

House Bill 118 (AS PASSED HOUSE AND SENATE)

By: Representatives Tanner of the 9th, Powell of the 32nd, Lumsden of the 12th, and Hitchens of the 161st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
2 drivers' licenses, so as to amend certain provisions relative to the issuance of commercial
3 drivers' licenses and commercial drivers' instruction permits so as to comply with federal
4 law; to provide for the commission of a crime as it relates to application and examination for
5 a commercial driver's license and commercial driver's instruction permit; to provide for
6 definitions; to require a surety bond for third parties administering the required tests for
7 commercial drivers; to provide for the disqualification from operating a commercial vehicle
8 in certain instances; to provide for the performance of background checks upon and training
9 for third parties conducting the required tests for commercial drivers; to prohibit testing by
10 a third party in certain instances; to require certain driving background checks for
11 commercial drivers; to provide for a limit on the duration of a commercial driver's instruction
12 permit; to provide for certain requirements for the issuance of a commercial driver's
13 instruction permit or commercial driver's license; to limit the types of endorsements or
14 restrictions which may be obtained on a commercial driver's instruction permit; to provide
15 for actions disqualifying an applicant or license holder from holding a commercial driver's
16 license or commercial driver's instruction permit; to provide for criminal fines and civil
17 penalties; to amend Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating
18 to uniform rules of the road, so as to prohibit certain activities with wireless
19 telecommunications devices by drivers of commercial motor vehicles; to provide for civil
20 penalties; to provide for an effective date; to provide for related matters; to repeal conflicting
21 laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**
24 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
25 is amended in Code Section 40-5-125, relating to false statements in a driver's license
26 application, by revising subsection (b) and adding a new subsection to read as follows:

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27 ~~"(b) Any person who knowingly makes any false statement~~ uses a false or fictitious name
 28 or gives a false or fictitious address in an application for a driver's license provided for by
 29 this chapter shall be guilty of a violation of Code Section 16-10-20.

30 (c) Any person who knowingly makes any false statement, conceals a material fact, or
 31 otherwise commits a fraud during the driver's license examination for a driver's license,
 32 including a commercial driver's license or commercial driver's instruction permit, shall be
 33 guilty of a violation of Code Section 16-10-20."

34 SECTION 2.

35 Said chapter is further amended in Code Section 40-5-142, relating to definitions relative to
 36 commercial drivers' licenses, by revising subparagraph (H) of paragraph (18.2) as follows:

37 "(H) Fraudulent or fictitious use of or application for a license as provided in Code
 38 Section 40-5-120 or subsection (c) of Code Section 40-5-125;"

39 SECTION 3.

40 Said chapter is further amended by revising Code Section 40-5-147, relating to the issuance
 41 of a commercial driver's license or commercial driver's instruction permit, as follows:

42 "40-5-147.

43 (a)(1) Except as provided in Code Section 40-5-148, no person may be issued a
 44 commercial driver's license unless that person is a resident of this state, is at least 18
 45 years of age, has passed a knowledge and skills test for driving a commercial motor
 46 vehicle which complies with minimum federal standards established by federal
 47 regulations enumerated in 49 C.F.R. Part 383, subparts G and H, and has satisfied all
 48 other requirements of the Commercial Motor Vehicle Safety Act of 1986, Title XII of
 49 Public Law 99-570, in addition to any other requirements imposed by state law or federal
 50 regulation. The tests shall be prescribed and conducted by the department in English
 51 only.

52 (2) The department may authorize a person, including an agency of this or another state,
 53 an employer, a private driver training facility, or other private institution or a department,
 54 agency, or instrumentality of a local government, to administer the skills test specified
 55 by this Code section, provided that:

56 (A) The test is the same which would otherwise be administered by the state;

57 (B) The third party has entered into an agreement with the state which complies with
 58 the requirements set forth in 49 C.F.R. Part 383.75; ~~and~~

59 (C) The third party complies with all other requirements set by the department by
 60 regulations; and

61 (D) The third party possesses and maintains a surety bond in an amount to be set by the
 62 department through regulations. Such amount shall be sufficient to pay for retesting of
 63 drivers if required due to examiners engaging in fraudulent activities related to the skills
 64 test.

