

House Bill 205 (AS PASSED HOUSE AND SENATE)

By: Representatives Rice of the 95th and Petrea of the 166th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 40 and Article 7 of Chapter 8 of Title 42 of the Official Code
2 of Georgia Annotated, relating to drivers' licenses and ignition interlock devices as condition
3 of probation, respectively, so as to provide for changes to licensing and driving privileges for
4 individuals arrested for driving under the influence; to provide for the issuance of an optional
5 ignition interlock device limited driving permit upon arrest for driving under the influence
6 under certain circumstances; to provide for submission of a report by the Department of
7 Driver Services; to provide for procedures, conditions, fees, and limitations for the issuance
8 of an ignition interlock device limited driving permit; to change the time frame for requesting
9 hearings after an arrest for driving under the influence; to provide for cancellation of
10 restrictions upon successful completion of complying with an ignition interlock device
11 limited driving permit or other circumstances; to provide for conditions of maintaining
12 ignition interlock devices and use of such devices; to revise and correct cross-references; to
13 provide for an effective date; to provide for related matters; to repeal conflicting laws; and
14 for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 PART I
17 SECTION 1-1.

18 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
19 is amended in Code Section 40-5-64, relating to limited driving permits for certain offenders,
20 by revising subsections (a), (c) through (e), and (g) as follows:

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

22 (1) Notwithstanding any contrary provision of this Code section or Code Section
23 40-5-57, or 40-5-63, or any other Code section of this chapter 40-5-75, 40-5-121, or
24 42-8-111, any person who has not been previously convicted or adjudicated delinquent
25 for a violation of Code Section 40-6-391 within five years, as measured from the dates

26 of previous arrests for which convictions were obtained or pleas of nolo contendere were
 27 accepted to the date of the current arrest ~~for which a conviction is obtained or a plea of~~
 28 ~~nolo contendere is accepted~~, may apply for a limited driving permit when ~~and only when~~
 29 that person's driver's license had a suspension imposed prior to July 1, 2015, under Code
 30 Section 40-5-22 or that person's driver's license has been suspended in accordance with
 31 subsection (d) of Code Section 40-5-57, paragraph (1) of subsection (a) of Code Section
 32 40-5-63, paragraph (1) of subsection (a) of Code Section 40-5-67.2, or subsection (a) of
 33 Code Section 40-5-57.1, when the person is 18 years of age or older and his or her license
 34 was suspended for exceeding the speed limit by 24 miles per hour or more but less than
 35 34 miles per hour, and the sentencing judge, in his or her discretion, decides it is
 36 reasonable to issue a limited driving permit.

37 ~~(2) Any person whose driver's license has been suspended as a result of a second~~
 38 ~~conviction for violating Code Section 40-6-391 within five years, as measured from the~~
 39 ~~dates of previous arrests for which convictions were obtained to the date of the current~~
 40 ~~arrest for which a conviction is obtained, may apply for an ignition interlock limited~~
 41 ~~driving permit after serving at least 120 days of the suspension required for such~~
 42 ~~conviction and providing either a certificate of eligibility from a drug court program in~~
 43 ~~the court in which he or she was convicted of the offense for which such suspension was~~
 44 ~~imposed or by submitting proof of enrollment in clinical treatment as provided in Code~~
 45 ~~Section 40-5-63.1. No person who has been granted an exemption from the ignition~~
 46 ~~interlock device requirements of Article 7 of Chapter 8 of Title 42 due to undue financial~~
 47 ~~hardship under Code Section 42-8-111 shall be eligible for a limited driving permit, an~~
 48 ~~ignition interlock device limited driving permit, or any other driving privilege for a period~~
 49 ~~of one year.~~

50 (3) To the extent a person is subject to more than one suspension for which a limited
 51 driving permit may be issued, the department shall not issue such permit unless the
 52 suspensions are for a conviction for driving under the influence in violation of Code
 53 Section 40-6-391 imposed pursuant to Code Section 40-5-63 and an administrative
 54 suspension imposed pursuant to paragraph (1) of subsection (a) of Code Section
 55 40-5-67.2 arising from the same incident."

