

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 439:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 17-6-1 of the Official Code of Georgia Annotated, relating to when
2 offenses bailable, procedure, schedule of bails, and appeal bonds, so as to provide for the
3 installation of an ignition interlock device as a condition of bail for persons charged with an
4 alcohol related violation of driving under the influence; to amend Title 40 and Article 7 of
5 Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to motor vehicles
6 and traffic and ignition interlock devices, respectively, so as to provide for the installation
7 of an ignition interlock device as a condition of probation for individuals convicted for the
8 first time of an alcohol related violation of driving under the influence; to provide for
9 conditions and terms of suspension of driver's licenses for individuals convicted for the first
10 time of an alcohol related violation of driving under the influence; to provide for a condition
11 for reinstatement of a suspended driver's license; to provide for standards for issuance,
12 application, approval, conditions, fees, duration, and revocation of limited driving permits
13 and ignition interlock device limited driving permits; to provide for eligibility for a limited
14 driving permit or ignition interlock device limited driving permit; to provide for court
15 ordered limited driving permits and ignition interlock device limited driving permits; to
16 provide for penalties for conviction of a first offense of driving under the influence; to
17 provide for standards for certificates of eligibility for an ignition interlock device limited
18 driving permit issued by a court; to provide for terms under which an ignition interlock

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device must be placed in a motor vehicle; to provide for revocation of driving privileges in certain instances; to provide for prohibited conduct in relation to ignition interlock devices; to repeal provisions relating to exclusivity on conditions relative to suspension of licenses for being in control of a moving vehicle while under the influence of a controlled substance or marijuana; to allow for a finding of undue financial hardship by the court and 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 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.

Code Section 17-6-1 of the Official Code of Georgia Annotated, relating to when offenses bailable, procedure, schedule of bails, and appeal bonds, is amended by revising subparagraph (b)(2)(A) as follows:

"(A) A person charged with violating Code Section 40-6-391 whose alcohol concentration at the time of arrest, as determined by any method authorized by law, violates that provided in paragraph (5) of subsection (a) of Code Section 40-6-391 may be ~~detained~~:

(i) Detained for a period of time up to six hours after booking and prior to being released on bail or on recognizance; and

(ii) Ordered, as a condition of bail, to obtain an ignition interlock device limited driving permit from the Department of Driver Services and install an ignition interlock device on any vehicle operated by such person upon a finding that such person's operation of a motor vehicle poses a significant risk to such person or the

community and may be issued an ignition interlock device reduced fee voucher upon a finding of undue financial hardship pursuant to Code Section 42-8-112.1; and"

SECTION 2.

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 3.

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:

"(a) The driver's license of any person convicted of ~~an~~ a first or second offense listed in Code Section 40-5-54 or ~~of violating~~ an alcohol related violation of Code Section 40-6-391, unless the driver's license has been previously suspended pursuant to Code Sections 40-5-67.1 and 40-5-67.2, shall by operation of law be suspended and such suspension shall be subject to the following terms and conditions; ~~provided, however, that any person convicted of a drug related offense pursuant to Code Section 40-6-391 shall be governed by the suspension requirements of Code Section 40-5-75; and further,~~ provided that each charge for which a conviction was obtained shall be treated as a separate transaction for the purpose of imposing a license suspension hereunder, even if said

convictions arise from a single incident, and further provided, further, that the department shall treat each conviction received in the order in which said convictions are processed even if it is not the order in which said offenses occurred:

(1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense 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 for which a conviction is obtained, the period of suspension shall be 12 months. ~~At the end of 120 days, the person, provided that:~~

(A) Any person whose license was suspended pursuant to this paragraph as a result of a conviction of an offense listed in Code Section 40-5-54 may apply to the department for early reinstatement of his or her driver's license at the end of 120 days. 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 first conviction of a violation of an alcohol related violation of Code Section 40-6-391 may apply to the department for early reinstatement of his or her driver's license at the end of 180 days 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 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, an accepted plea of nolo contendere to an offense listed in Code Section 40-5-54 by a person who is under 18 years of age at the time of arrest shall constitute a conviction. For the purposes of this paragraph only, an accepted plea of nolo contendere by a person 21 years of age or older, with no conviction of and no plea of nolo contendere accepted to a charge of violating Code Section 40-6-391 within the previous five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered a conviction, and the court having jurisdiction shall forward, as provided in Code Section 40-6-391.1, the record of such disposition of the case to the department and the record of such disposition shall be kept on file for the purpose of considering and counting such accepted plea of nolo contendere as a conviction under ~~paragraphs~~ paragraph (2) ~~and (3)~~ of this subsection; or

(2) Upon the second 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, the period of suspension shall be three years; provided that:

(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~~ at the end of 120 days.

