

The House Committee on Public Safety and Homeland Security offers the following substitute to SB 97:

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 provide for the offense of operation of a motor vehicle with a fraudulent
3 license plate; to provide for definitions; to provide for penalties; to authorize civil forfeiture
4 in certain instances; to provide for punishment for commission of such while committing a
5 felony; to repeal provisions relating to obscuring a license plate in order to impede detection;
6 to repeal and designate as reserved provisions relating to removing or affixing a license plate
7 with the intent to conceal; to provide for suspension and revocation of a vehicle registration
8 for certain offenses of operating a motor vehicle with a fraudulent license plate; to provide
9 for flashing lights upon warning signs for use of automated traffic enforcement safety
10 devices; to revise provisions relative to when a case may be made with the use of a speed
11 detection device; to provide for inclusion of civil monetary penalties issued by automated
12 traffic enforcement safety devices in the permissible ratio of speeding fines for a law
13 enforcement agency's budget; to provide for times when a school zone speed limit may be
14 enforced through the use of an automated traffic enforcement safety device; to provide for
15 limitations on additional fees collected through citations issued with such devices; to provide
16 for related matters; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 97 (SUB)

- 1 -

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising Code Section 40-2-6, relating to alteration of license plates and operation of vehicle with altered or improperly transferred plate, as follows:

"40-2-6.

~~Except as otherwise provided in this chapter, any person who shall willfully mutilate, obliterate, deface, alter, change, or conceal any numeral, letter, character, county designation, or other marking of any license plate issued under the motor vehicle registration laws of this state; who shall knowingly operate a vehicle bearing a license plate on which any numeral, letter, character, county designation, or other marking has been willfully mutilated, obliterated, defaced, altered, changed, or concealed; or who shall knowingly operate a vehicle bearing a license plate issued for another vehicle and not properly transferred as provided by law shall be guilty of a misdemeanor.~~

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

(1) 'Automated license plate recognition system' shall have the same meaning as set forth in Code Section 35-1-22.

(2) 'Conceal' includes:

(A) The use of any material, device, or part of an individual's body to cover or significantly interfere with the readability of a license plate; or

(B) The positioning of a license plate in a manner which is not authorized by law and that significantly interferes with readability of the license plate.

(3) 'License plate' includes a temporary operating permit issued or purported to be issued pursuant to this chapter.

(4) 'Readability' means ability of the human eye, a camera, or an automated license plate recognition system to detect, comprehend, or deduce the name of the state or the letters or numbers upon a license plate.

44 (b)(1) A person commits the offense of operation of a motor vehicle with a fraudulent
45 license plate when he or she, willfully and with an intent to obscure or misrepresent the
46 identity of a vehicle or its owner, operates a motor vehicle while:

47 (A) Concealing any portion of the license plate displayed on such motor vehicle;

48 (B) Displaying a license plate issued to a different motor vehicle;

49 (C) Displaying a revalidation decal other than one issued to the motor vehicle; or

50 (D) Displaying a license plate not issued by the department which has the appearance
51 of one validly issued by the department.

52 (2) Any person who violates this Code section shall be guilty of a misdemeanor and
53 punished as follows:

54 (A) For a first conviction, a fine of \$250.00; provided, however, that such fine shall not
55 exceed \$25.00 if a person proves to the court having jurisdiction of the offense that the
56 item causing the obscurity or misrepresentation has been removed;

57 (B) For a second conviction, a fine of \$500.00; and

58 (C) For a third or subsequent conviction, a fine of not less than \$750.00 and
59 confinement for not less than 15 days which shall not be suspended, probated, deferred,
60 or withheld by a sentencing court without consent of the prosecuting attorney and,
61 when such conviction involved operation of the same motor vehicle for the previous
62 two offenses, the court shall issue an order requiring that the license plate of such
63 vehicle be surrendered to the court pursuant to Code Section 40-2-135.

64 (3)(A) Any motor vehicle operated by a person who has been convicted of a fourth or
65 subsequent violation of this Code section is declared to be contraband and subject to
66 forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9.