56 "(c) **Standards for approval.** The department shall issue a limited driving permit if the
 57 application indicates that refusal to issue such permit would cause extreme hardship to the
 58 applicant. Except as otherwise provided by subsection (c.1) of this Code section, for the
 59 purposes of this Code section, the term 'extreme hardship' means that the applicant cannot
 60 reasonably obtain other transportation, and therefore the applicant would be prohibited
 61 from:

- 62 (1) Going to his or her place of employment or performing the normal duties of his or
 63 her occupation;
- 64 (2) Receiving scheduled medical care or obtaining prescription drugs;
- 65 (3) Attending a college or school at which he or she is regularly enrolled as a student;
- 66 (4) Attending regularly scheduled sessions or meetings of support organizations for
 67 persons who have addiction or abuse problems related to alcohol or other drugs, which
 68 organizations are recognized by the commissioner;
- 69 (5) Attending under court order any driver education or improvement school or alcohol
 70 or drug program or course approved by the court which entered the judgment of
 71 conviction resulting in suspension of his or her driver's license or by the commissioner;
- 72 (6) Attending court, reporting to a community supervision, juvenile probation, or Article
 73 6 of Chapter 8 of Title 42 probation office or reporting to a community supervision
 74 officer, county or Department of Juvenile Justice juvenile probation officer, or probation
 75 officer serving pursuant to Article 6 of Chapter 8 of Title 42 or performing community
 76 service; ~~or~~
- 77 (7) Transporting an immediate family member who does not hold a valid driver's license
 78 for work, to obtain medical care; or prescriptions, or to school; or
- 79 (8) Attending any program, event, treatment, or activity ordered by a judge presiding in
 80 an accountability court, as such term is defined in Code Section 15-1-18.

81 (c.1) **Exception to standards for approval.**

82 ~~(1)~~ The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code
 83 section shall not apply and shall not be considered for purposes of granting a limited
 84 driving permit or imposing conditions thereon under this Code section in the case of a
 85 driver's license suspension imposed prior to July 1, 2015, under paragraph (2) of
 86 subsection (a.1) of Code Section 40-5-22.

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

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

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

92 ~~(C) Attending regularly scheduled sessions or meetings of treatment support~~
 93 ~~organizations for persons who have addiction or abuse problems related to alcohol or~~
 94 ~~other drugs, which organizations are recognized by the commissioner; and~~

95 ~~(D) Going for monthly monitoring visits with the permit holder's ignition interlock~~
 96 ~~device service provider.~~

97 (d) **Conditions attached.** A limited driving permit shall be endorsed with such conditions
 98 as the commissioner deems necessary to ensure that such permit will be used by the

99 permittee only to avoid the conditions of extreme hardship. Such conditions may include
100 the following restrictions:

101 (1) Specific places between which the permittee may be allowed to operate a motor
102 vehicle;

103 (2) Routes to be followed by the permittee;

104 (3) Times of travel;

105 (4) The specific vehicles which the permittee may operate; and

106 ~~(4.1) The installation and use of an ignition interlock device in accordance with Article~~
107 ~~7 of Chapter 8 of Title 42, which shall be required for any permittee who is applying for~~
108 ~~an ignition interlock limited driving permit; and~~

109 (5) Such other restrictions as the department may require.