65 (3) Only the department or the American Association of Motor Vehicle Administrators
 66 shall certify examiners to administer the road skills test specified by this Code section.
 67 Such certification shall include the performance of a national criminal history background
 68 check in accordance with Code Section 35-3-34.2 and the passage of an initial training
 69 course that provides the examiner with a fundamental understanding of the objectives of
 70 the skills test for driving a commercial vehicle. A certified examiner shall complete a
 71 refresher training course every four years in order to retain certification. Certification
 72 shall be revoked for any examiner who fails to complete the refresher course or any other
 73 examination deemed appropriate for certification by the department through rules or
 74 regulations.

75 (4) No person who trains or instructs an applicant shall be eligible to administer the skills
 76 test required by this Code section to such applicant.

77 (b) The department may waive the skills test specified in this Code section for a
 78 commercial driver's license applicant who meets the requirements of 49 C.F.R. Part 383.77.

79 (c)(1) A commercial driver's instruction permit may be issued to any individual who
 80 holds a valid noncommercial Class C license or has passed all required tests for the
 81 operation of a noncommercial Class C vehicle and is 18 years of age.

82 (2) Before issuing a commercial driver's instruction permit, the department shall obtain
 83 the driving record of an applicant through the Commercial Driver's License Information
 84 System, through the National Driver Register (NDR), and from each state in which the
 85 applicant has been licensed.

86 (3) An applicant for the commercial driver's instruction permit must pass the vision test
 87 and ~~at~~ the knowledge and skills tests for the type of vehicle he or she intends to operate
 88 along with any knowledge and skills test required for any desired endorsements.

89 ~~(3)~~(4) The commercial driver's instruction permit may not be issued for a period to
 90 exceed ~~one year~~ 180 days and may be renewed one time for an additional 180 days.
 91 Upon the expiration of the second 180 day term, if applicable, the commercial driver's
 92 instruction permit holder shall upgrade to a commercial driver's license or submit a new
 93 application, pay the required fees, and retake the required knowledge and skills tests to
 94 obtain a commercial driver's instruction permit. The holder of a commercial driver's
 95 instruction permit may drive a commercial motor vehicle on a highway only when
 96 accompanied by the holder of a commercial driver's license valid for the type class of
 97 vehicle ~~driven~~ being operated, along with all required endorsements and restrictions, who

98 occupies a seat beside the individual for the purpose of giving instruction in driving the
99 commercial motor vehicle.

100 (5) The department shall issue a commercial driver's instruction permit to a qualified
101 applicant prior to the issuance of any endorsement which requires the administration of
102 a commercial driver's license skills test or prior to the removal of any restrictions.

103 (6) No commercial driver's license shall be issued until an applicant has first obtained
104 a commercial driver's instruction permit. No skills test required for the issuance of a
105 commercial driver's license shall be given until 14 days have expired from the issuance
106 of a commercial driver's instruction permit.

107 (d)(1) Commercial drivers' instruction permits may be issued with the endorsements and
108 restrictions enumerated in 49 C.F.R. Part 383.153(b).

109 (2) Commercial drivers' licenses may be issued with the endorsements and restrictions
110 enumerated in 49 C.F.R. Part 383.153(a).

111 (e)(1) A commercial driver's license or commercial driver's instruction permit shall not
112 be issued to a person while the person is subject to a disqualification from driving a
113 commercial motor vehicle or while the person's driver's license or driving privilege is
114 suspended, revoked, or canceled in this or any other licensing jurisdiction; nor may a
115 driver's license be issued to a person who has a commercial driver's license issued by any
116 other state unless the person first surrenders all driver's licenses issued by any other state,
117 which license or licenses shall be returned to the issuing state or states for cancellation.