67 (B) In any case where a vehicle which is the only family vehicle is determined to be
68 subject to forfeiture, the court may, if it determines that the financial hardship to the
69 family as a result of the forfeiture and sale outweighs the benefit to the state from such
70 forfeiture, order the title to the vehicle transferred to another family member who is a

71 duly licensed operator and who requires the use of such vehicle for employment or
72 family transportation purposes. Such transfer shall be subject to any valid liens and
73 shall be granted only once.

74 (4) For the purpose of imposing a sentence under this Code section, a plea of nolo
75 contendere or first offender treatment by a court of competent jurisdiction based on a
76 violation of this Code section shall constitute a conviction.

77 (c) Any person who violates this Code section during the commission of a felony shall be
78 guilty of a misdemeanor and punished by a fine of not less than \$750.00 and confinement
79 for not less than nine months, and the first 30 days of such sentence shall not be suspended,
80 probated, deferred, or withheld by a sentencing court."

81 **SECTION 2.**

82 Said title is further amended by repealing Code Section 40-2-6.1, relating to obscuring
83 license plate in order to impede surveillance equipment.

84 **SECTION 3.**

85 Said title is further amended by repealing and designating as reserved Code Section 40-2-7,
86 relating to removing or affixing license plate with intent to conceal or misrepresent.

87 **SECTION 4.**

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

90 "40-2-41.

91 Unless otherwise permitted under this chapter, every vehicle required to be registered under
92 this chapter, which is in use upon the highways, shall at all times display the license plate
93 issued to the owner for such vehicle, and the plate shall be fastened to the rear of the
94 vehicle in a position so as not to swing and shall be at all times plainly visible. No person

95 shall display on the rear of a motor vehicle any temporary or permanent plate or tag not
 96 issued by the State of Georgia which is intended to resemble a license plate which is issued
 97 by the State of Georgia. The commissioner is authorized to adopt rules and regulations so
 98 as to permit the display of a license plate on the front of certain vehicles. ~~It shall be the~~
 99 ~~duty of the operator of any vehicle to keep the license plate legible at all times. No license~~
 100 ~~plate shall be covered with any material unless the material is colorless and transparent.~~
 101 ~~No apparatus that obstructs or hinders the clear display and legibility of a license plate shall~~
 102 ~~be attached to the rear of any motor vehicle required to be registered in the state. Any~~
 103 ~~person who violates any provision of this Code section shall be guilty of a misdemeanor."~~

104

SECTION 5.

105 Said title is further amended by revising Code Section 40-2-135, relating to revocation and
 106 seizure of license plates and renewal decals, as follows:

107 "40-2-135.

108 (a)(1) The commissioner shall revoke any regular, prestige, special, or distinctive license
 109 plate which the commissioner determines was issued in error and shall revoke the special
 110 and distinctive license plate issued to a member of the General Assembly at such time as
 111 the holder ceases to hold such public office. The commissioner or his or her designated
 112 agent may revoke any license plate purchased with a check which was returned for any
 113 reason. The commissioner shall notify the holder of such regular, prestige, special, or
 114 distinctive license plate or of such other license plate of such revocation. The holder of
 115 such revoked license plate shall return the license plate to the commissioner or the
 116 commissioner's designated agent and register his or her vehicle as otherwise required by
 117 this chapter.

118 ~~(b)~~(2) The commissioner shall suspend or revoke any permanent registration and license
 119 plate issued in accordance with Code Section 40-2-47 when the owner has not complied

120 with the annual requirement of the payment of ad valorem taxes and is delinquent for
121 more than 12 months from the last date of ad valorem tax payment.

122 (3) Any state or county law enforcement officer or any special agent or enforcement
123 officer appointed under Code Section 40-2-134 may, upon the direction or request of the
124 commissioner, go upon public or private property to seize a license plate or renewal decal
125 which has been revoked pursuant to this subsection.