110 (e) **Fees, duration, renewal, and replacement of limited driving permit.**

111 ~~(†)~~ A limited driving permit issued pursuant to this Code section shall be \$25.00 and
112 shall become invalid upon the driver's eighteenth birthday in the case of a suspension
113 under paragraph (2) of subsection (a.1) of Code Section 40-5-22, upon the expiration of
114 one year following issuance thereof in the case of a suspension for an offense listed in
115 Code Section 40-5-54 or a suspension under Code Section 40-5-57 or a suspension in
116 accordance with paragraph (1) of subsection (a) of Code Section 40-5-63 for a violation
117 of Code Section 40-6-391, or upon the expiration of 30 days in the case of an
118 administrative license suspension in accordance with paragraph (1) of subsection (a) of
119 Code Section 40-5-67.2; except that such limited driving permit shall expire upon any
120 earlier reinstatement of the driver's license. A person may apply to the department for
121 a limited driving permit immediately following such conviction if he or she has
122 surrendered his or her driver's license to the court in which the conviction was adjudged
123 or to the department if the department has processed the ~~citation~~ administrative driver's
124 license suspension form or conviction. Upon the applicant's execution of an affidavit
125 attesting to such facts and to the fact that the court had not imposed a suspension or
126 revocation of his or her driver's license or driving privileges inconsistent with the driving
127 privileges to be conferred by the limited driving permit applied for, the department may
128 issue such person a limited driving permit. ~~Permits~~ Limited driving permits issued
129 pursuant to this Code section are renewable upon payment of a renewal fee of \$5.00.
130 ~~Permits~~ Such permits may be renewed ~~until one time after~~ the person ~~has his or her~~
131 ~~license reinstated~~ is eligible to reinstate his or her driver's license for the violation that
132 was the basis of the issuance of the permit. Upon payment of a fee in an amount the same
133 as that provided by Code Section 40-5-25 for issuance of a Class C driver's license, a
134 person may be issued a replacement for a lost or destroyed limited driving permit issued
135 to him or her.

136 ~~(2) An ignition interlock device limited driving permit shall be valid for a period of one~~
 137 ~~year. Upon successful completion of one year of monitoring of such ignition interlock~~
 138 ~~device, the restriction for maintaining and using such ignition interlock device shall be~~
 139 ~~removed, and the permit may be renewed for additional periods of two months as~~
 140 ~~provided in paragraph (1) of this subsection."~~

141 **"(g) Revocation of limited driving permit.**

142 (1)(A) Any limited driving permittee who is convicted of violating any state law ~~or local~~
 143 ~~ordinance~~ relating to the movement of vehicles or any limited driving permittee who is
 144 convicted of violating the conditions endorsed on his or her limited driving permit shall
 145 have ~~his or her~~ such permit revoked by the department. Any court in which such
 146 conviction is had shall require ~~the~~ such permittee to surrender ~~the~~ his or her limited
 147 driving permit to the court, and the court shall forward it to the department within ten
 148 days after the conviction, with a copy of the conviction.

149 ~~(B) Upon receipt of notice from the Department of Behavioral Health and~~
 150 ~~Developmental Disabilities that a permittee who is required to complete a substance~~
 151 ~~abuse treatment program pursuant to Code Section 40-5-63.1 enrolled in but failed to~~
 152 ~~attend or complete such program as scheduled, the department shall revoke such~~
 153 ~~person's limited driving permit and, by regular mail to his or her last known address,~~
 154 ~~notify such person of such revocation. Such notice of revocation shall inform the~~
 155 ~~person of the grounds for and effective date of the revocation and of the right to review.~~
 156 ~~The notice of revocation shall be deemed received three days after mailing.~~

157 ~~(C) Upon receipt of notice from a provider center for ignition interlock devices that an~~
 158 ~~ignition interlock device which a permittee is required to use has been tampered with~~
 159 ~~or the permittee has failed to report for monitoring of such device as required by law,~~
 160 ~~the department shall revoke such permittee's limited driving permit and, by regular mail~~
 161 ~~to his or her last known address, notify such person of such revocation. Such notice of~~
 162 ~~revocation shall inform the person of the grounds for and effective date of the~~
 163 ~~revocation and of the right to review. The notice of revocation shall be deemed~~
 164 ~~received three days after mailing.~~

165 (2) Any person whose limited driving permit has been revoked shall not be eligible to
 166 apply for a driver's license until six months from the date such permit was surrendered
 167 to the department. In any case of revocation of a limited driving permit pursuant to
 168 ~~subparagraph (A) of~~ paragraph (1) of this subsection, the department may impose an
 169 additional period of suspension for the conviction upon which revocation of the permit
 170 was based."

