

Senate Bill 350

By: Senators Wiles of the 37th, Rogers of the 21st, Seabaugh of the 28th, Murphy of the 27th, Johnson of the 1st and others

AS PASSED

AN ACT

To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as to change certain provisions relating to driver's license requirement, surrender of prior licenses, and prohibition of local licenses; to require the Department of Driver Services to maintain records of convictions for driving without a license; to provide that courts with jurisdiction over traffic offenses shall report convictions of driving without a license to the Department of Driver Services; to change certain provisions relating to driving while license suspended or revoked; to specify punishments and exceptions for driving without being licensed; to amend Code Section 42-4-14 of the Official Code of Georgia Annotated, relating to determination of nationality of person charged with felony or driving under the influence and confined in a jail facility, so as to provide for determination of nationality of person convicted of driving without being licensed; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended by revising paragraph (3) of subsection (a) of Code Section 40-5-2, relating to keeping of records of applications for drivers' licenses and information on licensees, to read as follows:

"(3) Records of all accident reports and abstracts of court records of convictions of any offense listed in subsection (a) of Code Section 40-5-20, subsection (a) of Code Section 40-5-54, Code Section 40-6-10, driving on a suspended license in violation of Code Section 40-5-121, administrative license suspension pursuant to Code Sections 40-5-67 through 40-5-67.2, Code Section 40-5-75, Chapter 9 of this title, the 'Motor Vehicle Safety Responsibility Act,' and Chapter 34 of Title 33, the 'Georgia Motor Vehicle Accident Reparations Act,' any felony offense under this title, any offense committed while operating a commercial motor vehicle, serious traffic offenses, or other offenses

requiring the assessment of points on the driving record that are received by it under the laws of this state and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee or individual showing the convictions of such licensee or individual and the traffic accidents in which such licensee or individual has been involved shall be readily ascertainable and available for the consideration of the department upon any application for, or application for renewal of license and at other suitable times. For purposes of issuing a driver's operating record to the public as provided in this Code section, the period of calculation for compilation of such report shall be determined by the date of arrest."

SECTION 2.

Said chapter is further amended by revising subsection (a) of Code Section 40-5-20, relating to driver's license requirement, surrender of prior licenses, and prohibition of local licenses, as follows:

"(a) No person, except those expressly exempted in this chapter, shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license under this chapter for the type or class of vehicle being driven. Any person who is a resident of this state for 30 days shall obtain a Georgia driver's license before operating a motor vehicle in this state. Any violation of this subsection, except the violation of driving with an expired license, or a violation of Code Section 40-5-29 if such person produces in court a license issued to such person and valid at the time of such person's arrest, shall be punished as provided in Code Section 40-5-121. Any court having jurisdiction over traffic offenses in this state shall report to the department the name and other identifying information of any individual convicted of driving without a license."

SECTION 3.

Said chapter is further amended by revising Code Section 40-5-121, relating to driving while license suspended or revoked, as follows:

"40-5-121.

(a) Except when a license has been revoked under Code Section 40-5-58 as a habitual violator, any person who drives a motor vehicle on any public highway of this state without being licensed as required by subsection (a) of Code Section 40-5-20 or at a time when his or her privilege to so drive is suspended, disqualified, or revoked shall be guilty of a misdemeanor for a first conviction thereof and, upon a first conviction thereof or plea of nolo contendere within five years, as measured from the dates of previous arrests for which

convictions were obtained to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, shall be fingerprinted and shall be punished by imprisonment for not less than two days nor more than 12 months, and there may be imposed in addition thereto a fine of not less than \$500.00 nor more than \$1,000.00; provided, however, that at the time of the hearing such person shall not be guilty of such offense if he or she presents the court with proof of a valid driver's license issued by this state. Such fingerprints, taken upon conviction, shall be forwarded to the Georgia Crime Information Center where an identification number shall be assigned to the individual for the purpose of tracking any future violations by the same offender. For the second and third conviction within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, such person shall be guilty of a high and aggravated misdemeanor and shall be punished by imprisonment for not less than ten days nor more than 12 months, and there may be imposed in addition thereto a fine of not less than \$1,000.00 nor more than \$2,500.00. For the fourth or subsequent conviction within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, such person shall be guilty of a felony and shall be punished by imprisonment for not less than one year nor more than five years, and there may be imposed in addition thereto a fine of not less than \$2,500.00 nor more than \$5,000.00.

(b) The department, upon receiving a record of the conviction of any person under this Code section upon a charge of driving a vehicle while the license of such person was suspended, disqualified, or revoked, including suspensions under subsection (f) of Code Section 40-5-75, shall extend the period of suspension or disqualification for six months. The court shall be required to confiscate the license, if applicable, and attach it to the uniform citation and forward it to the department within ten days of conviction. The period of suspension or disqualification provided for in this Code section shall begin on the date the person is convicted of violating this Code section.

(c) For purposes of pleading nolo contendere, only one nolo contendere plea will be accepted to a charge of driving without being licensed or with a suspended or disqualified license within a five-year period as measured from date of arrest to date of arrest. All other nolo contendere pleas in this period will be considered convictions. For the purpose of imposing a sentence under this subsection, a plea of nolo contendere shall constitute a

conviction. There shall be no limited driving permit available for a suspension or disqualification under this Code section.

(d) Notwithstanding the limits set forth in Code Section 40-5-124 and in any municipal charter, any municipal court of any municipality shall be authorized to impose the punishment for a misdemeanor or misdemeanor of a high and aggravated nature as applicable and provided for in this Code section upon a conviction of a nonfelony charge of violating this Code section or upon conviction of violating any ordinance adopting the provisions of this Code section."

SECTION 4.

Code Section 42-4-14 of the Official Code of Georgia Annotated, relating to determination of nationality of person charged with felony or driving under the influence and confined in a jail facility, is amended by revising subsection (a) as follows:

"(a) When any person charged with a felony or with driving under the influence pursuant to Code Section 40-6-391 or convicted of driving without being licensed in violation of subsection (a) of Code Section 40-5-20 is confined, for any period, in the jail of the county, any municipality or a jail operated by a regional jail authority, a reasonable effort shall be made to determine the nationality of the person so confined."

SECTION 5.

This Act shall become effective on July 1, 2008.

SECTION 6.

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