

The Senate Committee on Public Safety offered the following substitute to HB 1022:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to modify the permissible reduction of light transmission through the application
3 of material and glazing to the windows of certain motor vehicles; to prohibit electric tinting;
4 to provide for penalties; to provide for definitions; to revise the date by which law
5 enforcement officers shall acquire equipment capable of verifying a driver's license issued
6 in an electronic format; to create an offense for fleeing or attempting to elude a pursuing
7 vehicle or law enforcement officer performing duties on behalf of the Capitol Police
8 Division, Commercial Vehicle Enforcement Division, or Uniform Division of the
9 Department of Public Safety; to provide for penalties based on the distance a person fled or
10 otherwise attempted to elude a pursuing vehicle or law enforcement officer performing duties
11 on behalf of the Department of Public Safety; to provide for related matters; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14

SECTION 1.

15 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
16 amended by revising Code Section 40-8-73.1, relating to tinting of windows or windshields,
17 as follows:

18 "40-8-73.1.

19 (a) As used in this Code section, the term:

20 (1) 'Electric tinting' means any material that uses an electric current to change the light
21 reflectance or light transmission of a surface. Such term shall include, but is not limited
22 to, electrochromic glass and polymer dispersed liquid crystal film.

23 (2) 'Front side and door windows' means the side and door windows of a motor vehicle
24 that are directly to the right and left of the driver.

25 (3) 'Light reflectance' means the ratio of the amount of total light that is reflected
26 outward by a product or material to the amount of total light falling on the product or
27 material.

28 ~~(2)~~(4) 'Light transmission' means the ratio of the amount of total light, expressed in
29 percentages, which is allowed to pass through a surface to the amount of light falling on
30 the surface.

31 ~~(3)~~ 'Manufacturer' means ~~a person who produces or assembles a vehicle glass-coating~~
32 ~~material or who fabricates, laminates, or tempers a safety-glazing material, which~~
33 ~~material reduces light transmission.~~

34 ~~(4)~~(5) 'Material' means any transparent product or substance which reduces light
35 transmission.

36 ~~(5)~~(6) 'Multipurpose passenger vehicle' means a motor vehicle designed to carry ten
37 persons or less which is constructed on a truck chassis or with special features for
38 occasional off-road operation.

39 (7) 'Rear side and door windows' means the side and door windows of a motor vehicle
40 that are not directly to the right and left of the driver.

41 (b) Except as provided in this Code section, it shall be unlawful for any person to operate
42 a motor vehicle in this state:

43 (1) Which has material and glazing applied or affixed to the front windshield, which
44 material and glazing when so applied or affixed reduce light transmission through the
45 windshield; ~~or~~

46 (2) Which has material and glazing applied or affixed to ~~the rear windshield~~ or the front
47 side or door windows, which material and glazing when so applied or affixed reduce light
48 transmission through the windshield or window to less than ~~32~~ 28 percent, plus or
49 minus 3 percent, or increase light reflectance to more than 20 percent;

50 (3) Which has material and glazing applied or affixed to the rear windshield or the rear
51 side or door windows, which material and glazing when so applied or affixed reduce light
52 transmission through the windshield or window to less than 15 percent, plus or minus 3
53 percent, or increase light reflectance to more than 20 percent; or

54 (4) Which has electric tinting applied or affixed to the front windshield, rear windshield.

55 (c) The provisions of subsection (b) of this Code section shall not apply to:

56 (1) Adjustable sun visors which are mounted forward of the side windows and are not
57 attached to the glass;

58 (2) Signs, stickers, or other matter which is displayed in a seven-inch square in the lower
59 corner of the windshield farthest removed from the driver or signs, stickers, or other
60 matter which is displayed in a five-inch square in the lower corner of the windshield
61 nearest the driver;

62 (3) Direction, destination, or termination signs upon a passenger common carrier motor
63 vehicle if the signs do not interfere with the driver's clear view of approaching traffic;

64 (4) Any transparent item which is not red or amber in color which is placed on the
65 uppermost six inches of the windshield;

66 (5) Any federal, state, or local sticker or certificate which is required by law to be placed
67 on any windshield or window;