SECTION 1-2.

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Said chapter is further amended by adding a new Code section to read as follows:

"40-5-64.1.

(a) To whom issued.

(1) Any person who has not been previously convicted or adjudicated delinquent for a violation of Code Section 40-6-391 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, and whose driver's license is subject to an administrative driver's license suspension pursuant to subsection (c) of Code Section 40-5-67.1, may apply for an ignition interlock device limited driving permit with the department.

(2) Any person who has not been previously convicted or adjudicated delinquent for a violation of Code Section 40-6-391 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, and whose driver's license is subject to an administrative driver's license suspension pursuant to subsection (d) of Code Section 40-5-67.1, may apply for an ignition interlock device limited driving permit with the department.

(3) Any person whose driver's license has been suspended as a result of a second conviction for violating Code Section 40-6-391 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, may apply for an ignition interlock device limited driving permit after serving at least 120 days of the suspension required for such conviction.

(4) The department shall not issue an ignition interlock device limited driving permit to any person:

(A) Under 21 years of age;

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

(C) Who currently holds a license to drive a commercial motor vehicle;

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

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

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

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

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

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

212 (i) Within 30 days from the date on which notice was given pursuant to
 213 subsection (g) of Code Section 40-5-67.1;

214 (ii) Upon surrender of the applicant's driver's license; and

215 (iii) Upon the applicant's execution of an affidavit attesting that the hearing afforded
 216 under subsection (g) of Code Section 40-5-67.1 has been waived; or

217 (B) For an applicant eligible for an ignition interlock device limited driving permit
 218 pursuant to paragraph (3) of subsection (a) of this Code section, upon the submission
 219 of a certificate of eligibility from an accountability court, as such term is defined in
 220 Code Section 15-1-18, or the submission of proof of enrollment in a substance abuse
 221 treatment program as provided in Code Section 40-5-63.1 and the surrender of his or
 222 her driver's license to such court or to the department if the department has processed
 223 the administrative driver's license suspension form or conviction.

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

228 **(d) Duration, renewal fees, and replacement of ignition interlock device limited**
 229 **driving permit.**

230 (1) An ignition interlock device limited driving permit issued pursuant to this Code
 231 section shall become invalid upon the expiration of one year following issuance thereof
 232 or upon any earlier reinstatement of the permittee's driver's license.

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

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

242 **(e) Conditions upon use of ignition interlock device limited driving permit.** An
 243 ignition interlock device limited driving permit shall be restricted to allow the holder
 244 thereof to drive solely for the following purposes:

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

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

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

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

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

255 (F) Attending court, reporting to a community supervision, juvenile probation, or
 256 Article 6 of Chapter 8 of Title 42 probation office, reporting to a community
 257 supervision officer, county or Department of Juvenile Justice juvenile probation officer,
 258 or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42, or
 259 performing community service;

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

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

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

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

267 (1)(A) The department shall revoke the ignition interlock device limited driving permit
 268 of any permittee issued such permit pursuant to paragraph (1) or (2) of subsection (a)
 269 of this Code section who is convicted of violating any state law relating to the
 270 movement of vehicles or convicted of driving a motor vehicle in violation of an ignition
 271 interlock device limited driving permit. Any court in which such conviction is had shall
 272 require such permittee to surrender the ignition interlock device limited driving permit
 273 to the court, and the court shall forward it to the department within ten days after the
 274 conviction, with a copy of the conviction.