118 (2) The department shall obtain the driving record of any person who applies for a
119 commercial driver's license or commercial driver's instruction permit from any other
120 states in which he or she has been licensed or convicted. Upon receipt of conviction
121 information for such a person, said convictions shall become part of the person's driving
122 record in the State of Georgia as provided in Code Section 40-5-2. The department shall
123 review each such person's prior driving record and impose any commercial driving
124 disqualification to which such person is subject that was not imposed by another
125 jurisdiction as required under federal law.

126 (~~e~~)(f)(1) Any person who violates subsection (b) of Code Section 40-5-125 shall be
127 disqualified from obtaining a commercial driver's license or commercial driver's
128 instruction permit for a period of not less than 60 days.

129 (2) Any person who violates subsection (c) of Code Section 40-5-125 shall be
130 disqualified from driving a commercial motor vehicle and reapplying for a commercial
131 driver's license or commercial driver's instruction permit for a period of not less than one
132 year.

133 (3) The department shall notify the holder of a commercial driver's license or commercial
134 driver's instruction permit through first-class mail if the department suspects a person has

135 committed a violation of subsection (b) or (c) of Code Section 40-5-125, but no
 136 conviction for such offenses has been entered, or if the department has received credible
 137 information that a person's examination results may have been compromised due to fraud
 138 by either the applicant or a third party. Such notice shall include a statement regarding
 139 the specific allegations of suspected fraud, including the identification of the credible
 140 source if applicable, and that such person is required to retake the skills test or knowledge
 141 test or both. Within 30 days of receiving notification from the department that retesting
 142 is necessary, the affected commercial driver's instruction permit holder or commercial
 143 driver's license holder shall make an appointment or otherwise schedule to take the next
 144 available test. If the commercial driver's instruction permit holder or commercial driver's
 145 license holder fails to make an appointment within 30 days, the department shall
 146 disqualify such person from obtaining a commercial driver's instruction permit or
 147 commercial driver's license. If the commercial driver's instruction permit holder or
 148 commercial driver's license holder either fails the knowledge or skills test or does not take
 149 the test, the department shall disqualify such person from obtaining a commercial driver's
 150 instruction permit or commercial driver's license. If a commercial driver's instruction
 151 permit holder or commercial driver's license holder has been disqualified from obtaining
 152 a commercial driver's instruction permit or commercial driver's license, he or she shall
 153 reapply for a commercial driver's instruction permit or commercial driver's license under
 154 department procedures applicable to all commercial driver's instruction permit and
 155 commercial driver's license applicants in order to operate a commercial motor vehicle.
 156 (g) The department is authorized to promulgate rules necessary to grant a waiver or
 157 exemption of the physical requirements for a commercial driver's license or a commercial
 158 driver's instruction permit in 49 C.F.R. Part 391, Subpart E; provided, however, that the
 159 person who is applying for a commercial driver's license or a commercial driver's
 160 instruction permit or who has previously been issued a commercial driver's license and who
 161 is granted the waiver or exemption shall only be authorized to drive a commercial motor
 162 vehicle in this state. Notwithstanding this subsection, the department shall not grant any
 163 type of waiver or exemption of said physical requirements unless such type of waiver or
 164 exemption has previously been granted by the Federal Motor Carrier Safety
 165 Administration."

166 **SECTION 4.**

167 Said chapter is further amended in Code Section 40-5-151, relating to disqualification from
 168 driving, by revising subsections (a) and (i) and adding a new subsection to read as follows:
 169 "(a) Any person is disqualified from driving a commercial vehicle for a period of not less
 170 than 60 days if convicted of a first violation of subsection (b) of Code Section 40-5-125.

171 (a.1) Any person is disqualified from driving a commercial motor vehicle for a period of
 172 not less than one year if convicted of a first violation of a major traffic violation as defined
 173 in paragraph (18.2) of Code Section 40-5-142."

