Code Section 40-5-64.1.

For the purposes of this subsection, a plea of nolo contendere shall constitute a conviction, and a conviction of any offense under the laws of any other state or territory of the United States which, if committed in this state, would be a violation of Code Section 40-6-391 shall be deemed a conviction of violating such Code section.

(b) Upon a second or subsequent conviction of a resident of this state for violating an alcohol related offense pursuant to Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, for which such person is granted probation, the court shall issue a certificate of eligibility for an ignition interlock device

limited driving permit or habitual violator probationary license, subject to the following conditions:

(1) Such person shall have installed and shall maintain in each motor vehicle registered in such person's name for a period of not less than one year a functioning, certified ignition interlock device;

(2) Such person shall have installed and shall maintain in any other motor vehicle to be driven by such person for a period of not less than one year a functioning, certified ignition interlock device, and such person shall not drive any motor vehicle ~~whatsoever~~ that is not so equipped during such period. Upon successful completion of one year of monitoring of such ignition interlock device, the restriction for maintaining and using such ignition interlock device shall be removed, ~~and the~~. Such permit may be renewed for additional periods of two months as provided in paragraph ~~(2)~~ (1) of subsection (d) of Code Section 40-5-64.1; and

(3) Such person shall participate in a substance abuse treatment program as defined in paragraph (16.2) of Code Section 40-5-1, a drug court division in compliance with Code Section 15-1-15, a mental health court division in compliance with Code Section 15-1-16, a veterans court division in compliance with Code Section 15-1-17, or an operating under the influence court division in compliance with Code Section 15-1-19 for a period of not less than 120 days.

For the purposes of this subsection, a plea of nolo contendere shall constitute a conviction; and a conviction of any offense under the laws of any other state or territory of the United States which, if committed in this state, would be a violation of Code Section 40-6-391 shall be deemed a conviction of violating such Code section.

~~(b)(c)~~ The court may, in its discretion, decline to issue a certificate of eligibility for an ~~ignition interlock device limited driving permit or a habitual violator~~ probationary license for any reason or exempt a person from any or all ignition interlock device requirements upon a determination that such requirements would subject such person to undue financial

hardship. Notwithstanding any contrary provision of Code Section 40-13-32 or 40-13-33, a determination of undue financial hardship may be made at the time of conviction or any time thereafter. ~~If a court grants an exemption from the ignition interlock device requirements, such person shall not be eligible for a limited driving permit or any other driving privilege for a period of one year.~~

~~(c)~~(d) In the case of any person subject to the provisions of subsection (a) or (b) of this Code section, the court shall include in the record of conviction or violation submitted to the Department of Driver Services a copy of the certificate of eligibility for an ignition interlock device limited driving permit or habitual violator probationary license issued by the court or documentation of the court's decision to decline to issue ~~such certificate~~ the certificate of eligibility for a habitual violator probationary license. Such certificate shall specify ~~any exemption from the installation requirements of paragraph (1) of subsection (a) of this Code section and any vehicles subject to the installation requirements of paragraph (2) of such subsection~~ subsections (a) and (b) of this Code section. The records of the Department of Driver Services shall contain a record reflecting such certificate, and the person's driver's license, limited driving permit, or probationary license shall contain a notation that the person may only operate a motor vehicle equipped with a functioning, certified ignition interlock device.

~~(d)~~(e) Except as provided in Code Sections 42-8-110.1 and 42-8-112, no provision of this article shall be deemed to reduce any period of driver's license suspension or revocation otherwise imposed by law.

~~(e)~~(f) The fee for issuance of any driver's license indicating that use of an ignition interlock device is required shall be as prescribed for a regular driver's license in Code Section 40-5-25, and the fee for issuance of any limited driving permit indicating that use of an ignition interlock device is required shall be as prescribed in Code Section 40-5-64.1; except that, for habitual violators required to use an ignition interlock device as a condition

of a habitual violator probationary license, the fee shall be as prescribed for a habitual violator probationary license in Code Section 40-5-58.

~~(f)(g)~~ Exemptions granted due to undue financial hardship pursuant to ~~paragraph (1)~~ of subsection ~~(a)~~ (c) of this Code section shall be exempt from the subject matter jurisdiction limitations imposed in Code Sections 40-13-32 and 40-13-33.

(h) A judge may, upon a finding of undue financial hardship, attach a condition upon any certificate of eligibility issued pursuant to this Code section ordering the Department of Driver Services to grant an ignition interlock device reduced fee voucher upon issuance of an ignition interlock device limited driving permit. A judge may attach such voucher condition upon finding that a probationer would suffer undue financial hardship if required to comply with the requirements of this Code section. The judge shall consider factors listed in subsection (c) of Code Section 40-5-64.1 in making a determination of undue financial hardship.