275 (B) The department shall revoke the ignition interlock device limited driving permit
 276 of any permittee who is required to complete a substance abuse treatment program
 277 pursuant to Code Section 40-5-63.1 and enrolled but failed to attend or complete such
 278 program as scheduled upon receipt of notice of such information from the Department

279 of Behavioral Health and Developmental Disabilities. The department shall notify the
280 permittee of such revocation by regular mail to his or her last known address. Such
281 notice of revocation shall inform the permittee of the grounds for and effective date of
282 the revocation and of the right to review. The notice of revocation shall be deemed
283 received three days after mailing.

284 (C) The department shall revoke the ignition interlock device limited driving permit
285 of a permittee upon receipt of notice from an ignition interlock device service provider
286 that an ignition interlock device has been tampered with, a permittee has failed to report
287 for monitoring as required by law, or an ignition interlock device has been removed
288 from any motor vehicle to be driven by a permittee prior to successful completion of
289 the required term of monitoring under Code Section 42-8-110.1.

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

294 (3) Any person whose ignition interlock device limited driving permit has been revoked
295 for the first time shall not be eligible to apply for a driver's license until six months from
296 the date such permit was surrendered to the department. Any person whose ignition
297 interlock device limited driving permit has previously been revoked shall not be eligible
298 to apply for a driver's license until two years from the date such permit was surrendered
299 to the department.

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

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

308 (i) **Penalty.** Any person issued an ignition interlock device limited driving permit who
309 operates a motor vehicle in violation of the terms of such permit, as described in Code
310 Section 42-8-110.1 or subsection (e) or (f) of this Code section, commits the offense of
311 violation of an ignition interlock device limited driving permit. Any person who commits
312 the offense of violation of an ignition interlock device limited driving permit shall be guilty
313 of a misdemeanor.

314 40-5-64.2.

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

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

321 **SECTION 1-3.**

322 Said chapter is further amended by revising subsection (b) of Code Section 40-5-67, relating
 323 to seizure and disposition of driver's license of persons charged with driving under the
 324 influence, as follows:

325 "(b)(1) At the time the law enforcement officer takes the driver's license, the officer shall
 326 issue a temporary driving permit to the person as follows:

327 (1)(A) If the driver refuses to submit to a test or tests to determine the presence of
 328 alcohol or drugs as required in Code Section 40-5-55, the officer shall issue a ~~30~~ 45 day
 329 temporary driving permit;

330 (2)(B) If the driver's license is required to be suspended under Code Section 40-5-67.1,
 331 the officer shall issue a ~~30~~ 45 day temporary driving permit; or

332 (3)(C) If the test or tests administered pursuant to Code Section 40-5-55 indicate an
 333 alcohol concentration in violation of Code Section 40-6-391 but less than the level for
 334 an administrative suspension of the license under subsection (c) of Code Section
 335 40-5-67.1, the officer shall issue a 180 day temporary driving permit.

336 (2) A This temporary driving permit issued under this subsection shall be valid for the
 337 stated period or until the person's driving privilege is suspended or revoked under any
 338 provision of this title. The department, at its sole discretion, may delay the expiration date
 339 of ~~the~~ such temporary driving permit, but in no event shall this delay extend beyond the
 340 date when such person's driving privilege is suspended or revoked under any provision
 341 of this title. The department shall by rules and regulations establish the conditions under
 342 which the expiration of ~~the~~ a temporary driving permit may be delayed."

