

Senate Bill 212

By: Senator Kennedy of the 18th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 37, Title 40, and Article 7 of Chapter 8 of Title 42
2 of the Official Code of Georgia Annotated, relating to general provisions relative to
3 hospitalization and treatment of alcoholics, drug dependent individuals, and drug abusers,
4 motor vehicles and traffic, and ignition interlock devices as condition of probation,
5 respectively, so as to provide for reforms to the administrative license suspension process for
6 persons arrested for certain offenses of driving under the influence; to provide for suspension
7 of drivers' licenses for persons convicted of certain offenses; to provide for driver's license
8 suspension period and an alternative for persons convicted of a second driving under the
9 influence offense within five years; to provide for the issuance, duration, and revocation of
10 limited driving permits and ignition interlock device limited driving permits; to remove
11 administrative license suspensions for certain persons arrested for driving under the influence
12 who submit to the state administered chemical test; to provide for the scope of a hearing for
13 contesting administrative license suspensions; to correct cross-references; to provide for
14 related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Article 1 of Chapter 7 of Title 37 of the Official Code of Georgia Annotated, relating to
18 general provisions relative to hospitalization and treatment of alcoholics, drug dependent
19 individuals, and drug abusers, is amended in Code Section 37-7-2, relating to authority of the
20 Board of Behavioral Health and Developmental Disabilities to issue regulations and powers
21 of the Department of Behavioral Health and Developmental Disabilities, by revising
22 subsection (a.1) as follows:

23 "(a.1) The board shall issue regulations to implement the provisions of Code Section
24 ~~40-5-63.1~~ 40-5-63.2 relative to clinical evaluations and substance abuse treatment
25 programs and shall prescribe such application fees for providers desiring authorization to
26 provide clinical evaluations or substance abuse treatment programs as are reasonably

27 necessary to cover the cost of considering such applications. Such regulations shall
 28 provide for approval of providers and such approval shall be valid continuously unless and
 29 until revoked in accordance with such regulations."

30 **SECTION 2.**

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

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

41 **SECTION 3.**

42 Said title is further amended in Code Section 40-5-52, relating to suspension of license or
 43 operating privilege for conduct in another state, by revising subsection (a) as follows:

44 "(a) The department shall suspend, as provided in Code ~~Section~~ Sections 40-5-63,
 45 40-5-63.1, 40-5-63.2, and 40-5-63.3, the license of any resident of this state and may
 46 suspend a nonresident's operating privilege, upon receiving notice of a conviction in
 47 another state of an offense described in Code Section 40-5-54 or Code Section 40-6-391
 48 or any drug related offense."

49 **SECTION 4.**

50 Said title is further amended by revising Code Section 40-5-63, relating to periods of
 51 suspension and conditions to return a license, as follows:

52 "40-5-63.

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

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

64 (1) Upon the first conviction of any such offense, with no arrest and conviction of and
65 no plea of nolo contendere accepted to such offense within the previous five years, as
66 measured from the dates of previous arrests for which convictions were obtained to the
67 date of the current arrest for which a conviction is obtained, the period of suspension shall
68 be 12 months. At the end of 120 days, the person may apply to the department for early
69 reinstatement of his or her driver's license. Such license shall be reinstated if such person
70 submits proof of ~~completion of a DUI Alcohol or Drug Use Risk Reduction Program and~~
71 ~~pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by~~
72 ~~mail, provided that, if such license was suspended as a result of a conviction of an offense~~
73 ~~listed in Code Section 40-5-54, such license shall be reinstated if such person submits~~
74 ~~proof of completion of either a defensive driving course approved by the commissioner~~
75 ~~pursuant to Code Section 40-5-83 or a DUI Alcohol or Drug Use Risk Reduction~~
76 ~~Program and pays the prescribed a restoration fee of \$210.00 or \$200.00 when such~~
77 ~~reinstatement is processed by mail. A driver's license suspended as a result of a~~
78 ~~conviction of a violation of Code Section 40-6-391 shall not become valid and shall~~
79 ~~remain suspended until such person submits proof of completion of a DUI Alcohol or~~
80 ~~Drug Use Risk Reduction Program and pays the prescribed restoration fee. For purposes~~
81 ~~of this paragraph, an accepted plea of nolo contendere to an offense listed in Code~~
82 ~~Section 40-5-54 by a person who is under 18 years of age at the time of arrest shall~~
83 ~~constitute a conviction. For the purposes of this paragraph only, an accepted plea of nolo~~
84 ~~contendere by a person 21 years of age or older, with no conviction of and no plea of nolo~~
85 ~~contendere accepted to a charge of violating Code Section 40-6-391 within the previous~~
86 ~~five years, as measured from the dates of previous arrests for which convictions were~~
87 ~~obtained or pleas of nolo contendere accepted to the date of the current arrest for which~~
88 ~~a plea of nolo contendere is accepted, shall be considered a conviction, and the court~~
89 ~~having jurisdiction shall forward, as provided in Code Section 40-6-391.1, the record of~~
90 ~~such disposition of the case to the department and the record of such disposition shall be~~
91 ~~kept on file for the purpose of considering and counting such accepted plea of nolo~~
92 ~~contendere as a conviction under paragraphs (2) and (3) of this subsection;~~

93 (2) Upon the second conviction of any such offense within five years; or combination of
94 such offense and a conviction for violating Code Section 40-6-391 within five years, as
95 measured from the dates of previous arrests for which convictions were obtained to the
96 date of the current arrest for which a conviction is obtained, the period of suspension shall
97 be three years. At the end of 120 days, the person may apply to the department for

98 reinstatement of his or her driver's license; ~~except that if such license was suspended as~~
 99 ~~a result of a second conviction of a violation of Code Section 40-6-391 within five years,~~
 100 ~~the person shall not be eligible to apply for license reinstatement until the end of 18~~
 101 ~~months. Such license shall be reinstated if such person submits proof of completion of~~
 102 ~~a DUI Alcohol or Drug Use Risk Reduction Program and pays a restoration fee of~~
 103 ~~\$210.00 or \$200.00 when such reinstatement is processed by mail, provided that, if such~~
 104 ~~license was suspended as a result of a conviction of an offense listed in Code Section~~
 105 ~~40-5-54, such license shall be reinstated if such person submits proof of completion of~~
 106 ~~either a defensive driving course approved by the commissioner pursuant to Code Section~~
 107 ~~40-5-83 or a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed~~
 108 ~~a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail.~~
 109 ~~A driver's license suspended as a result of a conviction of a violation of Code Section~~
 110 ~~40-6-391 shall not become valid and shall remain suspended until such person submits~~
 111 ~~proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program, provides~~
 112 ~~proof of installation and maintenance of an ignition interlock device for a period of one~~
 113 ~~year coinciding with the issuance of an ignition interlock device limited driving permit~~
 114 ~~as provided in Code Section 40-5-64.1 unless waived due to financial hardship, and pays~~
 115 ~~the prescribed restoration fee. For purposes of this paragraph, a plea of nolo contendere~~
 116 ~~and all previous accepted pleas of nolo contendere to an offense listed in Code Section~~
 117 ~~40-5-54 within such five-year period of time shall constitute a conviction. For the~~
 118 ~~purposes of this paragraph, a plea of nolo contendere to a charge of violating Code~~
 119 ~~Section 40-6-391 and all prior accepted pleas of nolo contendere within five years, as~~
 120 ~~measured from the dates of previous arrests for which convictions were obtained or pleas~~
 121 ~~of nolo contendere were accepted to the date of the current arrest for which a plea of nolo~~
 122 ~~contendere is accepted, shall be considered and counted as convictions; or~~
 123 (3) Upon the third conviction of any such offense within five years; or combination of
 124 such offense or offenses and conviction or convictions for violating Code Section
 125 40-6-391 within five years, as measured from the dates of previous arrests for which
 126 convictions were obtained to the date of the current arrest for which a conviction is
 127 obtained, such person shall be considered a habitual violator, and such license shall be
 128 revoked as provided for in paragraphs (1) through (3) of subsection (a) of Code Section
 129 40-5-62. For purposes of this paragraph, a plea of nolo contendere and all previous
 130 accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within
 131 such five-year period shall constitute a conviction. ~~For the purposes of this paragraph,~~
 132 ~~a plea of nolo contendere and all prior accepted pleas of nolo contendere to a charge of~~
 133 ~~violating Code Section 40-6-391 within five years, as measured from the dates of~~
 134 ~~previous arrests for which convictions were obtained or pleas of nolo contendere were~~