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 violation of 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 (5) 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 4.

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, 40-5-57.2, 40-5-63, 40-5-75, or 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:

(A) That person's driver's license has been suspended in accordance with:

(i) Subsection (d) of Code Section 40-5-57;

(ii) Paragraph (1) of subsection (a) of Code Section 40-5-57.2;

(iii) ~~Subparagraph (a)(1)(A) Paragraph (1) of subsection (a) of Code Section 40-5-63;~~

(iv) Paragraph (1) of subsection (a) of Code Section 40-5-67.2; or

(v) 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~~

(B) The sentencing judge, in his or her discretion, decides it is reasonable to issue a limited driving permit; or

(C) A court has granted a complete exemption from the ignition interlock device requirements pursuant to subsection (d) of Code Section 42-8-112.1.

~~(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) When 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 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 a permit 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 the~~
For 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.**

(1) A limited driving permit issued pursuant to this Code section shall be \$25.00 and shall become invalid upon:

(A) The expiration of one year following issuance thereof in the case of a suspension:

(i) For an offense listed in Code Section 40-5-54;

(ii) Under Code Section 40-5-57; or

(iii) Under Code Section 40-5-57.2; ~~or~~

~~(iv) In accordance with paragraph (1) of subsection (a) of Code Section 40-5-63 for a violation of Code Section 40-6-391;~~

(B) The expiration of 30 days in the case of an administrative license suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-67.2; or

(C) Any earlier reinstatement of the driver's license.

(2) 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.

(3) 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.

(4) 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 5.

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 charged with violating Code Section 40-6-391 and ordered as a condition of bail pursuant to Code Section 17-6-1 to install an ignition interlock device on his or her vehicle may apply for an ignition interlock device limited driving permit with the department;

~~(1)~~(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 (c) of Code Section 40-5-67.1, may apply for an ignition interlock device limited driving permit with the department.

~~(2)~~(3) 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.

(4) Any person whose driver's license was suspended as a result of a first conviction of an alcohol related violation of 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.

~~(3)~~(5) Any person whose driver's license ~~has been~~ was suspended as a result of a second conviction ~~for violating~~ of an alcohol related violation of 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 with the department for an ignition interlock device limited driving permit after serving at least 120 days of the suspension required for such conviction.

~~(4)~~(6) The department shall not issue an ignition interlock device limited driving permit to any person:

(A) Under 21 years of age, unless such person demonstrates that refusal to issue such permit would cause extreme hardship. For purposes of this subparagraph, the term 'extreme hardship' shall have the same meaning relative to transportation obstacles set forth in subsection (c) of Code Section 40-5-64;

(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) of subsection (a) of this Code Section, upon submission of a copy of the court order requiring an ignition interlock device as a condition of probation and the surrender of his or her driver's license;

~~(A)(B)~~ For an applicant eligible for an ignition interlock device limited driving permit pursuant to paragraph ~~(1)~~ or (2) or (3) 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)(C)~~ For an applicant eligible for an ignition interlock device limited driving permit pursuant to paragraph (4) 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

(D) For an applicant eligible for an ignition interlock device limited driving permit pursuant to paragraph (3) (5) 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) ~~Reserved. 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.~~

(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 convicted of violating any provision of
Chapter 6 of this title; 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~~ that requires such
permittee to surrender the ignition interlock device limited driving permit to the court;
~~and the court shall forward it~~ the permit 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 permitted to operate a motor vehicle until six months from the date such permit was surrendered to the department or the conclusion of the suspension for the offense for which the ignition interlock device permit was issued, whichever period expires first. Any person whose ignition interlock device limited driving permit has previously been revoked shall not be permitted to operate a motor vehicle until the conclusion of the suspension for the offense for which the ignition interlock device limited driving permit was issued.

(g) **Hearings.** Any person whose ignition interlock device limited driving permit has been revoked or who has been refused such 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 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

469 driving permit. Any person who commits the offense of violation of an ignition interlock
470 device limited driving permit shall be guilty of a misdemeanor."

471 **SECTION 6.**

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

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

483 (2) Any time during which a person held a valid ignition interlock device limited driving
484 permit pursuant to Code Section 40-5-64.1 shall be counted toward the fulfillment of any
485 period of an administrative license suspension required pursuant to Code Section
486 40-5-67.1 or any period of suspension subsequently imposed as a result of a conviction
487 of violating Code Section 40-6-391 which arises out of the same violation for which the
488 administrative license suspension was imposed."

