Senate Bill 6
By: Senators McKoon of the 29th, Crane of the 28th, Gooch of the 51st, Heath of the 31st, Ginn of the 47th and others

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as to clarify and provide for persons who may obtain certain licenses, permits, or cards; to provide for driving safety cards for persons who are current recipients of grants of deferred action on deportation which shall operate the same as drivers' licenses; to provide for exceptions; to provide for the design of driving safety cards; to provide for special identification cards for persons who are current recipients of grants of deferred action on deportation; to provide for the design of such special identification cards; to provide for criminal penalties; to provide for related matters; to provide for a contingent 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 (15) of Code Section 40-5-1, relating to definitions, to read as follows:

'*'(15) 'Resident' means a person who has a permanent home or abode in Georgia to which, whenever such person is absent, he or she has the intention of returning. For the purposes of this chapter, there is a rebuttable presumption that the following person is a resident:

(A) Any person who accepts employment or engages in any trade, profession, or occupation in Georgia or enters his or her children to be educated in the private or public schools of Georgia within ten days after the commencement of such employment or education; or

(B) Any person who, except for infrequent, brief absences, has been present in the state for 30 or more days;
provided, however, that no person shall be considered a resident for purposes of this chapter unless such person is either a United States citizen or an alien with legal authorization from the U.S. Immigration and Naturalization Service having lawful status to be present in the United States.”

SECTION 2.

Said chapter is further amended by revising subsections (a) and (c) and adding new subsections to Code Section 40-5-20, relating to license required, surrender of prior licenses, and local licenses prohibited, to read as follows:

“(a) No person, except those expressly exempted in this chapter or in Chapter 6 of this title, shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license or a driving safety card 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 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. This Code section shall not apply to a person driving with a suspended license or license that has been revoked. Any person convicted of violating this Code section shall be punished as provided in subsection (a) of Code Section 40-5-121; provided, however, that if:

(1) Such person is driving with a driver's license issued by this state that has been expired for less than 31 days at the time of the offense and he or she produces in court a driver's license that would have been valid at the time of the offense, he or she shall not be guilty of such offense; and

(2) Such person is driving without a valid driver's license or receipt issued by the department reflecting issuance, renewal, replacement, or reinstatement in his or her possession but he or she has a valid driver's license, Code Section 40-5-29 shall apply to such offense.

(a.1)(1) Except as provided for in subsection (a.2) of this Code section, any person who is a current recipient of a grant of deferred action on deportation from the United States Department of Homeland Security shall obtain a Georgia driving safety card before operating a motor vehicle in this state. Pursuant to the terms of this subsection, upon payment of the required fee, the department shall issue to every applicant qualifying therefor a driving safety card indicating the type or general class of vehicle the applicant may drive. Notwithstanding any other provision of this title and except as otherwise provided for in this subsection, such driving safety card shall:
(A) In every way operate in like manner for types or classes of vehicles as a citizen's driver's license, including but not limited to fees, instructional permits, training, examinations, expirations, restrictions, points, issuances, renewals, and replacements, as if such driving safety card were a driver's license;

(B) Be subject to the same carrying, exhibition, reporting, and motor vehicle insurance requirements as a citizen's driver's license;

(C) Confer the same privileges and responsibilities for driving a motor vehicle upon a highway in this state as a citizen's driver's license; and

(D) Be subject to the same laws and penalties in the law, including but not limited to suspension or revocation, in the same manner as a citizen's driver's license.

(2) A driving safety card shall be valid only during the period of time of the applicant's grant of deferred action on deportation or five years, whichever occurs first.

(3)(A) A driving safety card shall be valid only for the privilege of operating a motor vehicle upon a highway in this state and shall not be valid for identification purposes, including but not limited to verifying the identity, residency, or citizenship status of its holder.

(B) It shall be a misdemeanor to attempt, with intent to deceive, to use a driving safety card for identification purposes other than presentment to a law enforcement officer.

(4) Prior to the issuance of a driving safety card, the department shall obtain the fingerprints of the applicant.

(5)(A) The department shall distinguish a driving safety card from a driver's license issued by the department by the use of font and color.