135 ~~accepted to the date of the current arrest for which a plea of nolo contendere is accepted,~~
 136 ~~shall be considered and counted as convictions.~~

137 (b) The periods of suspension provided for in this Code section shall begin on the date the
 138 person is convicted of an offense listed in Code Section 40-5-54 ~~or of violating Code~~
 139 ~~Section 40-6-391.~~

140 (c) In all cases in which the department may return a license to a driver prior to the
 141 termination of the full period of suspension, the department may require such tests of
 142 driving skill and knowledge as it determines to be proper, and the department's discretion
 143 shall be guided by the driver's past driving record and performance, and the driver shall pay
 144 the applicable restoration fee. ~~In addition to any other requirement the department may~~
 145 ~~impose, a driver's license suspended as a result of a conviction of a violation of Code~~
 146 ~~Section 40-6-391 shall not become valid, shall remain suspended, and shall not be returned~~
 147 ~~to such driver or otherwise reinstated until such person submits proof of completion of a~~
 148 ~~DUI Alcohol or Drug Use Risk Reduction Program.~~

149 ~~(d)(1) Any person convicted of violating subsection (a) of Code Section 40-6-393,~~
 150 ~~relating to homicide by vehicle, or Code Section 40-6-394, relating to serious injury by~~
 151 ~~vehicle, shall have his or her license suspended for a period of three years. Such person~~
 152 ~~shall not be eligible for early reinstatement of said driver's license as provided in this~~
 153 ~~Code section or in Article 4 of this chapter and shall not be eligible for a limited driving~~
 154 ~~permit as provided in Code Section 40-5-64.~~

155 ~~(2) For purposes of this chapter, an accepted plea of nolo contendere to any violation of~~
 156 ~~Code Section 40-6-393 or 40-6-394 shall constitute a conviction."~~

157 **SECTION 5.**

158 Said title is further amended by revising Code Section 40-5-63.1, relating to clinical
 159 evaluation and substance abuse treatment programs for certain offenders, as follows:

160 "40-5-63.1.

161 ~~In addition to any and all other conditions of license reinstatement, issuance, or restoration~~
 162 ~~under Code Section 40-5-57.1, 40-5-58, 40-5-62, or 40-5-63, any person with two or more~~
 163 ~~convictions for violating Code Section 40-6-391 within ten years, as measured from the~~
 164 ~~dates of previous arrests for which convictions were obtained to the date of the current~~
 165 ~~arrest for which a conviction is obtained, shall be required to undergo a clinical evaluation~~
 166 ~~and, if recommended as a part of such evaluation, shall complete a substance abuse~~
 167 ~~treatment program prior to such license reinstatement, issuance, or restoration; provided,~~
 168 ~~however, that such evaluation and treatment shall be at such person's expense except as~~
 169 ~~otherwise provided by Code Section 37-7-120. Acceptable proof of completion of such a~~
 170 ~~program shall be submitted to the department prior to license reinstatement, issuance, or~~

171 ~~restoration. For purposes of this Code section, a plea of nolo contendere to a charge of~~
172 ~~violating Code Section 40-6-391 and all prior accepted pleas of nolo contendere within ten~~
173 ~~years, as measured from the dates of previous arrests for which convictions were obtained~~
174 ~~or pleas of nolo contendere were accepted to the date of the current arrest for which a plea~~
175 ~~of nolo contendere is accepted, shall be considered and counted as convictions.~~

176 (a) The driver's license of any person convicted of violating Code Section 40-6-391, unless
177 the driver's license has been previously suspended pursuant to Code Sections 40-5-67.1 and
178 40-5-67.2, shall by operation of law be suspended and such suspension shall be subject to
179 the following terms and conditions; provided, however, that any person convicted of a drug
180 related offense pursuant to Code Section 40-6-391 shall be governed by the suspension
181 requirements of Code Section 40-5-75:

182 (1) Upon the first conviction of such offense, with no arrest and conviction of and no
183 plea of nolo contendere accepted to such offense within the previous five years, as
184 measured from the dates of previous arrests for which convictions were obtained to the
185 date of the current arrest for which a conviction is obtained, the period of suspension shall
186 be 12 months. At the end of 120 days, the person may apply to the department for early
187 reinstatement of his or her driver's license. Such license shall be reinstated if such person
188 submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and
189 pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by
190 mail. A driver's license suspended as a result of a conviction of a violation of Code
191 Section 40-6-391 and pursuant to this paragraph shall not become valid and shall remain
192 suspended until such person submits proof of completion of a DUI Alcohol or Drug Use
193 Risk Reduction Program and pays the prescribed restoration fee. For the purposes of this
194 paragraph only, an accepted plea of nolo contendere by a person 21 years of age or older,
195 with no conviction of and no plea of nolo contendere accepted to a charge of violating
196 Code Section 40-6-391 within the previous five years, as measured from the dates of
197 previous arrests for which convictions were obtained or pleas of nolo contendere accepted
198 to the date of the current arrest for which a plea of nolo contendere is accepted, shall be
199 considered a conviction, and the court having jurisdiction shall forward, as provided in
200 Code Section 40-6-391.1, the record of such disposition of the case to the department,
201 and the record of such disposition shall be kept on file for the purpose of considering and
202 counting such accepted plea of nolo contendere as a conviction under paragraphs (2) and
203 (3) of this subsection;

204 (2) Upon the second conviction of such offense within five years or combination of such
205 offense and a conviction for an offense listed in Code Section 40-5-54 within five years,
206 as measured from the dates of previous arrests for which convictions were obtained to the

207 date of the current arrest for which a conviction is obtained, the period of suspension shall
208 be:

209 (A) A two-year suspension, during which time the person shall lose the privilege to
210 drive on the highways of this state and shall not be eligible to apply for a limited
211 driving permit or an ignition interlock device limited driving permit and may only apply
212 for a new license or the restoration of his or her nonresident's operating privilege at the
213 end of two years and upon payment of a restoration fee of \$210.00 or \$200.00 when
214 such reinstatement is processed by mail.

215 (B) In lieu of the two-year suspension required by subparagraph (A) of this paragraph,
216 a person so convicted may, prior to the conclusion of two years with his or her license
217 or privilege to drive suspended but no sooner than 18 months after such suspension,
218 apply for license reinstatement. Such license shall be reinstated if such person submits
219 proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program, provides
220 proof of installation and maintenance of an ignition interlock device for a period of one
221 year coinciding with the issuance of an ignition interlock device limited driving permit
222 as provided in Code Section 40-5-64.1 unless waived due to financial hardship, and
223 pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by
224 mail.

