

The House Committee on Judiciary Non-Civil offers the following substitute to SB 10:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 11 of Title 16 and Title 40 of the Official Code of Georgia
2 Annotated, relating to offenses against public order and motor vehicles and traffic,
3 respectively, so as to provide for an offense of knowingly attending and facilitating an illegal
4 drag race or a laying drags exhibition; to provide for punishment; to provide for offenses
5 which disqualify certain drivers from obtaining a Class C or D driver's license; to increase
6 the punishment for the offenses of reckless stunt driving; to provide for minimum periods of
7 imprisonment for such offenses in certain instances; to provide for motor vehicle forfeiture
8 in certain instances; to provide for related matters; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
13 offenses against public order, is amended by revising Code Section 16-11-43.1, relating to
14 promoting or organizing drag races or laying drags exhibitions, as follows:

15 "16-11-43.1.

16 (a) Any person who knowingly promotes or organizes an exhibition of illegal drag racing,
17 in violation of Code Section 40-6-186, or of laying drags, in violation of Code
18 Section 40-6-251, shall be guilty of a misdemeanor of a high and aggravated nature.

19 (b) Any person who is knowingly present and actively facilitating an exhibition of illegal
20 drag racing, in violation of Code Section 40-6-186, or of laying drags, in violation of Code
21 Section 40-6-251, shall be guilty of a misdemeanor and shall be punished by a fine of not
22 less than \$250.00. For purposes of this subsection, active facilitation may be evidenced by
23 using a vehicle to block the portion of the roadway closest to exhibition participants
24 allowing the event to take place."

25 **SECTION 2.**

26 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic,
27 is amended in Code Section 40-5-24, relating to instruction permits, graduated licensing and
28 related restrictions, and temporary licenses, by revising division (b)(1)(A)(i) and
29 paragraph (3) of subsection (b) as follows:

30 "(i) For a period of not less than 12 consecutive months prior to making application
31 for a Class D driver's license, not been convicted of a violation of Code
32 Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code
33 Section 40-6-270, racing on highways or streets in violation of Code
34 Section 40-6-186, using a motor vehicle in fleeing or attempting to elude an officer
35 in violation of Code Section 40-6-395, reckless driving in violation of Code
36 Section 40-6-390, reckless stunt driving in violation of Code Section 40-6-390.1, or
37 convicted of any offense for which four or more points are assessable under
38 subsection (c) of Code Section 40-5-57; and"

39 "(3) A person who has been issued a Class D driver's license under this subsection and
40 has never been issued a Class C driver's license under this chapter will become eligible

41 for a Class C driver's license under this chapter only if such person has a valid Class D
 42 driver's license which is not under suspension and, for a period of not less than
 43 12 consecutive months prior to making application for a Class C driver's license, has not
 44 been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene
 45 of an accident in violation of Code Section 40-6-270, racing on highways or streets in
 46 violation of Code Section 40-6-186, using a motor vehicle in fleeing or attempting to
 47 elude an officer in violation of Code Section 40-6-395, reckless driving in violation of
 48 Code Section 40-6-390, reckless stunt driving in violation of Code Section 40-6-390.1,
 49 or convicted of any offense for which four or more points are assessable under subsection
 50 (c) of Code Section 40-5-57 and is at least 18 years of age; provided, however, that any
 51 person at least 17 years of age who provides proof of military enlistment and meets all
 52 other qualifications of this paragraph, except that such person has held a Class D driver's
 53 license for a period of less than 12 consecutive months, shall be eligible for a Class C
 54 driver's license."

55 **SECTION 3.**

56 Said title is further amended by revising Code Section 40-6-390.1, relating to reckless stunt
 57 driving, as follows:

58 "40-6-390.1.

59 (a) Any person who operates any vehicle while drag racing, in violation of Code
 60 Section 40-6-186, or laying drags, in violation of Code Section 40-6-251, in reckless
 61 disregard for the safety of persons on a highway or upon private property without express
 62 authorization from the owner of such property commits the offense of reckless stunt driving
 63 and, upon conviction thereof, shall be guilty of:

64 (1) For the first conviction with no conviction of and no plea of nolo contendere accepted
 65 to a charge of violating this Code section within the previous ten years, a misdemeanor
 66 of a high and aggravated nature to be punished by:

67 (A) A fine of not less than ~~\$300.00~~ \$500.00 and not more than ~~\$750.00~~
68 \$1,000.00; and

69 (B) A period of imprisonment of not fewer than ten days nor more than six months;
70 (2) For the second conviction in a ten-year period of time, a misdemeanor of a high and
71 aggravated nature to be punished by:

72 (A) A fine of not less than ~~\$600.00~~ \$750.00 and not more than ~~\$1,000.00~~ \$1,500.00;
73 and

74 (B) A period of imprisonment of not fewer than 90 days and not more than 12 months;
75 (3) For the third conviction in a ten-year period of time, a misdemeanor of a high and
76 aggravated nature to be punished by:

77 (A) A fine of not less than ~~\$1,000.00~~ \$2,500.00 and not more than \$5,000.00; and

78 (B) A period of imprisonment of not fewer than 120 days and not more than 12
79 months; and

80 (4) For a fourth or subsequent conviction in a ten-year period of time, a felony to be
81 punished by:

82 (A) A fine of not less than ~~\$1,000.00~~ \$5,000.00 and not more than ~~\$5,000.00~~
83 \$7,500.00; and

84 (B) A period of imprisonment of not fewer than one year and not more than five years;
85 provided, however, that when a violation of this paragraph results in an injury to
86 another or damage to property over \$1,000.00, the first 12 months of such sentence
87 shall not be suspended, probated, deferred, or withheld by a sentencing court.

88 (b)(1) Notwithstanding the limits set forth in any municipal charter, any municipal court
89 of any municipality shall be authorized to impose the misdemeanor or high and aggravated
90 misdemeanor punishments provided for in this Code section upon a conviction of violating
91 this Code section or upon a conviction of violating any ordinance adopting the provisions
92 of this Code section.

93 ~~(2) Notwithstanding any provision of this Code section to the contrary, any court~~
94 ~~authorized to hear misdemeanor or high and aggravated misdemeanor cases involving~~
95 ~~violations of this Code section shall be authorized to exercise the power to probate,~~
96 ~~suspend, or stay any sentence imposed.~~

97 (c)(1) Any motor vehicle operated by a person who has been ~~declared a habitual violator~~
98 ~~for three violations of this Code section, whose license has been revoked, previously~~
99 ~~convicted of a violation of this Code section~~ and who is arrested and charged with a
100 violation of this Code section is declared to be contraband and subject to forfeiture in
101 accordance with the procedures set forth in Chapter 16 of Title 9.

102 (2) In any case where a vehicle which is the only family vehicle is determined to be
103 subject to forfeiture, the court may, if it determines that the financial hardship to the
104 family as a result of the forfeiture and sale outweighs the benefit to the state from such
105 forfeiture, order the title to the vehicle transferred to such other family member who is
106 a duly licensed operator and who requires the use of such vehicle for employment or
107 family transportation purposes. Such transfer shall be subject to any valid liens and shall
108 be granted only once.

109 (d) For purposes of this Code section, the occurrence of a previous conviction shall be
110 measured from the dates of previous arrests for which convictions were obtained or pleas
111 of nolo contendere were accepted to the date of the current arrest for which a conviction
112 is obtained or a plea of nolo contendere is accepted."

113 **SECTION 4.**

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