(B) A driving safety card shall bear the legend: 'The individual shown hereon has passed the driving skills, knowledge, and vision tests required by state law.' A driving safety card shall, in white letters displayed on a black banner positioned at the top or bottom, or both, of the driving safety card, include the terms 'DRIVING SAFETY CARD', 'NOT FOR IDENTIFICATION', 'NO LAWFUL STATUS', and 'NOT ACCEPTABLE FOR OFFICIAL PURPOSES'. The driving safety card shall have a vertical orientation. Other than as provided for in this paragraph, a driving safety card shall contain the same physical characteristics of, and be similar in form to, a driver's license issued by the department.

(6) The department shall not issue any temporary driving privileges as provided for in subsection (e) of Code Section 40-5-24 to any person who is a current recipient of a grant of deferred action on deportation from the United States Department of Homeland Security.
(a.2) No person who is a current recipient of a grant of deferred action on deportation from the United States Department of Homeland Security shall be eligible to obtain a driver's license or a special identification card other than a special identification card provided for under subsection (d) of Code Section 40-5-21.1; provided, however, that any person who is a current recipient of such grant of deferred action on deportation and who has a valid driver's license or special identification card other than a special identification card provided for under subsection (d) of Code Section 40-5-21.1 shall, upon expiration of such driver's license or special identification card, be subject to the provisions of this chapter relating to a driving safety card or special identification card. Expiration of such driver's license, be subject to the provisions of this chapter relating to a driving safety card.

(c)(1) Except as provided in paragraph (2) of this subsection and in Code Section 40-5-32, no person shall receive a driver's license or driving safety card unless and until such person surrenders to the department all valid licenses in such person's possession issued to him or her by this or any other jurisdiction. All surrendered licenses issued by another jurisdiction shall be destroyed. The license information shall be forwarded to the previous jurisdiction. No person shall be permitted to have more than one valid driver's license or more than one valid driving safety card at any time or a valid driver's license and a valid driving safety card at the same time.

(2) Any noncitizen who is eligible for issuance of a driver's license or driving safety card pursuant to the requirements of this chapter may be issued a driver's license or driving safety card without surrendering any driver's license or such other similar licenses previously issued to him or her by any foreign jurisdiction. This exemption shall not apply to a person who is applying for a commercial driver's license or who is required to terminate any previously issued driver's license or similar license pursuant to federal law. The department shall make a notation on the driving record of any person who retains a foreign driver's license, and this information shall be made available to law enforcement officers and agencies on such person's driving record through the Georgia Crime Information Center.

SECTION 3.

Said chapter is further amended by revising Code Section 40-5-21.1, relating to temporary licenses, permits, or special identification cards, foreign licenses or identification cards as evidence of legal presence in the United States, and extensions, as follows:

"40-5-21.1."
(a) Except as provided for in subsections (a.1) and (a.2) of Code Section 40-5-20, notwithstanding any other provision of this title, an applicant who presents in person valid documentary evidence of:

(1) Admission to the United States in a valid, unexpired nonimmigrant status;

(2) A pending or approved application for asylum in the United States;

(3) Admission into the United States in refugee status;

(4) An approved application for temporary protected status in the United States;

(5) Approved deferred action on deportation status;

(6) Other federal documentation verified by the United States Department of Homeland Security to be valid documentary evidence of lawful presence in the United States under federal immigration law; or

(7) Verification of lawful presence as provided by Code Section 40-5-21.2 may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or five years, whichever occurs first.

(b) A driver's license or identification card issued by any state or territory which, on or after July 1, 2006, authorized such driver's license or identification card to be issued to persons not lawfully present in the United States may not be accepted as evidence of legal presence in the United States.

(c) Any noncitizen applicant whose Georgia driver's license or identification card has expired, or will expire within 30 days, and who has filed, or on whose behalf has been filed, a request for an extension with the United States Department of Homeland Security, or similar such federal issuing agency, for time to remain lawfully within the United States shall be issued a temporary driving permit or identification card valid for 120 days from the date of the expiration of his or her valid driver's license or identification card. The noncitizen applicant shall be required to present evidence of the application for extension by submitting a copy or copies of documentation designated by the department. A temporary driving permit or identification card shall be issued upon submission of the required documentation and an application fee in an amount to be determined by the department. Upon the expiration of the temporary driving permit or identification card, no further consecutive temporary permits or identification cards shall be authorized; provided, however, that application may be made following the expiration of an additional valid Georgia driver's license or identification card.