225 For purposes of this paragraph, a plea of nolo contendere to a charge of violating Code
226 Section 40-6-391 and all prior accepted pleas of nolo contendere within five years, as
227 measured from the dates of previous arrests for which convictions were obtained or pleas
228 of nolo contendere were accepted to the date of the current arrest for which a plea of nolo
229 contendere is accepted, shall be considered and counted as convictions; or

230 (3) Upon the third conviction of such offense within five years or combination of such
231 offense or offenses and conviction or convictions for an offense listed in Code Section
232 40-5-54 within five years, as measured from the dates of previous arrests for which
233 convictions were obtained to the date of the current arrest for which a conviction is
234 obtained, such person shall be considered a habitual violator, and such license shall be
235 revoked as provided for in paragraphs (1) through (3) of subsection (a) of Code Section
236 40-5-62. For the purposes of this paragraph, a plea of nolo contendere and all prior
237 accepted pleas of nolo contendere to a charge of violating Code Section 40-6-391 within
238 five years, as measured from the dates of previous arrests for which convictions were
239 obtained or pleas of nolo contendere were accepted to the date of the current arrest for
240 which a plea of nolo contendere is accepted, shall be considered and counted as
241 convictions.

242 (b) The periods of suspension provided for in this Code section shall begin on the date the
243 person is convicted of violating Code Section 40-6-391.

244 (c) In all cases in which the department may return a license to a driver prior to the
 245 termination of the full period of suspension, the department may require such tests of
 246 driving skill and knowledge as it determines to be proper, the department's discretion shall
 247 be guided by the driver's past driving record and performance, and the driver shall pay the
 248 applicable restoration fee."

249 **SECTION 6.**

250 Said title is further amended by adding two new Code sections to read as follows:

251 "40-5-63.2.

252 In addition to any and all other conditions of license reinstatement, issuance, or restoration
 253 under Code Section 40-5-57.1, 40-5-58, 40-5-62, or 40-5-63.1, any person with two or
 254 more convictions for violating Code Section 40-6-391 within ten years, as measured from
 255 the dates of previous arrests for which convictions were obtained to the date of the current
 256 arrest for which a conviction is obtained, shall be required to undergo a clinical evaluation
 257 and, if recommended as a part of such evaluation, shall complete a substance abuse
 258 treatment program prior to such license reinstatement, issuance, or restoration; provided,
 259 however, that such evaluation and treatment shall be at such person's expense except as
 260 otherwise provided by Code Section 37-7-120. Acceptable proof of completion of such a
 261 program shall be submitted to the department prior to license reinstatement, issuance, or
 262 restoration. For purposes of this Code section, a plea of nolo contendere to a charge of
 263 violating Code Section 40-6-391 and all prior accepted pleas of nolo contendere within ten
 264 years, as measured from the dates of previous arrests for which convictions were obtained
 265 or pleas of nolo contendere were accepted to the date of the current arrest for which a plea
 266 of nolo contendere is accepted, shall be considered and counted as convictions.

267 40-5-63.3.

268 (a) Any person convicted of violating subsection (a) of Code Section 40-6-393 or Code
 269 Section 40-6-394 shall have his or her license suspended for a period of three years. Such
 270 person shall not be eligible for early reinstatement of said driver's license and shall not be
 271 eligible for a limited driving permit as provided in Code Section 40-5-64.

272 (b) For purposes of this Code section, an accepted plea of nolo contendere to any violation
 273 of Code Section 40-6-393 or 40-6-394 shall constitute a conviction."

274 **SECTION 7.**

275 Said title is further amended in Code Section 40-5-64, relating to limited driving permits, by
 276 revising subsections (a), (c.1), and (e) as follows:

277 "(a) **To whom issued.**

278 (1)(A) Notwithstanding any contrary provision of this Code section or Code Section
 279 40-5-57, ~~40-5-63~~, ~~40-5-75~~, 40-5-63.1, 40-5-121, or 42-8-111, any person who has not
 280 been previously convicted or adjudicated delinquent for a violation of Code Section
 281 40-6-391 within five years, as measured from the dates of previous arrests for which
 282 convictions were obtained or pleas of nolo contendere were accepted to the date of the
 283 current arrest, may apply for a limited driving permit when that person's driver's license
 284 had a suspension imposed prior to July 1, 2015, under Code Section 40-5-22 or that
 285 person's driver's license has been suspended in accordance with subsection (d) of Code
 286 Section 40-5-57, paragraph (1) of subsection (a) of Code Section 40-5-63 or 40-5-63.1,
 287 ~~paragraph (1) of subsection (a) of Code Section 40-5-67.2~~, or subsection (a) of Code
 288 Section 40-5-57.1, when the person is 18 years of age or older and his or her license
 289 was suspended for exceeding the speed limit by 24 miles per hour or more but less than
 290 34 miles per hour, and the sentencing judge, in his or her discretion, decides it is
 291 reasonable to issue a limited driving permit.

292 (B) A person issued an ignition interlock device limited driving permit pursuant to
 293 paragraph (1) of subsection (a) of Code Section 40-5-64.1 who is convicted of a
 294 violation of Code Section 40-6-391 after successful completion of the required
 295 monitoring of an ignition interlock device, when the conviction was based upon the
 296 same incident upon which the ignition interlock device limited driving permit was
 297 issued, may apply for a limited driving permit in accordance with the provisions of this
 298 Code section, when such conviction was the first within five years, as measured from
 299 the dates of previous arrests for which convictions were obtained to the date of the
 300 current arrest for which a conviction is obtained.

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

305 (3) To the extent a person is subject to more than one suspension for which a limited
 306 driving permit may be issued, the department shall not issue such permit unless the
 307 suspensions are for a conviction for driving under the influence in violation of Code
 308 Section 40-6-391 imposed pursuant to Code Section ~~40-5-63~~ 40-5-63.1 and an
 309 administrative suspension imposed pursuant to paragraph (1) of subsection (a) of Code
 310 Section 40-5-67.2 arising from the same incident."

311 "(c.1) **Exception to standards for approval.**

312 ~~(†)~~ The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code
 313 section shall not apply and shall not be considered for purposes of granting a limited

314 driving permit or imposing conditions thereon under this Code section in the case of a
 315 driver's license suspension imposed prior to July 1, 2015, under ~~paragraph (2)~~ of
 316 ~~subsection (a.1)~~ of Code Section 40-5-22.