343 **SECTION 1-4.**

344 Said chapter is further amended in Code Section 40-5-67.1, relating to chemical tests,
 345 implied consent notices, rights of motorists, test results, refusal to submit, suspensions and
 346 denials, and right to a hearing and review, by revising paragraph (1) of subsection (f) and
 347 paragraphs (1), (3), and (4) of subsection (g) as follows:

348 "(f)(1) The law enforcement officer, acting on behalf of the department, shall personally

349 serve the notice of intention to suspend or disqualify the license of the arrested person or
 350 other person refusing such test on such person at the time of the person's refusal to submit
 351 to a test or at the time at which such a test indicates that suspension or disqualification
 352 is required under this Code section. The law enforcement officer shall take possession
 353 of any driver's license or permit held by any person whose license is subject to suspension
 354 pursuant to subsection (c) or (d) of this Code section, if any, and shall issue a ~~30~~ 45 day
 355 temporary driving permit. The officer shall forward the person's driver's license to the
 356 department along with the notice of intent to suspend or disqualify and the report required
 357 by subsection (c) or (d) of this Code section within ten ~~calendar~~ days after the date of the
 358 arrest of such person. This paragraph shall not apply to any person issued a 180 day
 359 temporary driving permit pursuant to subsection (b) of Code Section 40-5-67. The failure
 360 of the officer to transmit the report required by this Code section within ten ~~calendar~~ days
 361 shall not prevent the department from accepting such report and utilizing it in the
 362 suspension of a driver's license as provided in this Code section."

363 "(g)(1) A person whose driver's license is suspended or who is disqualified from
 364 ~~operating~~ driving a commercial motor vehicle pursuant to this Code section shall remit
 365 to the department a \$150.00 filing fee together with a request, in writing, for a hearing
 366 within ~~ten-business~~ 30 days from the date of personal notice or receipt of notice sent by
 367 certified mail or statutory overnight delivery, return receipt requested, or the right to said
 368 hearing shall be deemed waived. The issuance of an ignition interlock device limited
 369 driving permit to a person eligible for such permit under paragraph (1) or (2) of
 370 subsection (a) of Code Section 40-5-64.1 shall constitute a waiver of the right to a hearing
 371 under this subsection. Within 30 days after receiving a written request for a hearing, the
 372 department shall hold a hearing as is provided in Chapter 13 of Title 50, the 'Georgia
 373 Administrative Procedure Act.' The hearing shall be recorded."

374 "(3) The hearing officer shall, within five calendar days after such hearing, forward a
 375 decision to the department to rescind or sustain the driver's license suspension or
 376 disqualification. If no hearing is requested within the ~~ten-business~~ 30 days specified
 377 ~~above~~ in paragraph (1) of this subsection, and the failure to request such hearing is due
 378 in whole or in part to the reasonably avoidable fault of the person, the right to a hearing
 379 shall have been waived. The issuance of an ignition interlock device limited driving
 380 permit to a person eligible for such permit under paragraph (1) or (2) of subsection (a) of
 381 Code Section 40-5-64.1 shall constitute a waiver of the right to a hearing under this
 382 subsection. The request for a hearing shall not stay the suspension of the driver's license;
 383 provided, however, that if the hearing is timely requested and is not held before the
 384 expiration of the temporary driving permit and the delay is not due in whole or in part to
 385 the reasonably avoidable fault of the person, the suspension shall be stayed until such

386 time as the hearing is held and the hearing officer's decision is made.

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

396 (B)(i) If any person who has obtained an ignition interlock device limited driving
 397 permit under paragraph (1) of subsection (a) of Code Section 40-5-64.1 is acquitted
 398 of the violation of Code Section 40-6-391 upon which the underlying driver's license
 399 suspension was based or if such charge is initially disposed of other than by a
 400 conviction or plea of nolo contendere, then such permit shall be revoked and the
 401 driver's license shall be reinstated without a fee. The department shall terminate the
 402 driver's license suspension of any such person and shall delete the suspension from
 403 the driver's license record.

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

410 **SECTION 1-5.**

411 Article 7 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to
 412 ignition interlock devices as condition of probation, is amended in Code Section 42-8-110,
 413 relating to definitions, by revising subsection (b) as follows:

414 "(b) As used in this article, the term 'provider center' means a facility established for the
 415 purpose of providing and installing ignition interlock devices when their use is required by
 416 or as a result of an order of a court or as required in order to maintain an ignition interlock
 417 device limited driving permit in accordance with Code Section 40-5-64.1."