174 "(i) Any person is disqualified from driving a commercial motor vehicle for a period of not
 175 less than 60 consecutive days if it is determined, in a check of an applicant's license status
 176 and record prior to issuing a commercial driver's instruction permit or commercial driver's
 177 license or at any time after the commercial driver's instruction permit or commercial
 178 driver's license is issued, that the applicant has falsified information on his or her
 179 application or any related filing."

180 **SECTION 5.**

181 Said chapter is further amended in Code Section 40-5-159, relating to violations of
 182 commercial drivers' licenses provisions, by adding a new subsection to read as follows:

183 "(f) Any person who drives a commercial motor vehicle while in violation of the
 184 provisions mandated under Code Section 40-6-241.2 shall be subject to a civil penalty not
 185 to exceed \$2,750.00 in addition to any criminal fines applicable to such violation. Any
 186 employer who knowingly allows, requires, permits, or authorizes a driver to drive a
 187 commercial motor vehicle in violation of Code Section 40-6-241.2 shall be subject to a
 188 civil penalty not to exceed \$11,000.00."

189 **SECTION 6.**

190 Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to uniform rules
 191 of the road, is amended by revising Code Section 40-6-241.2, relating to writing, sending,
 192 or reading text based communications while operating a motor vehicle, as follows:

193 "40-6-241.2.

194 (a) As used in ~~the~~ this Code section, the term 'wireless telecommunications device' means
 195 a cellular telephone, a text messaging device, a personal digital assistant, a stand alone
 196 computer, or any other substantially similar wireless device that is used to initiate or
 197 receive a wireless communication with another person. It does not include citizens band
 198 radios, citizens band radio hybrids, commercial two-way radio communication devices,
 199 subscription based emergency communications, in-vehicle security, navigation devices, and
 200 remote diagnostics systems, or amateur or ham radio devices.

201 (b)(1) No person who is 18 years of age or older or who has a Class C license shall
 202 operate a motor vehicle on any public road or highway of this state while using a wireless
 203 telecommunications device to write, send, or read any text based communication,
 204 including but not limited to a text message, instant message, e-mail, or Internet data.

205 (2) No person shall operate a commercial motor vehicle on any public road or highway
 206 of this state while:

207 (A) Holding a wireless telecommunications device to conduct a voice communication;

208 (B) Using more than a single button on a wireless telecommunications device to
 209 initiate or terminate a voice communication; or

210 (C) Reaching for a wireless telecommunications device in such a manner that requires
 211 the driver to maneuver so that he or she is no longer in a seated driving position
 212 properly restrained by a safety belt.

213 (c) The provisions of this Code section shall not apply to:

214 (1) A person reporting a traffic accident, medical emergency, fire, serious road hazard,
 215 or a situation in which the person reasonably believes a person's health or safety is in
 216 immediate jeopardy;

217 (2) A person reporting the perpetration or potential perpetration of a crime;

218 (3) A public utility employee or contractor acting within the scope of his or her
 219 employment when responding to a public utility emergency;

220 (4) A law enforcement officer, firefighter, emergency medical services personnel,
 221 ambulance driver, or other similarly employed public safety first responder during the
 222 performance of his or her official duties; or

223 (5) A person engaging in wireless communication while in a motor vehicle which is
 224 lawfully parked.

225 (d) Any conviction for a violation of the provisions of this Code section shall be a
 226 misdemeanor punishable by a fine of \$150.00. The provisions of Chapter 11 of Title 17
 227 and any other provision of law to the contrary notwithstanding, the costs of such
 228 prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine
 229 for such offense be assessed against a person for conviction thereof. The court imposing
 230 such fine shall forward a record of the disposition to the Department of Driver Services.
 231 Any violation of this Code section shall constitute a separate offense."

232 **SECTION 7.**

233 This Act shall become effective upon its approval by the Governor or upon its becoming law
 234 without such approval.

235 **SECTION 8.**

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