317 ~~(2) An ignition interlock device limited driving permit shall be restricted to allow the~~
 318 ~~holder thereof to drive solely for the following purposes:~~

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

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

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

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

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

329 ~~(F) Attending court, reporting to a community supervision, juvenile probation, or~~
 330 ~~Article 6 of Chapter 8 of Title 42 probation office, reporting to a community~~
 331 ~~supervision officer, county or Department of Juvenile Justice juvenile probation officer,~~
 332 ~~or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42, or~~
 333 ~~performing community service;~~

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

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

338 ~~(I) Going for monthly monitoring visits with the permit holder's ignition interlock~~
 339 ~~device service provider."~~

340 **"(e) Fees, duration, renewal, and replacement of permit.**

341 ~~(†)~~ A limited driving permit issued pursuant to this Code section shall be \$25.00 and
 342 shall become invalid upon the driver's eighteenth birthday in the case of a suspension
 343 under paragraph (2) of subsection (a.1) of Code Section 40-5-22, upon the expiration of
 344 one year following issuance thereof in the case of a suspension for an offense listed in
 345 Code Section 40-5-54 or a suspension under Code Section 40-5-57 or a suspension in
 346 accordance with paragraph (1) of subsection (a) of Code Section ~~40-5-63~~ 40-5-63.1 for
 347 a violation of Code Section 40-6-391, ~~or upon the expiration of 30 days in the case of an~~
 348 ~~administrative license suspension in accordance with paragraph (1) of subsection (a) of~~
 349 ~~Code Section 40-5-67.2~~; except that such limited driving permit shall expire upon any
 350 earlier reinstatement of the driver's license. A person may apply to the department for

351 a limited driving permit immediately following such conviction if he or she has
 352 surrendered his or her driver's license to the court in which the conviction was adjudged
 353 or to the department if the department has processed the administrative driver's license
 354 suspension form or conviction. Upon the applicant's execution of an affidavit attesting
 355 to such facts and to the fact that the court had not imposed a suspension or revocation of
 356 his or her driver's license or driving privileges inconsistent with the driving privileges to
 357 be conferred by the limited driving permit applied for, the department may issue such
 358 person a limited driving permit. Limited driving permits issued pursuant to this Code
 359 section are renewable upon payment of a renewal fee of \$5.00. Such permits may be
 360 renewed one time after the person is eligible to reinstate his or her driver's license for the
 361 violation that was the basis of the issuance of the permit. Upon payment of a fee in an
 362 amount the same as that provided by Code Section 40-5-25 for issuance of a Class C
 363 driver's license, a person may be issued a replacement for a lost or destroyed limited
 364 driving permit issued to him or her.

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

371 SECTION 8.

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

374 "40-5-64.1.

375 (a) **To whom issued.**

376 (1) ~~Any person who has not been previously convicted or adjudicated delinquent for a~~
 377 ~~violation of Code Section 40-6-391 within five years, as measured from the dates of~~
 378 ~~previous arrests for which convictions were obtained or pleas of nolo contendere were~~
 379 ~~accepted to the date of the current arrest, and whose driver's license is subject to an~~
 380 ~~administrative driver's license suspension pursuant to subsection (c) of Code Section~~
 381 ~~40-5-67.1, may apply for an ignition interlock device limited driving permit with the~~
 382 ~~department.~~

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

387 administrative driver's license suspension pursuant to subsection (d) of Code
 388 Section 40-5-67.1; may apply for an ignition interlock device limited driving permit with
 389 the department.

390 ~~(3)~~(2) Any Except as provided to the contrary in subsection (e) of this Code section,
 391 any person whose driver's license has been suspended as a result of a second conviction
 392 for violating Code Section 40-6-391 within five years, as measured from the dates of
 393 previous arrests for which convictions were obtained to the date of the current arrest for
 394 which a conviction is obtained, may apply for an ignition interlock device limited driving
 395 permit after serving at least 120 days of the suspension required for such conviction.

396 ~~(4)~~(3) The department shall not issue an ignition interlock device limited driving permit
 397 pursuant to paragraph (1) of this subsection to any person:

398 (A) ~~Under~~ Who is under 21 years of age and holds either a Class D provisional driver's
 399 license or Class P instructional permit;

400 (B) ~~Who is not currently~~ Who is not licensed to operate a motor vehicle in this state;

401 (C) ~~Who currently holds a license to drive~~ Who holds a commercial driver's instruction
 402 permit or whose driver's license is subject to an administrative license suspension while
 403 operating a commercial motor vehicle;

404 (D) Whose driver's license is subject to an administrative suspension for involvement
 405 in a traffic accident resulting in injuries or fatalities; or

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

408 (4) To the extent a person is subject to more than one suspension for which an ignition
 409 interlock device limited driving permit may be issued, the department shall not issue such
 410 permit unless the suspensions are for a conviction for driving under the influence in
 411 violation of Code Section 40-6-391 imposed pursuant to Code Section 40-5-63.1 and an
 412 administrative license suspension imposed arising from the same incident.

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

416 (c) **Standards for approval.**

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

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

421 (I) ~~Within 30 days from the date on which notice was given pursuant to~~
 422 ~~subsection (g) of Code Section 40-5-67.1~~ Upon application with the department prior
 423 to the conclusion of the criminal case;

424 (ii) Upon surrender of the ~~applicant's~~ person's driver's license to the department,
 425 provided that the driver's license was not previously surrendered in accordance with
 426 subsection (a) of Code Section 40-5-67. If surrender of the driver's license is
 427 impossible due to loss or other reason, the department may accept a dated and sworn
 428 affidavit attesting the reason such surrender is impossible; and

429 (iii)(I) Upon the ~~applicant's~~ person's execution of an affidavit attesting ~~that to the~~
 430 person's waiver of his or her right to an administrative hearing afforded under
 431 subsection (g) of Code Section 40-5-67.1 has been waived;

432 (II) Upon the effective date of the license suspension if an administrative hearing
 433 under subsection (g) of Code Section 40-5-67.1 was not requested;

434 (III) Following the affirmation of a license suspension if an administrative hearing
 435 under subsection (g) of Code Section 40-5-67.1 was held; or

436 (IV) Following a person's withdrawal of his or her request for an administrative
 437 hearing under subsection (g) of Code Section 40-5-67.1; or

438 (B) For ~~an applicant~~ a person eligible for an ignition interlock device limited driving
 439 permit pursuant to paragraph ~~(3)~~(2) of subsection (a) of this Code section, upon the
 440 submission of a certificate of eligibility from an accountability court, as such term is
 441 defined in Code Section 15-1-18, or the submission of proof of enrollment in a
 442 substance abuse treatment program as provided in Code Section ~~40-5-63.1~~ 40-5-63.2
 443 and the surrender of his or her driver's license to such court or to the department if the
 444 department has processed the administrative driver's license suspension form or
 445 conviction.

446 (2)(A) No person who has been granted an exemption from the ignition interlock
 447 device requirements of Article 7 of Chapter 8 of Title 42 due to undue financial
 448 hardship under Code Section 42-8-111 shall be eligible for a limited driving permit
 449 pursuant to Code Section 40-5-64 or any other driving privilege for a period of one
 450 year.

451 (B) No person who elects a two-year license suspension pursuant to
 452 subparagraph (a)(2)(A) of Code Section 40-5-63.1 shall be eligible for an ignition
 453 interlock device limited driving permit during the two-year period of such suspension.

454 (d) **Replacement Duration, renewal fees, replacement, and conditions on use of**
 455 **ignition interlock device limited driving permit.**

456 (1) Except as provided to the contrary in subsection (g) of this Code section, an ignition
 457 interlock device limited driving permit issued pursuant to this Code section shall be valid
 458 for a period of one year following issuance thereof. Upon successful completion of one
 459 year of monitoring of such ignition interlock device, the restriction for maintaining and
 460 using such ignition interlock device shall be removed.

461 (2) Ignition interlock device limited driving permits issued pursuant to this Code section
 462 shall be renewable upon payment of a renewal fee of \$5.00. Such permits may be
 463 renewed for additional periods of two months upon payment of a renewal fee of \$5.00,
 464 but it may only be renewed one time after the person is eligible to reinstate his or her
 465 driver's license.