- 68 (6) The rear windshield or the rear side or door windows, ~~except those windows to the~~
69 ~~right and left of the driver of:~~
- 70 (A) A multipurpose passenger vehicle;
 - 71 (B) A school bus, any other bus used for public transportation, and any bus or van
72 owned or leased by any religious or any nonprofit organization duly incorporated under
73 the laws of this state;
 - 74 (C) Any limousine owned or leased by a public or private entity; or
 - 75 (D) Any other vehicle, the windows or windshields of which have been tinted or
76 darkened before factory delivery or permitted by federal law or regulation;
- 77 (7) Any law enforcement vehicle;
- 78 (8) Any vehicle that displays a valid special license plate issued to a government official
79 under Code Section 40-2-61, 40-2-63, or 40-2-64;
- 80 (9) Any vehicle owned or operated by the state or a political subdivision thereof and that
81 displays a valid license plate issued pursuant to Code Section 40-2-37; or
- 82 (10) Any vehicle operated in the course of business by a person licensed or registered
83 under Chapter 38 of Title 43, relating to private detective and private security businesses.
- 84 (d) The Department of Public Safety may, upon application from a person required for
85 medical reasons to be shielded from the direct rays of the sun and only if such application
86 is supported by written attestation of such fact from a person licensed to practice medicine
87 under Chapter 34 of Title 43 or a person certified as an optometrist under Chapter 30 of
88 Title 43, issue an exemption from the provisions of this Code section for any motor vehicle
89 owned by such person or in which such person is a habitual passenger. The exemption
90 shall be issued with such conditions and limitations as may be prescribed by the
91 Department of Public Safety.
- 92 (e) No person shall install any material upon the windshields or windows of any motor
93 vehicle, the installation of which would result in a reduction of light transmission or an
94 increase in light reflectance in violation of subsection (b) of this Code section.

95 (f) Notwithstanding any other provision of this Code section, commercial motor vehicles
96 operated in this state are subject to the specifications of or limitations relating to windshield
97 or window glazing or the application of light reducing or reflectance material to the
98 windshield or windows as provided for in the federal motor carrier safety regulations
99 contained in 49 C.F.R. 393.60 and adopted by the commissioner of public safety pursuant
100 to Code Section 40-1-8.

101 (g) The Department of Public Safety is authorized to promulgate such rules and
102 regulations as may be necessary to carry out the provisions of this Code section.

103 (h)(1) Any person who violates subsection (b) or (e) of this Code section shall be guilty
104 of a misdemeanor.

105 (2) Notwithstanding paragraph (1) of this subsection, any person who violates paragraph
106 (4) of subsection (b) of this Code section shall:

107 (A) Upon the first violation, be subject to a fine of not more than \$500.00; and

108 (B) Upon the second and subsequent violations, be subject to a fine of not more than
109 \$1,000.00."

110 **SECTION 2.**

111 Said title is further amended by revising Code Section 40-2-41, relating to display of license
112 plates, as follows:

113 "40-2-41.

114 Unless otherwise permitted under this chapter, every vehicle required to be registered under
115 this chapter, which is in use upon the highways, shall at all times display the license plate
116 issued to the owner for such vehicle, and the plate shall be fastened to the rear of the
117 vehicle in a position so as not to swing and shall be at all times plainly visible. No person
118 shall display on the rear of a motor vehicle any temporary or permanent plate or tag not
119 issued by the State of Georgia which is intended to resemble a license plate which is issued
120 by the State of Georgia. The commissioner is authorized to adopt rules and regulations so

121 as to permit the display of a license plate on the front of certain vehicles. It shall be the
122 duty of the operator of any vehicle to keep the license plate legible at all times. No license
123 plate shall be covered with any material unless the material is colorless and transparent.
124 No license plate shall be covered by electric tinting as such term is defined in Code
125 Section 40-8-73.1. No apparatus that obstructs or hinders the clear display and legibility
126 of a license plate shall be attached to the rear of any motor vehicle required to be registered
127 in the state. Any person who violates any provision of this Code section shall be guilty of
128 a misdemeanor."

129 **SECTION 3.**

130 Said title is further amended in Code Section 40-5-29, relating to license to be carried and
131 exhibited on demand, by revising paragraph (4) of subsection (b) as follows:

132 "(4) By July 1, ~~2027~~ 2032, all law enforcement officers shall acquire equipment capable
133 of verifying a license issued in an electronic format."

134 **SECTION 4.**

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

136 "40-6-395.1.

137 (a) It shall be unlawful for any driver of a vehicle to willfully fail or refuse to bring his or
138 her vehicle to a stop or to flee or otherwise attempt to elude a pursuing law enforcement
139 vehicle or officer performing official duties on behalf of the Capitol Police Division,
140 Commercial Vehicle Enforcement Division, or Uniform Division of the Department of
141 Public Safety when given a visual or an audible signal to bring the vehicle to a stop. The
142 signal given by such officer may be by hand, voice, emergency light, or siren. The officer
143 giving such signal shall be in uniform prominently displaying his or her badge of office,
144 and his or her vehicle shall be appropriately marked showing it to be an official vehicle of
145 the Department of Public Safety, including, but not limited to, vehicles specifically marked

146 as Capitol Police Division, Commercial Vehicle Enforcement Division, and Georgia State
147 Patrol.