418 **SECTION 1-6.**

419 Said article is further amended by adding a new Code section to read as follows:

420 "42-8-110.1.

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

427 (2) Any person issued an ignition interlock device limited driving permit under
 428 paragraph (2) of subsection (a) of Code Section 40-5-64.1 shall, upon issuance thereof
 429 and within no less than ten days of such issuance, have installed and shall maintain in any
 430 motor vehicle to be driven by such person for a period of not less than 12 months a
 431 functioning, certified ignition interlock device, and such person shall not drive any motor
 432 vehicle whatsoever that is not so equipped during such period.

433 (b) The restriction for maintaining and using an ignition interlock device shall be cancelled
 434 by the department upon payment to the department of a \$100.00 fee or \$90.00 when such
 435 fee is processed by mail and upon successful completion of the term of monitoring on an
 436 ignition interlock device required under subsection (a) of this Code section.

437 (c) Any ignition interlock device limited driving permit issued shall bear a restriction
 438 reflecting that the person shall only operate a motor vehicle equipped with a functioning,
 439 certified ignition interlock device.

440 (d) The fee for issuance of an ignition interlock device limited driving permit shall be as
 441 prescribed in Code Section 40-5-64.1."

442 **SECTION 1-7.**

443 Said article is further amended in Code Section 42-8-111, relating to court issuance of
 444 certificate for installation of ignition interlock devices, exceptions, and fees, by revising
 445 subsections (a), (d), and (e) as follows:

446 "(a) Upon a second or subsequent conviction of a resident of this state for violating Code
 447 Section 40-6-391 within five years, as measured from the dates of previous arrests for
 448 which convictions were obtained to the date of the current arrest for which a conviction is
 449 obtained, for which such person is granted probation, the court shall issue a certificate of
 450 eligibility for an ignition interlock device limited driving permit or probationary license,
 451 subject to the following conditions:

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

455 (2) Such person shall have installed and shall maintain in any other motor vehicle to be

456 driven by such person for a period of not less than one year a functioning, certified
 457 ignition interlock device, and such person shall not drive any motor vehicle whatsoever
 458 that is not so equipped during such period. Upon successful completion of one year of
 459 monitoring of such ignition interlock device, the restriction for maintaining and using
 460 such ignition interlock device shall be removed, and the permit may be renewed for
 461 additional periods of two months as provided in ~~paragraph (1) of subsection (e) (d)~~ of
 462 Code Section ~~40-5-64~~ 40-5-64.1; and

463 (3) Such person shall participate in a substance abuse treatment program as defined in
 464 paragraph (16.2) of Code Section 40-5-1, ~~or a drug court division program in compliance~~
 465 ~~with Code Section 15-1-15, a mental health court division in compliance with Code~~
 466 ~~Section 15-1-16, or a veterans court division in compliance with Code Section 15-1-17~~
 467 for a period of not less than 120 days.

468 For the purposes of this subsection, a plea of nolo contendere shall constitute a conviction;
 469 and a conviction of any offense under the ~~law of another~~ laws of any other state or territory
 470 ~~substantially conforming to any offense under~~ of the United States which, if committed in
 471 this state, would be a violation of Code Section 40-6-391 shall be deemed a conviction of
 472 violating ~~said~~ such Code section."

473 "(d) Except as provided in Code ~~Section~~ Sections 42-8-110.1 and 42-8-112, no provision
 474 of this article shall be deemed to reduce any period of driver's license suspension or
 475 revocation otherwise imposed by law.

476 (e) The fee for issuance of any driver's license indicating that use of an ignition interlock
 477 device is required shall be as prescribed for a regular driver's license in Code Section
 478 40-5-25, and the fee for issuance of any limited driving permit indicating that use of an
 479 ignition interlock device is required shall be as prescribed ~~for a limited driving permit in~~
 480 Code Section ~~40-5-64~~ 40-5-64.1; except that, for habitual violators required to use an
 481 ignition interlock device as a condition of a probationary license, the fee shall be as
 482 prescribed for a probationary license in Code Section 40-5-58."