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

470 (4) An ignition interlock device limited driving permit shall be restricted to allow the
 471 holder thereof to drive solely for the following purposes:

472 (A) Going to his or her place of employment or performing the normal duties of his or
 473 her occupation;

474 (B) Receiving scheduled medical care or obtaining prescription drugs;

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

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

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

482 (F) Attending court, reporting to a community supervision, juvenile probation, or
 483 Article 6 of Chapter 8 of Title 42 probation office, reporting to a community
 484 supervision officer, county or Department of Juvenile Justice juvenile probation officer,
 485 or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42, or
 486 performing community service;

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

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

491 (I) Going for monthly monitoring visits with the permit holder's ignition interlock
 492 device service provider.

493 (e) ~~Reserved.~~ **Effect of conviction.**

494 (1) An ignition interlock device limited driving permit issued pursuant to paragraph (1)
 495 of subsection (a) of this Code section to a person who is thereafter convicted of a
 496 violation of Code Section 40-6-391 prior to successful completion of the required

497 monitoring of an ignition interlock device, when the conviction was based upon the same
498 incident upon which the ignition interlock device limited driving permit was issued, shall:
499 (A) Remain valid when such conviction was the first within five years as measured
500 from the dates of previous arrests for which convictions were obtained to the date of the
501 current arrest for which a conviction is obtained; or
502 (B) Be revoked immediately upon conviction when such conviction was the second or
503 subsequent conviction in five years, as measured from the dates of previous arrests for
504 which convictions were obtained to the date of the current arrest for which a conviction
505 is obtained. Any court in which such conviction is had shall require such person to
506 surrender the ignition interlock device limited driving permit to the court, and the court
507 shall forward it to the department within ten days after the conviction, with a copy of
508 the conviction.

509 (2) A person issued an ignition interlock device limited driving permit pursuant to
510 paragraph (1) of subsection (a) of this Code section who is convicted of a violation of
511 Code Section 40-6-391 after successful completion of the required monitoring of an
512 ignition interlock device, when the conviction was based upon the same incident upon
513 which the ignition interlock device limited driving permit was issued, may apply for:
514 (A) A limited driving permit in accordance with the provisions of Code
515 Section 40-5-64, when such conviction was the first within five years, as measured
516 from the dates of previous arrests for which convictions were obtained to the date of the
517 current arrest for which a conviction is obtained;
518 (B) An ignition interlock device limited driving permit in accordance with
519 paragraph (2) of subsection (a) of this Code section when such conviction was the
520 second within five years, as measured from the dates of previous arrests for which
521 convictions were obtained to the date of the current arrest for which a conviction is
522 obtained; or
523 (C) A habitual violator probationary license in accordance with the provisions of Code
524 Section 40-5-58, when such conviction was the third or subsequent conviction within
525 five years, as measured from the dates of previous arrests for which convictions were
526 obtained to the date of the current arrest for which a conviction is obtained.

527 (3) The department shall credit any time during which a person holds an ignition
528 interlock device limited driving permit pursuant to paragraph (1) of subsection (a) of this
529 Code section toward the fulfillment of any period of suspension subsequently imposed
530 pursuant to paragraph (1) or (2) of subsection (a) of Code Section 40-5-63.1 for a first or
531 second conviction of Code Section 40-6-391; provided, however, that the suspension for
532 the conviction of Code Section 40-6-391 arises out of the same violation for which the
533 administrative license suspension was imposed.

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

535 (1)(A) ~~The~~ Notwithstanding the provisions of subsection (e) of this Code section to the
 536 contrary, the department shall revoke the ignition interlock device limited driving
 537 permit of any permittee person issued such permit pursuant to paragraph (1) or (2) of
 538 subsection (a) of this Code section who is convicted of violating any state law relating
 539 to the movement of vehicles or convicted of driving a motor vehicle in violation of an
 540 ignition interlock device limited driving permit. Any court in which such conviction
 541 is had shall require such permittee person to surrender the ignition interlock device
 542 limited driving permit to the court, and the court shall forward it to the department
 543 within ten days after the conviction, with a copy of the conviction.

544 (B) The department shall revoke the ignition interlock device limited driving permit
 545 of any permittee person who is required to complete a substance abuse treatment
 546 program pursuant to Code Section ~~40-5-63.1~~ 40-5-63.2 and enrolled but failed to attend
 547 or complete such program as scheduled upon receipt of notice of such information from
 548 the Department of Behavioral Health and Developmental Disabilities. The department
 549 shall notify the permittee person of such revocation by regular mail to his or her last
 550 known address. Such notice of revocation shall inform the permittee person of the
 551 grounds for and effective date of the revocation and of the right to review. The notice
 552 of revocation shall be deemed received three days after mailing.

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

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

564 (3) Any person whose ignition interlock device limited driving permit has been revoked
 565 for the first time shall not be eligible to apply for a driver's license until six months from
 566 the date such permit was surrendered to the department. Any person whose ignition
 567 interlock device limited driving permit has previously been revoked shall not be eligible
 568 to apply for a driver's license until two years from the date such permit was surrendered
 569 to the department. The provisions of this paragraph shall not apply when an ignition

570 interlock device limited driving permit has been revoked pursuant to
 571 subparagraph (e)(1)(B) of this Code section.

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

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

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

586 **SECTION 9.**

587 Said title is further amended by revising Code Section 40-5-64.2, relating to report to General
 588 Assembly regarding issuance of ignition interlock device limited driving permits, as follows:
 589 "40-5-64.2.

590 (a) The commissioner shall submit a report to the Senate Public Safety Committee and the
 591 House Committee on Motor Vehicles detailing the annual number of optional ignition
 592 interlock device limited driving permits issued under paragraph (1) ~~or (2)~~ of subsection (a)
 593 of Code Section 40-5-64.1. Such report shall be made no later than the last day of
 594 December of each year.

595 (b) This Code section shall stand repealed on January 1, 2020."

596 **SECTION 10.**

597 Said title is further amended in Code Section 40-5-67.1, relating to chemical tests, implied
 598 consent notices, rights of motorists, test results, refusal to submit, suspensions and denials,
 599 and right to a hearing and review, by revising subsections (b) through (d) and subsections (g)
 600 and (j) as follows:

601 "(b) At the time a chemical test or tests are requested, the arresting officer shall select and
 602 read to the person the appropriate implied consent notice from the following:

603 (1) Implied consent notice for suspects under age 21:

604 'Georgia law requires you to submit to state administered chemical tests of your blood,
605 breath, urine, or other bodily substances for the purpose of determining if you are under
606 the influence of alcohol or drugs. If you refuse this testing, your Georgia driver's
607 license or privilege to drive on the highways of this state will be suspended for a
608 minimum period of one year. Your refusal to submit to the required testing may be
609 offered into evidence against you at trial. If you submit to testing and the results
610 indicate an alcohol concentration of 0.02 grams or more, your Georgia driver's license
611 or privilege to drive on the highways of this state may be suspended for a minimum
612 period of one year. After first submitting to the required state tests, you are entitled to
613 additional chemical tests of your blood, breath, urine, or other bodily substances at your
614 own expense and from qualified personnel of your own choosing. Will you submit to
615 the state administered chemical tests of your (designate which tests) under the implied
616 consent law?'