148 (b) The trier of fact shall determine beyond a reasonable doubt the distance the person
149 actually traveled while fleeing or otherwise attempting to elude a pursuing Department of
150 Public Safety vehicle or officer after such officer notified the Department of Public Safety
151 dispatcher that such person was fleeing or otherwise eluding the officer. The determination
152 of the distance traveled shall not be an essential element of such offense. If the distance
153 traveled cannot be determined, such distance shall be presumed to be zero miles.

154 (c)(1) Any person convicted of violating the provisions of subsection (a) of this Code
155 section, upon a first conviction thereof, shall be guilty of a high and aggravated
156 misdemeanor and, upon a second or subsequent conviction thereof, shall be guilty of a
157 felony and shall be punished as follows:

158 (A) Upon the first conviction, a fine not subject to suspension, stay, or probation of not
159 less than \$1,000.00 nor more than \$5,000.00 and confinement for 30 days for each mile
160 the person actually traveled while fleeing or otherwise attempting to elude a pursuing
161 Department of Public Safety vehicle or officer but in no case for a period of less than 30
162 days or more than 12 months. Any period of such imprisonment in excess of 30 days
163 may, in the sole discretion of the judge, be suspended, stayed, or probated;

164 (B) Upon the second conviction within a ten-year period of time, as measured from the
165 date of previous arrest for which a conviction was obtained to the date of the current
166 arrest for which a conviction is obtained, a fine not subject to suspension, stay, or
167 probation of not less than \$2,500.00 nor more than \$7,500.00 and imprisonment for the
168 greater of 30 days for each mile the person actually traveled while fleeing or otherwise
169 attempting to elude a pursuing Department of Public Safety vehicle or officer or 90
170 days but in no case for a period of more than two years; and

171 (C) Upon the third or subsequent conviction within a ten-year period of time, as
172 measured from the dates of previous arrests for which convictions were obtained to the

173 date of the current arrest for which a conviction is obtained, a fine not subject to
174 suspension, stay, or probation of not less than \$5,000.00 nor more than \$10,000.00 and
175 imprisonment for the greater of 30 days for each mile the person actually traveled while
176 fleeing or otherwise attempting to elude a pursuing Department of Public Safety vehicle
177 or officer or two years but in no case for a period of more than ten years.

178 (2) For the purpose of imposing a sentence under this subsection, a plea of nolo
179 contendere shall constitute a conviction.

180 (3) Upon a finding by the sentencing judge that payment of the fine required under
181 subparagraphs (A) through (C) of paragraph (1) of this subsection would impose an
182 economic hardship on the defendant, such judge may order the defendant to pay such fine
183 in installments which may be enforced through a contempt proceeding or a revocation of
184 any probation otherwise authorized by this subsection.

185 (4) Notwithstanding the limits set forth in any municipal charter, any municipal court of
186 any municipality shall be authorized to impose the punishments provided for in
187 subparagraph (A) of paragraph (1) of this subsection upon a conviction of violating such
188 subparagraph or upon conviction of violating any ordinance adopting the provisions of
189 such subparagraph.

190 (d) Any person violating the provisions of subsection (a) of this Code section who, while
191 fleeing or otherwise attempting to elude a pursuing Department of Public Safety vehicle
192 or officer:

193 (1) Operates his or her vehicle in excess of 20 miles an hour above the posted speed
194 limit;

195 (2) Strikes or collides with another vehicle or a pedestrian;

196 (3) Is the proximate cause of an accident;

197 (4) Flees in traffic conditions which place the general public at risk of receiving serious
198 injuries;

199 (5) Commits a violation of:

200 (A) Code Section 40-6-144;
201 (B) Subsection (a) of Code Section 40-6-163;
202 (C) Subsection (a) of Code Section 40-6-251;
203 (D) Subsection (a) of Code Section 40-6-390;
204 (E) Subsection (a) of Code Section 40-6-390.1; or
205 (F) Subsection (a) of Code Section 40-6-391; or
206 (6) Leaves this state
207 shall be guilty of a felony punishable by a fine of not less than \$5,000.00 nor more
208 than \$10,000.00 and imprisonment for the greater of 30 days for each mile the person
209 actually traveled while fleeing or otherwise attempting to elude a pursuing Department of
210 Public Safety vehicle or officer or one year but in no case for a period of more than ten
211 years.
212 (e) Following adjudication of guilt or imposition of sentence for a violation of
213 subparagraph (c)(1)(B) or (c)(1)(C) or subsection (d) of this Code section, the sentence
214 shall not be suspended, probated, deferred, or withheld, and the charge shall not be reduced
215 to a lesser offense, merged with any other offense, or served concurrently with any other
216 offense."

217 **SECTION 5.**
218 All laws and parts of laws in conflict with this Act are repealed.