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

SECTION 7.

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 8.

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, provided that the finding of undue financial hardship pursuant to Code Section 42-8-112.1 has been made; 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~~ the applicable period of suspension, 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 violation of 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, provided that the finding of undue financial hardship pursuant to Code Section 42-8-112.1 has been made; 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 the applicable period of suspension, 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.

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

SECTION 9.

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

SECTION 10.

Said title is further amended in Code Section 40-6-391, relating to driving under the influence of alcohol, drugs, or other intoxicating substances, penalties, publication of notice of conviction for persons convicted for second time, and endangering a child, by revising paragraphs (1) through (4) of subsection (c) as follows:

"(1) ~~For the first~~ First conviction with no conviction of and no plea of nolo contendere accepted to a charge of violating this Code section within the previous ten 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 conviction is obtained or a plea of nolo contendere is accepted:

(A) A fine of not less than \$300.00 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 ten days nor more than 12 months, ~~which period of imprisonment may, at the sole discretion of the judge, be suspended, stayed, or probated, except that if the offender's alcohol concentration at the time of the offense was 0.08 grams or more, the judge may suspend, stay, or probate all 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 may impose such other terms and conditions the court finds appropriate, 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~~ and may impose such other terms and conditions ~~as the judge may impose~~ the court finds appropriate, 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;

(3) For the third 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 \$1,000.00 and not more than \$5,000.00, which fine shall not, except as provided in subsection (g) of this Code section, be subject to suspension, stay, or probation;

(B) A mandatory period of imprisonment of not fewer than 120 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~~ and may impose such other terms and conditions ~~as the judge may impose~~ the court finds appropriate, 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 15 days 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;

(4) For the fourth or subsequent 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 \$1,000.00 and not more than \$5,000.00, 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 less than one year and not more than five years; provided, however, that the judge may suspend, stay, or probate all but 90 days of any term of imprisonment imposed under this paragraph. 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~~ and may impose such other terms and conditions as ~~the judge may impose~~ the court finds appropriate, including, when applicable, relevant provisions of Article 7 of Chapter 8 of Title 42;

(C) Not fewer than 60 days of community service; provided, however, that if a defendant is sentenced to serve three years of actual imprisonment, the judge may suspend the 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 five years less any days during which the person is actually imprisoned;

provided, however, that if the ten-year period of time as measured in this paragraph commenced prior to July 1, 2008, then such fourth or subsequent conviction shall be a misdemeanor of a high and aggravated nature and punished as provided in paragraph (3) of this subsection;"

SECTION 11.

Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to ignition interlock devices, is amended in Code Section 42-8-110, relating to definitions, applicability, purchase or lease of ignition interlock devices by counties, municipalities, or private entities, costs, fees, and deposits, and participation by indigents, by revising subsections (d) and (e) and adding a new subsection to read as follows:

"(d)(1) A provider center shall be authorized to charge the person whose vehicle is to be equipped with an ignition interlock device such installation, ~~deinstallation~~ removal, and user fees as are approved by the Department of Driver Services. A provider center may also require such person to make a security deposit for the safe return of the ignition interlock device. No provider center shall require a contractual agreement which extends the term of use for such device past the term required for by law. Payment of any or all of such fees and deposits may be made a condition of probation under this order. No provider center shall be licensed to operate unless such provider center agrees in writing to pay to the state, for the costs of administration, a fee of \$30.00 for each ignition interlock device installed other than those devices installed without an installation fee pursuant to a reduced fee voucher. Nothing in this Code section shall be construed to allow the Department of Driver Services to retain any funds required by the Constitution to be paid into the state treasury; provided, further, that such department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such miscellaneous funds.

(2) When electing to accept a reduced fee voucher issued by a court pursuant to Code Section 42-8-112.1, a provider center shall install and remove an ignition interlock device at no cost and charge the person presenting such voucher a monthly leasing and monitoring rate at one-half the standard rate normally charged by the provider center.

(e) The Department of Driver Services shall not certify any provider center, or renew any previously existing certification for any provider center, unless the provider demonstrates

that reports from the ignition interlock devices owned by such provider shall be transmitted and stored electronically in a method accessible to courts, law enforcement, prosecutors, and ignition interlock device limited driving permit holders.