126 (e)(b)(1) Upon a third conviction under Code Section 40-2-6 with the same motor
127 vehicle by any owner or operator of such vehicle, the court shall issue an order requiring
128 that the license plate of the vehicle be surrendered to the court. The court shall notify the
129 commissioner within ten days after issuing any such order and send by first-class mail a
130 copy of such order to the vehicle owner when the conviction was entered against an
131 operator other than the owner of the vehicle. The commissioner shall suspend the
132 registration for such vehicle upon receipt of such notice and, if such license plate is a
133 digital license plate, shall inform the digital license plate provider of the suspension of
134 vehicle registration. The court shall issue a receipt for the license plate surrendered
135 pursuant to this paragraph. The court shall forward a license plate surrendered pursuant
136 to this paragraph to the local tag agent immediately upon receipt; provided, however, that,
137 if the surrendered license plate is a digital license plate, the court shall allow such person
138 to retain the digital license plate. Upon the passage of 180 days and payment of a
139 \$160.00 restoration fee, an owner whose vehicle registration was suspended pursuant to
140 this paragraph may apply for registration of such motor vehicle.

141 (2) Upon a fourth or subsequent conviction of Code Section 40-2-6 with the same motor
142 vehicle by any owner or operator of such vehicle, the court shall issue an order requiring
143 that the license plate of such vehicle be surrendered to the court. The court shall notify
144 the commissioner within ten days after issuing any such order and send by first-class mail
145 a copy of such order to the vehicle owner when the conviction was entered against an
146 operator other than the owner of the vehicle. The commissioner shall revoke the

147 registration for such vehicle upon receipt of such notice and, if such license plate is a
 148 digital license plate, shall inform the digital license plate provider of the revocation of
 149 vehicle registration. The court shall issue a receipt for the license plate surrendered
 150 pursuant to this paragraph. The court shall forward a license plate surrendered pursuant
 151 to this paragraph to the local tag agent immediately upon receipt; provided, however, that,
 152 if the surrendered license plate is a digital license plate, the court shall allow such person
 153 to retain the digital license plate.

154 (3) For purposes of this subsection, a plea of nolo contendere shall constitute a
 155 conviction. Any state or county law enforcement officer or any special agent or
 156 enforcement officer appointed under Code Section 40-2-134 may, upon the direction or
 157 request of the commissioner, go upon public or private property to seize a license plate
 158 or renewal decal which has been revoked as provided in subsection (a) of this Code
 159 section."

160 **SECTION 6.**

161 Said title is further amended in Code Section 40-14-6, relating to warning signs required and
 162 signage requirements, by revising subsection (c) as follows:

163 "(c) In addition to the signs required under subsections (a) and (b) of this Code section,
 164 each law enforcement agency using an automated traffic enforcement safety device as
 165 provided for in Code Section 40-14-18 shall erect signs warning of the use of a stationary
 166 speed detection device within the approaching school zone. Such signs shall be at least 24
 167 by 30 inches in area, shall be visible plainly from every lane of traffic, shall be viewable
 168 in all traffic conditions, and shall not be placed in such a manner that the view of such sign
 169 is subject to being obstructed by any other vehicle on such highway. An automated traffic
 170 enforcement safety device warning sign ~~Such signs~~ shall be placed within 500 feet prior
 171 to the warning sign announcing the reduction of the speed limit for the school speed zone
 172 and shall include lights that flash yellow during the time when the automated traffic

173 enforcement safety device is authorized to issue citations pursuant to Code
 174 Section 40-14-18 and in accordance with any rule or regulation established by the
 175 Department of Transportation. There shall be a rebuttable presumption that such signs are
 176 properly installed pursuant to this subsection at the time of any alleged violation under this
 177 article."

178 SECTION 7.

179 Said title is further amended by revising Code Section 40-14-8, relating to when case may
 180 be made and conviction had, as follows:

181 "40-14-8.

182 (a) No county, city, or campus officer shall be allowed to make a case based on the use of
 183 any speed detection device, unless the speed of the vehicle exceeds the posted speed limit
 184 by more than ten miles per hour and no conviction shall be had thereon unless such speed
 185 is more than ten miles per hour above the posted speed limit.