617 (2) Implied consent notice for suspects age 21 or over:

618 'Georgia law requires you to submit to state administered chemical tests of your blood,
619 breath, urine, or other bodily substances for the purpose of determining if you are under
620 the influence of alcohol or drugs. If you refuse this testing, your Georgia driver's
621 license or privilege to drive on the highways of this state will be suspended for a
622 minimum period of one year, and your privilege to operate a commercial motor vehicle
623 will be disqualified for a period of one year. Your refusal to submit to the required
624 testing may be offered into evidence against you at trial. If you submit to testing and
625 the results indicate an alcohol concentration of 0.08 grams or more, your Georgia
626 ~~driver's license or privilege to drive on the highways of this state may be suspended~~
627 privilege to operate a commercial motor vehicle will be disqualified for a minimum
628 period of one year. After first submitting to the required state tests, you are entitled to
629 additional chemical tests of your blood, breath, urine, or other bodily substances at your
630 own expense and from qualified personnel of your own choosing. Will you submit to
631 the state administered chemical tests of your (designate which tests) under the implied
632 consent law?'

633 (3) Implied consent notice for commercial motor vehicle driver suspects:

634 'Georgia law requires you to submit to state administered chemical tests of your blood,
635 breath, urine, or other bodily substances for the purpose of determining if you are under
636 the influence of alcohol or drugs. If you refuse this testing, ~~you will be disqualified~~
637 ~~from operating your driver's license will be suspended for a minimum period of one~~
638 year and your privilege to operate a commercial motor vehicle will be disqualified for
639 a minimum period of one year. Your refusal to submit to the required testing may be
640 offered into evidence against you at trial. If you submit to testing and the results

641 indicate the presence of any alcohol, you will be issued an out-of-service order and will
 642 be prohibited from operating a motor vehicle for 24 hours. If the results indicate an
 643 alcohol concentration of 0.04 grams or more, ~~you will be disqualified from operating~~
 644 ~~your driver's license will be suspended for a minimum period of one year and your~~
 645 ~~privilege to operate~~ a commercial motor vehicle will be disqualified for a minimum
 646 period of one year. After first submitting to the required state tests, you are entitled to
 647 additional chemical tests of your blood, breath, urine, or other bodily substances at your
 648 own expense and from qualified personnel of your own choosing. Will you submit to
 649 the state administered chemical tests of your (designate which tests) under the implied
 650 consent law?'

651 If any such notice is used by a law enforcement officer to advise a person of his or her
 652 rights regarding the administration of chemical testing, such person shall be deemed to
 653 have been properly advised of his or her rights under this Code section and under Code
 654 Section 40-6-392 and the results of any chemical test, or the refusal to submit to a test, shall
 655 be admitted into evidence against such person. Such notice shall be read in its entirety but
 656 need not be read exactly so long as the substance of the notice remains unchanged.

657 (c) If a person under arrest or a person who was involved in any traffic accident resulting
 658 in serious injuries or fatalities submits to a chemical test upon the request of a law
 659 enforcement officer and the test results indicate that a suspension or disqualification or both
 660 is required under this Code section, the results shall be reported to the department. Upon
 661 the receipt of a report of the law enforcement officer that the officer had reasonable
 662 grounds to believe the arrested person had been driving or was in actual physical control
 663 of a moving motor vehicle upon the highways or elsewhere throughout this state in
 664 violation of Code Section 40-6-391 or that such person had been driving or was in actual
 665 physical control of a moving motor vehicle upon the highways or elsewhere throughout this
 666 state and was involved in a traffic accident involving serious injuries or fatalities and that
 667 the person submitted to a chemical test at the request of the law enforcement officer and:

668 (1) For a person age 21 or over, the test results indicate either an alcohol concentration
 669 of 0.08 grams or more or, the department shall disqualify the person from operating a
 670 commercial motor vehicle for a minimum period of one year, subject to review as
 671 provided for in this chapter;

672 ~~(2)for~~ For a person under the age of 21, the test results indicate an alcohol concentration
 673 of 0.02 grams or more, the department shall suspend the person's driver's license, permit,
 674 or nonresident operating privilege pursuant to Code Section 40-5-67.2, subject to review
 675 as provided for in this chapter; or

676 ~~(3) Upon the receipt of a report of the law enforcement officer that the arrested~~ For a
 677 person who had been operating or was in actual physical control of a moving commercial

678 motor vehicle and the test results indicate an alcohol concentration of 0.04 grams or
 679 more, the department shall suspend the person's driver's license, permit, or nonresident
 680 operating privilege pursuant to Code Section 40-5-67.2 and shall disqualify the person
 681 from operating a motor vehicle for a minimum period of one year, subject to review as
 682 provided for in this chapter.

683 (d) If a person under arrest or a person who was involved in any traffic accident resulting
 684 in serious injuries or fatalities refuses, upon the request of a law enforcement officer, to
 685 submit to a chemical test designated by the law enforcement officer as provided in
 686 subsection (a) of this Code section, no test shall be given; but the law enforcement officer
 687 shall report the refusal to the department. Upon the receipt of a report of the law
 688 enforcement officer that the officer had reasonable grounds to believe the arrested person
 689 had been driving or was in actual physical control of a moving motor vehicle upon the
 690 highways or elsewhere throughout this state in violation of Code Section 40-6-391 or that
 691 such person had been driving or was in actual physical control of a moving motor vehicle
 692 or a moving commercial motor vehicle upon the highways or elsewhere throughout this
 693 state and was involved in a traffic accident which resulted in serious injuries or fatalities
 694 and that the person had refused to submit to the test upon the request of the law
 695 enforcement officer, the department shall suspend the person's driver's license, permit, or
 696 nonresident operating privilege for a period of one year ~~or if the person was operating or~~
 697 ~~in actual physical control of a commercial motor vehicle, the department and~~ shall
 698 disqualify the person from operating a commercial motor vehicle ~~and shall suspend the~~
 699 ~~person's driver's license, permit, or nonresident operating privilege~~ for a period of one year,
 700 subject to review as provided for in this chapter."

701 "(g)(1) A person whose driver's license is suspended or who is disqualified from driving
 702 a commercial motor vehicle or both pursuant to this Code section shall remit to the
 703 department a \$150.00 filing fee together with a request, in writing, for a hearing within
 704 ~~30~~ 20 days from the date of personal notice or receipt of notice sent by certified mail or
 705 statutory overnight delivery, return receipt requested, or the right to said hearing shall be
 706 deemed waived. The issuance of an ignition interlock device limited driving permit to
 707 a person eligible for such permit under paragraph (1) ~~or (2)~~ of subsection (a) of Code
 708 Section 40-5-64.1 shall constitute a waiver of the right to a hearing under this subsection.
 709 Within 30 days after receiving a written request for a hearing, the department shall hold
 710 a hearing as is provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 711 Act.' The hearing shall be recorded.