(d)(1) Notwithstanding any other provision of the title, an applicant who is a current recipient of a grant of deferred action on deportation from the United States Department of Homeland Security may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time the applicant's authorized stay in the United States or five years, whichever occurs first.
of Homeland Security may be issued a special identification card which shall be valid only during the period of time of the applicant's grant of deferred action on deportation or five years, whichever occurs first. Notwithstanding any other provision of this title and except as otherwise provided for in this subsection, such special identification card shall in every way conform to the provisions governing personal identification cards provided for by this title, including but not limited to fees, proof of birth date, unlawful use, issuances, renewals, and replacements.

(2) Prior to the issuance of such special identification card as provided for in paragraph (1) of this subsection, the department shall obtain the fingerprints of the applicant.

(3)(A) The department shall distinguish the special identification card provided for in this subsection from other personal identification cards issued by the department by the use of font and color.

(B) A special identification card provided for in this subsection shall, in white letters displayed on a black banner positioned at the top or bottom, or both, of the special identification card, include the terms 'NO LAWFUL STATUS' and 'NOT ACCEPTABLE FOR OFFICIAL PURPOSES'. Other than as provided for in this paragraph, such special identification card shall contain the same physical characteristics of, and be similar in form to, other personal identification cards issued by the department."

SECTION 4.

Said chapter is further amended by revising subsection (b) and adding a new subsection to Code Section 40-5-21.2, relating to compliance with the Systematic Alien Verification for Entitlements Program, application, and implementation, to read as follows:

"(b) The department shall utilize the following procedures in this subsection before issuing an identification card, license, permit, or other official document to an applicant who is a noncitizen:

(1) The department shall attempt to confirm through the SAVE program that the applicant is lawfully present in the United States; and

(2) If the SAVE program does not provide sufficient information to the department to make a determination, the department shall be authorized to accept verbal or, or other means of confirmation of the legal status of the applicant from the Department of Homeland Security."

"(e) A person determined to be a current recipient of a grant of deferred action on deportation from the United States Department of Homeland Security pursuant to this Code..."
section shall be eligible for a card as provided for in subsection (a.1) of Code Section 40-5-20 or subsection (d) of Code Section 40-5-21.1."

SECTION 5.

Said chapter is further amended by revising subsection (a) of Code Section 40-5-28, relating to the issuance of licenses and contents, as follows:

"(a) Except as provided in subsection (c) of this Code section, the department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall be upon a form prescribed by the department and which shall bear thereon a distinguishing number assigned to the licensee, a photograph of the licensee, the licensee's full legal name, either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with a pen and ink immediately upon receipt of the license, and such other information or identification as is required by the department. No license shall be valid until it has been so signed by the licensee. Except as provided for under Code Section 40-5-20 or 40-5-21.1, the department shall not require applicants to submit or otherwise obtain from applicants any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application."

SECTION 6.

Said chapter is further amended by revising paragraphs (1), (2), and (3) of Code Section 40-5-120, relating to the unlawful use of license or identification card and penalties for violations of chapter generally, as follows:

"(1) Display or cause or permit to be displayed or have in his or her possession any canceled, revoked, or suspended driver's license or personal identification card issued pursuant to Code Section 40-5-100 this chapter;

(2) Fail or refuse to surrender to the department upon lawful demand any driver's license or personal identification card issued pursuant to Code Section 40-5-100 this chapter which has been suspended, revoked, disqualified, or canceled;

(3) Permit any unlawful use of a driver's license or personal identification card issued pursuant to Code Section 40-5-100 this chapter issued to such person;"
SECTION 7.

(a) This Act shall become effective only if funds are specifically appropriated for purposes of this Act in an appropriations Act enacted by the General Assembly.

(b) If funds are so appropriated, then this Act shall become effective on the later of:

(1) The date on which such appropriations Act becomes effective; or

(2) The beginning date of the fiscal year for which such appropriations are made.

SECTION 8.

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