(i) In the event the Department of Driver Services fails to grant an ignition interlock device reduced fee voucher with an ignition interlock device limited driving permit as ordered by the court or a provider center fails to reduce or waive fees as directed by such department, a probationer may petition the court to waive the requirements of this Code section."

SECTION 11.

Said article is further amended in Code Section 42-8-112, relating to timing of issuance of ignition interlock device limited driving permit, documentation required, and reporting required, by revising paragraph (1) of subsection (a) as follows:

"(1) In any case where the court grants a certificate of eligibility for an ignition interlock device limited driving permit or probationary license pursuant to Code Section 42-8-111 to a person whose driver's license is suspended pursuant to subparagraph (c)(2)(C) of Code Section 40-5-57.1 or ~~paragraph (2) of subsection (a)~~ subparagraph (a)(2)(B) of Code Section 40-5-63, the Department of Driver Services shall not issue an ignition

727 interlock device limited driving permit until after the expiration of 120 days from the date
728 of the conviction for which such certificate was granted."

729 **SECTION 12.**

730 Said article is further amended by revising Code Section 42-8-117, relating to revocation of
731 driving privilege upon violation of probation imposed by Code Section 42-8-111, as follows:
732 "42-8-117.

733 (a)(1) In the event the sentencing court revokes a person's probation after finding that
734 such person has violated the terms of the certificate of eligibility for ~~an ignition interlock~~
735 ~~device limited driving permit or a habitual violator~~ probationary license or an ignition
736 interlock device limited driving permit issued pursuant to subsection (a) or (b) of Code
737 Section 42-8-111, the Department of Driver Services shall revoke that person's driving
738 privilege for one year from the date the court revokes that person's probation. The court
739 shall report such probation revocation to the Department of Driver Services by court
740 order.

741 (2) This subsection shall not apply to any person whose limited driving permit has been
742 revoked under subsection (d) of Code Section 42-8-112.

743 (b) In the event the sentencing court revokes a person's probation after finding that such
744 person has twice violated the terms of the certificate of eligibility for a probationary license
745 or an ignition interlock device limited driving permit ~~or probationary license~~ issued
746 pursuant to ~~subsection (a)~~ of Code Section 42-8-111 during the same period of probation,
747 the Department of Driver Services shall revoke that person's driving privilege for five years
748 from the date the court revokes that person's probation for a second time. The court shall
749 report such probation revocation to the Department of Driver Services by court order."

SECTION 13.

Said article is further amended by revising Code Section 42-8-118, relating to requesting or soliciting another to blow into device and tampering with or circumventing operation of device, as follows:

"42-8-118.

(a) It is unlawful for any person whose driving privilege is restricted pursuant to subsection (a) or (b) of Code Section 42-8-111 to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(b) It is unlawful for any person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to subsection (a) or (b) of Code Section 42-8-111.

(c) It is unlawful to tamper with, or circumvent the operation of, an ignition interlock device.

(d) Any person violating any provision of this Code section shall be guilty of a misdemeanor."

SECTION 14.

Chapter 12A of Title 43 of the Official Code of Georgia Annotated, relating to ignition interlock device providers, is amended in Code Section 43-12A-2, relating to definitions, by revising paragraph (4) as follows:

"(4) 'Provider center' means a facility established for the purpose of providing and installing ignition interlock devices when their use is required by ~~or as a result of~~ an order of a court or issuance of an ignition interlock device limited driving permit pursuant to Code Section 40-5-64.1."

SECTION 15.

Said chapter is further amended by adding a new Code section to read as follows:

"43-12A-7.1.

(a) Any provider center operator licensed pursuant to this chapter shall install an ignition interlock device at no cost upon presentation of a department issued ignition interlock device reduced fee voucher. Any person presenting such voucher shall be charged a reduced monthly monitoring rate at one-half the standard rate charged by the provider center operator.

(b) The department shall establish a method by which any person granted an ignition interlock device reduced fee voucher pursuant to subsection (c) of Code Section 40-5-64.1 who is denied the free or reduced services described in subsection (a) of this Code section may notify the department of such failure to provide required services. Any service provider required by this Code section to provide free or reduced services upon receipt of a valid voucher shall be fined \$1,000.00 upon the first finding by the department that a valid voucher was not honored and upon any second or subsequent finding shall be subject to license revocation pursuant to Code Section 43-12A-8."

SECTION 16.

This Act shall become effective on July 1, 2021, and shall apply to offenses committed on or after such date.

SECTION 17.

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