712 (2) The scope of the hearing shall be limited to the following issues:

713 (A)(I) Whether the law enforcement officer had reasonable grounds to believe the
 714 person was driving or in actual physical control of a moving motor vehicle while

715 under the influence of alcohol or a controlled substance and was lawfully placed
 716 under arrest for violating Code Section 40-6-391; or
 717 (ii) Whether the person was involved in a motor vehicle accident or collision
 718 resulting in serious injury or fatality; and
 719 (B) Whether at the time of the request for the test or tests the officer adequately
 720 informed the person of the person's implied consent rights and the consequence of
 721 submitting or refusing to submit to such test; and
 722 (C)(I) ~~Whether~~ If the administrative license suspension was issued pursuant to
 723 subsection (d) of this Code section, whether the person refused the test; or
 724 (ii) ~~Whether~~ If the administrative license suspension was issued pursuant to
 725 subsection (c) of this Code section, whether a test or tests were administered and the
 726 results indicated; ~~an alcohol concentration of 0.08 grams or more or, for~~
 727 (I) For a person under the age of 21, an alcohol concentration of 0.02 grams or
 728 more or, ~~for; or~~
 729 (II) For a person operating or having actual physical control of a commercial motor
 730 vehicle, an alcohol concentration of 0.04 grams or more; ~~and.~~
 731 ~~(D) Whether the test or tests were properly administered by an individual possessing~~
 732 ~~a valid permit issued by the Division of Forensic Sciences of the Georgia Bureau of~~
 733 ~~Investigation on an instrument approved by the Division of Forensic Sciences or a test~~
 734 ~~conducted by the Division of Forensic Sciences, including whether the machine at the~~
 735 ~~time of the test was operated with all its electronic and operating components~~
 736 ~~prescribed by its manufacturer properly attached and in good working order, which~~
 737 ~~shall be required. A copy of the operator's permit showing that the operator has been~~
 738 ~~trained on the particular type of instrument used and one of the original copies of the~~
 739 ~~test results or, where the test is performed by the Division of Forensic Sciences, a copy~~
 740 ~~of the crime lab report shall satisfy the requirements of this subparagraph.~~
 741 (3) The hearing officer shall, within five calendar days after such hearing, forward a
 742 decision to the department to rescind or sustain the driver's license suspension or
 743 disqualification. If no hearing is requested within the ~~30~~ 20 days specified in
 744 paragraph (1) of this subsection, and the failure to request such hearing is due in whole
 745 or in part to the reasonably avoidable fault of the person, the right to a hearing shall have
 746 been waived. The issuance of an ignition interlock device limited driving permit to a
 747 person eligible for such permit under paragraph (1) ~~or (2)~~ of subsection (a) of Code
 748 Section 40-5-64.1 shall constitute a waiver of the right to a hearing under this subsection.
 749 The request for a hearing shall not stay the suspension of the driver's license; provided,
 750 however, that if the hearing is timely requested and is not held before the expiration of
 751 the temporary driving permit and the delay is not due in whole or in part to the reasonably

752 avoidable fault of the person, the suspension shall be stayed until such time as the hearing
753 is held and the hearing officer's decision is made.

754 (4)(A) Except as where provided to the contrary in subparagraph (B) of this paragraph,
755 in the event the person is acquitted of a violation of Code Section 40-6-391 or such
756 charge is initially disposed of other than by a conviction or plea of nolo contendere,
757 then the suspension shall be terminated and deleted from the driver's license record. An
758 accepted plea of nolo contendere shall be entered on the driver's license record and shall
759 be considered and counted as a conviction for purposes of any future violations of Code
760 Section 40-6-391. In the event of an acquittal or other disposition other than by a
761 conviction or plea of nolo contendere, the driver's license restoration fee shall be
762 promptly returned by the department to the licensee.

763 ~~(B)(I) If any person who has obtained an ignition interlock device limited driving~~
764 ~~permit under paragraph (1) of subsection (a) of Code Section 40-5-64.1 is acquitted~~
765 ~~of the violation of Code Section 40-6-391 upon which the underlying driver's license~~
766 ~~suspension was based or if such charge is initially disposed of other than by a~~
767 ~~conviction or plea of nolo contendere, then such permit shall be revoked and the~~
768 ~~driver's license shall be reinstated without a fee. The department shall terminate the~~
769 ~~driver's license suspension of any such person and shall delete the suspension from~~
770 ~~the driver's license record.~~

771 (ii) Any person who has obtained an ignition interlock device limited driving permit
772 under paragraph ~~(2)~~(1) of subsection (a) of Code Section 40-5-64.1 shall maintain
773 such permit for the required term of monitoring under Code Section 42-8-110.1,
774 regardless of whether such person is acquitted of the violation of Code
775 Section 40-6-391 upon which the underlying driver's license suspension was based
776 or such charge is initially disposed of other than by a conviction or plea of nolo
777 contendere.

778 (ii) Any person whose commercial driver's license is suspended or whose privilege
779 to operate a commercial motor vehicle is disqualified or both pursuant to
780 subsection (c) or (d) of this Code section shall serve the entire period of such
781 suspension or disqualification or both, regardless of whether such person is acquitted
782 of the violation of Code Section 40-6-391 upon which the underlying suspension or
783 disqualification or both was based or whether such charge is initially disposed of
784 other than by a conviction or plea of nolo contendere.

785 (iii) Any person whose driver's license is suspended or whose privilege to operate a
786 commercial motor vehicle is disqualified or both pursuant to subsection (d) of this
787 Code section shall serve the entire period of any suspension or disqualification or
788 both, regardless of whether such person is acquitted of the violation of Code

789 Section 40-6-391 upon which the underlying suspension or disqualification or both
 790 was based or whether such charge is initially disposed of other than by a conviction
 791 or plea of nolo contendere.

792 (iv) In the event the attendant criminal case is disposed of prior to an administrative
 793 hearing being held, the department shall close the administrative case without
 794 necessity of a hearing. Any suspension of a driver's license that may result from the
 795 conviction on the attendant criminal case shall be controlling. The provisions of this
 796 division shall only apply to persons who hold a noncommercial Class C, Class E,
 797 Class F, or Class M driver's license."

798 "(j) Each time an approved breath-testing instrument is inspected, the inspector shall
 799 prepare a certificate which shall be signed under oath by the inspector and which shall
 800 include the following language:

801 'This breath-testing instrument (serial no. _____) was thoroughly inspected, tested,
 802 and standardized by the undersigned on (date _____) and all of its electronic
 803 and operating components prescribed by its manufacturer are properly attached and are
 804 in good working order.'

805 When properly prepared and executed, as prescribed in this subsection, the certificate shall,
 806 notwithstanding any other provision of law, be self-authenticating, shall be admissible in
 807 any court of law, and shall satisfy the pertinent requirements of paragraph (1) of subsection
 808 (a) of Code Section 40-6-392 ~~and subparagraph (g)(2)(F) of this Code section."~~

809 **SECTION 11.**

810 Said title is further amended in Code Section 40-5-67.2, relating to terms and conditions for
 811 suspension of license under subsection (c) of Code Section 40-5-67.1, by revising subsection
 812 (d) as follows:

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

819 **SECTION 12.**

820 Said title is further amended by revising Code Section 40-5-69, relating to circumstances not
 821 affecting suspensions by operation of law, as follows:

822 "40-5-69.
 823 If a person's driver's license is suspended by operation of law as provided in Code Section
 824 ~~40-5-63~~, 40-5-63.1, 40-5-63.2, 40-5-67.1, or 40-5-67.2, the fact that the person's driver's
 825 license was not physically surrendered to the law enforcement officer at the time the person
 826 was charged with violating Code Section 40-6-391 or that the person's driver's license was
 827 not retained by the court and forwarded to the department as provided in Code Section
 828 40-5-67 or that the person's driver's license was not forwarded as provided in Code Section
 829 40-5-72 shall not affect such suspension."