(e)(f) If a county, municipality, or other political subdivision of this state purchases or leases ignition interlock devices from a private entity, such county or municipality shall allow persons who are found by the court to be indigent and unable to pay the fees or deposits for such an ignition interlock device to participate in the ignition interlock program."

SECTION 12.

Said article is further 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 violation of 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) For a period of not less than 180 days, such person shall have installed and shall maintain a functioning, certified ignition interlock device in each motor vehicle to be driven by such person and shall not drive any motor vehicle that is not so equipped during such period; provided, however, that such restriction shall not apply when a person is required to operate a motor vehicle registered to an employer and operated by such person within the course and scope of employment;

(2) Upon successful completion of 180 days of monitoring with an ignition interlock device, the restriction for maintaining and using such ignition interlock device shall be removed, with any days of successful monitoring prior to conviction credited toward the required 180 days; 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 an alcohol related violation of Code Section 40-6-391 shall be deemed a conviction of violating such Code section.

~~(a)~~(b) Upon a second or subsequent conviction of a resident of this state for violating an alcohol related violation of 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 an alcohol related violation of Code Section 40-6-391 shall be deemed a conviction of violating such Code section.

~~(b) The court may, in its discretion, decline to issue a certificate of eligibility for an ignition interlock device limited driving permit or 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 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) In the case of any person subject to the provisions of subsection (a) 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 probationary license issued by the court or documentation of the court's decision to decline to issue such certificate. 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. 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) 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) 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 probationary license, the fee shall be as prescribed for a probationary license in Code Section 40-5-58.

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

SECTION 13.

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) and paragraph (5) of subsection (b) 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

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

"(5)(A) Any person who has been issued an ignition interlock device limited driving permit or a habitual violator probationary license bearing an ignition interlock device condition shall maintain such ignition interlock device in any motor vehicle he or she operates to the extent required by the certificate of eligibility for such permit or probationary license issued to such person by the court in which he or she was convicted ~~for not less than one year~~.

(B) Upon the expiration of ~~such one-year~~ an ignition interlock device limited driving permit or habitual violator probationary license, the driver may, if otherwise qualified, apply for renewal of such permit or probationary license without such ignition interlock device restriction."

SECTION 14.

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

"42-8-112.1.

(a) The court may, in its discretion, decline to issue a certificate of eligibility for an ignition interlock device limited driving permit or habitual violator probationary license for any reason, exempt a person from any or all ignition interlock device requirements, or modify a previous order relating to ignition interlock device requirements.

(b)(1) Notwithstanding any contrary provision of Code Section 40-13-32 or 40-13-33, a court may determine that the requirements related to the habitual violator probationary license or the ignition interlock device installation and monitoring would result in undue financial hardship, considering the person's financial obligations, including obligations to dependents. Such determination may be made prior to a conviction, at the time of conviction, or any time thereafter through submission of any of the following:

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

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

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

(2) Upon a finding of undue financial hardship pursuant to this subsection, the court shall attach a reduced fee voucher order to a certificate of eligibility for an ignition interlock device limited driving permit which requires a reduction of fees assessed by an ignition interlock device provider for an amount set forth in paragraph (2) of subsection (d) of Code Section 42-8-110.

(c) The court shall grant a complete exemption from the ignition interlock device requirements of this article when:

(1) No ignition interlock device provider is located within 100 miles of the person's residence; or

(2) No ignition interlock device provider within 100 miles of the person's residence accepts reduced fee vouchers when such person has qualified and received such voucher pursuant to this Code section.

(d) If a court grants a complete exemption from the ignition interlock device requirements pursuant to this Code section, such person shall be eligible for a limited driving permit issued pursuant to Code Section 40-5-64.

(e) In the case of any person subject to Code Section 42-8-111, 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 along with its factual findings, if any. Such certificate shall specify any exemption from the installation requirements and any vehicles subject to the installation requirements. 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 habitual violator probationary license shall contain a notation that the person may only operate a motor vehicle equipped with a functioning, certified ignition interlock device.

(f) 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.

(g) 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.

(h) Exemptions granted due to undue financial hardship and reduced fee vouchers ordered pursuant to subsection (b) of this Code section shall be exempt from the subject matter jurisdiction limitations imposed in Code Sections 40-13-32 and 40-13-33."

SECTION 15.

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

"42-8-117.

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

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

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

SECTION 16.

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:

940 "42-8-118.

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

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

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

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

953 **SECTION 17.**

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

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

961 **SECTION 18.**

962 This Act shall become effective on July 1, 2022, and shall apply to offenses committed on
963 or after such date.

964

SECTION 19.

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