186 (b) The limitations contained in subsection (a) of this Code section shall not apply in
 187 ~~properly marked school zones one hour before, during, and one hour after the normal hours~~
 188 ~~of school operation or programs for care and supervision of students before school, after~~
 189 ~~school, or during vacation periods as provided for under Code Section 20-2-65, in properly:~~

190 (1) School zones properly marked with warning signs while the reduction of the speed
 191 limit for the school zone is in effect, when the speed detection device is one other than
 192 an automated traffic enforcement safety device and is operated by an on-site law
 193 enforcement officer;

194 (2) Properly marked historic districts, in properly; and

195 (3) Properly marked residential zones.

196 (c) For purposes of this chapter, thoroughfares with speed limits of 35 miles per hour or
 197 more shall not be considered residential ~~districts~~ zones. For purposes of this Code section
 198 the term 'historic district' means a historic district as defined in ~~paragraph (5) of Code~~

199 Section 44-10-22 and which is listed on the Georgia Register of Historic Places or as
200 defined by ordinance adopted pursuant to a local constitutional amendment."

201 **SECTION 8.**

202 Said title is further amended in Code Section 40-14-11, relating to investigations by
203 commissioner of public safety, issuance of order suspending or revoking permit, and ratio
204 of speeding fines to agency's budget, by revising subsection (d) as follows:

205 "(d) There shall be a rebuttable presumption that a law enforcement agency is employing
206 speed detection devices for purposes other than the promotion of the public health, welfare,
207 and safety if the fines or civil penalties levied based on the use of speed detection devices
208 for speeding offenses are equal to or greater than ~~35~~ 30 percent of a municipal or county
209 law enforcement agency's budget. For purposes of this Code section, fines collected for
210 citations issued for violations of Code Section 40-6-180 shall be included when calculating
211 ~~total speeding fine~~ such speeding offenses revenue for the agency; provided, however, that
212 fines for speeding violations exceeding 20 miles per hour over the established speed limit
213 ~~and civil monetary penalties for speeding violations issued pursuant to Code Section~~
214 ~~40-14-18~~ shall not be considered when calculating total speeding ~~fine~~ offenses revenue for
215 the agency."

216 **SECTION 9.**

217 Said title is further amended in Code Section 40-14-18, relating to enforcement of speed limit
218 in school zones with recorded images, civil monetary penalty, and consequences for failure
219 to pay penalty, by revising paragraph (1) of subsection (a) and subsection (c) as follows:

220 "(a)(1) The speed limit within any school zone ~~as provided for in Code Section 40-14-8~~
221 ~~and~~ marked pursuant to Code Section 40-14-6 may be enforced by using ~~photographically~~
222 recorded images for violations which occurred only one hour prior to and one hour after
223 the school's official starting time and one hour prior to and two hours after the school's

224 official dismissal time and when such violations are in excess of ten miles per hour over
225 the speed limit; provided, however, that, when any portion of a school's property is
226 bisected by a highway, such enforcement may occur on a school day during the time in
227 which instructional classes are taking place and one hour before such classes are
228 scheduled to begin and for one hour after such classes have concluded when such
229 violations are in excess of ten miles per hour over the speed limit."

230 "(c) A violation for which a civil warning or a civil monetary penalty is imposed pursuant
231 to this Code section shall not be considered a moving traffic violation for the purpose of
232 points assessment under Code Section 40-5-57. Such violation shall be deemed
233 noncriminal, and imposition of a civil warning or civil monetary penalty pursuant to this
234 Code section shall not be deemed a conviction and shall not be made a part of the operating
235 record of the person upon whom such liability is imposed, nor shall it be used for any
236 insurance purposes in the provision of motor vehicle insurance coverage. A civil monetary
237 penalty imposed pursuant to this Code section shall not be taxed nor shall any additional
238 penalty, fee, or surcharge to a fine be assessed."

239 **SECTION 10.**

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