830 **SECTION 13.**

831 Said title is further amended in Code Section 40-6-391.1, relating to entry of plea of nolo
 832 contendere and order to attend alcohol or drug course, by revising the introductory language
 833 of subsection (b) as follows:

834 "(b) If the defendant has not been convicted of or had a plea of nolo contendere accepted
 835 to a charge of violating Code Section 40-6-391 within the previous five years and if the
 836 plea of nolo contendere shall be used as provided in paragraph (1) of subsection (a) of
 837 Code Section ~~40-5-63~~ 40-5-63.1, no such plea shall be accepted unless, at a minimum, the
 838 following conditions are met:"

839 **SECTION 14.**

840 Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to
 841 ignition interlock devices as condition of probation, is amended in Code Section 42-8-110.1,
 842 relating to ignition interlock device limited driving permits and restrictions, by revising
 843 subsection (a) as follows:

844 "~~(a)(1) Any person issued an ignition interlock device limited driving permit under~~
 845 ~~paragraph (1) of subsection (a) of Code Section 40-5-64.1 shall, upon issuance thereof~~
 846 ~~and within no less than ten days of such issuance, have installed and shall maintain in any~~
 847 ~~motor vehicle to be driven by such person for a period of not less than four months a~~
 848 ~~functioning, certified ignition interlock device, and such person shall not drive any motor~~
 849 ~~vehicle whatsoever that is not so equipped during such period.~~

850 ~~(2)~~ Any person issued an ignition interlock device limited driving permit under
 851 paragraph ~~(2)~~(1) of subsection (a) of Code Section 40-5-64.1 shall, upon issuance thereof
 852 ~~and within no less than ten days of such issuance,~~ have installed and shall maintain in any
 853 motor vehicle to be driven by such person for a period of not less than ~~12 months~~ one
 854 year following issuance thereof a functioning, certified ignition interlock device, and such
 855 person shall not drive any motor vehicle whatsoever that is not so equipped during such
 856 period."

SECTION 15.

857
858 Said article is further amended by revising Code Section 42-8-111, relating to court issuance
859 of certificate for installation of ignition interlock devices, exceptions, and fees, as follows:
860 "42-8-111.

861 (a)(1) Upon a second or subsequent conviction of a resident of this state for violating
862 Code Section 40-6-391 within five years, as measured from the dates of previous arrests
863 for which convictions were obtained to the date of the current arrest for which a
864 conviction is obtained, for which such person is granted probation, except when such
865 probationer has elected for an option provided for in subsection (a.1) or (a.2) of this Code
866 section, the court shall issue a certificate of eligibility for an ignition interlock device
867 limited driving permit or probationary license, subject to the following conditions:

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

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

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

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

889 (b)(2) The court may, in its discretion, decline to issue a certificate of eligibility for an
890 ignition interlock device limited driving permit or probationary license for any reason or
891 exempt a person from any or all ignition interlock device requirements upon a
892 determination that such requirements would subject such person to undue financial
893 hardship. Notwithstanding any contrary provision of Code Section 40-13-32 or 40-13-33,

894 a determination of financial hardship may be made at the time of conviction or any time
895 thereafter. If a court grants an exemption from the ignition interlock device requirements,
896 such person shall not be eligible for a limited driving permit or any other driving
897 privilege for a period of one year.

898 (a.1) A person whose license is suspended pursuant to paragraph (2) of subsection (a) of
899 Code Section 40-5-63.1 may elect to obtain a certificate of eligibility for an ignition
900 interlock device limited driving permit and complete the requirements set forth in
901 subsection (a) of this Code section in lieu of serving the two-year suspension provided for
902 in subparagraph (a)(2)(A) of Code Section 40-5-63.1.

903 (a.2) In lieu of obtaining a certificate of eligibility for an ignition interlock device limited
904 driving permit and completing the requirements set forth in subsection (a) of this Code
905 section, a person whose license is revoked pursuant to Code Section 40-5-58, when such
906 revocation is based upon two or more convictions of Code Section 40-6-391 within five
907 years, as measured from the dates of previous arrests for which convictions were obtained
908 to the date of the current arrest for which a conviction is obtained, may elect to serve a
909 five-year period of revocation, during which time the person shall lose the privilege to
910 drive on the highways of this state and shall not be eligible to apply for a limited driving
911 permit or an ignition interlock device limited driving permit and may only apply for a new
912 license or the restoration of his or her nonresident's operating privilege at the end of five
913 years and upon payment of the prescribed restoration fee.

914 (b) Any person convicted of a second or subsequent offense of violating Code
915 Section 40-6-391 within five years, as measured from the dates of previous arrests for
916 which convictions were obtained to the date of the current arrest for which a conviction is
917 obtained, for which such person is granted probation, shall participate in a substance abuse
918 treatment program as defined in paragraph (16.2) of Code Section 40-5-1 or such similar
919 treatment for a period of not less than 120 days as ordered by a drug court division, a
920 mental health court division, a veterans court division, or an operating under the influence
921 court division pursuant to authority under Chapter 1 of Title 15.

922 (c) In the case of any person subject to the provisions of subsection (a) of this Code
923 section, the court shall include in the record of conviction or violation submitted to the
924 Department of Driver Services a copy of the certificate of eligibility for an ignition
925 interlock device limited driving permit or probationary license issued by the court or
926 documentation of the court's decision to decline to issue such certificate. Such certificate
927 shall specify any exemption from the installation requirements ~~of paragraph (1) of~~
928 ~~subsection (a) of this Code section~~ and any vehicles subject to the installation requirements
929 of ~~paragraph (2) of such subsection (a) of this Code section~~. The records of the Department
930 of Driver Services shall contain a record reflecting such certificate, and the person's driver's

931 license, limited driving permit, or probationary license shall contain a notation that the
 932 person may only operate a motor vehicle equipped with a functioning, certified ignition
 933 interlock device.

934 (d) Except as provided in subsections (a.1) and (a.2) of this Code section and Code
 935 Sections 42-8-110.1 and 42-8-112, no provision of this article shall be deemed to reduce
 936 any period of driver's license suspension or revocation otherwise imposed by law.

937 (e) The fee for issuance of any driver's license indicating that use of an ignition interlock
 938 device is required shall be as prescribed for a regular driver's license in Code
 939 Section 40-5-25, and the fee for issuance of any limited driving permit indicating that use
 940 of an ignition interlock device is required shall be as prescribed in Code Section 40-5-64.1;
 941 except that, for habitual violators required to use an ignition interlock device as a condition
 942 of a probationary license, the fee shall be as prescribed for a probationary license in Code
 943 Section 40-5-58.

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

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

951 **SECTION 16.**

952 Said article is further amended in Code Section 42-8-112, relating to timing for issuance of
 953 ignition interlock device limited driving permit, documentation required, and reporting
 954 requirement, by revising paragraph (1) of subsection (a) and paragraph (3) of subsection (b)
 955 as follows:

956 "(1) In any case where the court grants a certificate of eligibility for an ignition interlock
 957 device limited driving permit or probationary license pursuant to Code Section 42-8-111
 958 to a person whose driver's license is suspended pursuant to subparagraph (c)(2)(C) of
 959 Code Section 40-5-57.1 or ~~paragraph (2) of subsection (a) of Code Section 40-5-63~~
 960 40-5-63.1, the Department of Driver Services shall not issue an ignition interlock device
 961 limited driving permit until after the expiration of 120 days from the date of the
 962 conviction for which such certificate was granted."

963 "(3) In any case where installation of an ignition interlock device is required pursuant to
 964 paragraph (1) of subsection (a) of Code Section 42-8-111, failure to show proof of such
 965 device shall be grounds for refusal of reinstatement of such license or issuance of such

966 habitual violator's probationary license or the immediate suspension or revocation of such
967 license."

968 **SECTION 17.**

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