483 **SECTION 1-8.**

484 Said article is further amended in Code Section 42-8-112, relating to timing for issuance of
 485 ignition interlock device limited driving permit and documentation and reporting
 486 requirements, by revising paragraph (1) of subsection (d) as follows:

487 "(d)(1) ~~If a person required to report to an~~ An ignition interlock provider as shall notify
 488 the Department of Driver Services if a person required by subsection (c) of this Code
 489 section fails to report to the provider as required ~~or~~, receives an unsatisfactory report from
 490 the provider, or requests the provider remove the ignition interlock device at any time
 491 during the one-year period, ignition interlock device limited driving permit period, and

492 the Department of Driver Services shall revoke such person's ~~ignition interlock device~~
 493 ~~limited driving permit~~ immediately upon receipt of such notification ~~from the provider~~
 494 ~~of the failure to report or failure to receive a satisfactory report.~~ Except as provided in
 495 paragraph (2) of this subsection, within 30 days after such revocation, the person may
 496 make a written request for a hearing and remit to the Department of Driver Services a
 497 payment of \$250.00 for the cost of the hearing. Within 30 days after receiving a written
 498 request for a hearing and a payment of \$250.00, the Department of Driver Services shall
 499 hold a hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative
 500 Procedure Act.' The hearing shall be recorded."

501 **PART II**

502 **SECTION 2-1.**

503 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
 504 is amended in Code Section 40-5-22, relating to minimum ages for licenses and limited
 505 driving permits, by revising subsection (d) as follows:

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

512 **SECTION 2-2.**

513 Said chapter is further amended in Code Section 40-5-39, relating to endorsements on
 514 licenses of limousine chauffeurs, by revising paragraph (2) of subsection (b) as follows:

515 "(2) Possess a valid Georgia driver's license which is not limited as defined in Code
 516 Section 40-5-64 or 40-5-64.1;"

517 **SECTION 2-3.**

518 Said chapter is further amended in Code Section 40-5-63, relating to periods of suspension
 519 and conditions for return of a license, by revising paragraph (2) of subsection (a) as follows:

520 "(2) Upon the second conviction of any such offense within five years, as measured from
 521 the dates of previous arrests for which convictions were obtained to the date of the
 522 current arrest for which a conviction is obtained, the period of suspension shall be three
 523 years. At the end of 120 days, the person may apply to the department for reinstatement
 524 of his or her driver's license; except that if such license was suspended as a result of a

525 second conviction of a violation of Code Section 40-6-391 within five years, the person
 526 shall not be eligible to apply for license reinstatement until the end of 18 months. Such
 527 license shall be reinstated if such person submits proof of completion of a DUI Alcohol
 528 or Drug Use Risk Reduction Program and pays a restoration fee of \$210.00 or \$200.00
 529 when such reinstatement is processed by mail, provided that, if such license was
 530 suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such
 531 license shall be reinstated if such person submits proof of completion of either a
 532 defensive driving course approved by the commissioner pursuant to Code Section
 533 40-5-83 or a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed
 534 restoration fee. A driver's license suspended as a result of a conviction of a violation of
 535 Code Section 40-6-391 shall not become valid and shall remain suspended until such
 536 person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction
 537 Program, provides proof of installation and maintenance of an ignition interlock device
 538 for a period of one year coinciding with the issuance of an ignition interlock device
 539 limited driving permit as provided in Code Section ~~40-5-64~~ 40-5-64.1 unless waived due
 540 to financial hardship, and pays the prescribed restoration fee. For purposes of this
 541 paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere
 542 to an offense listed in Code Section 40-5-54 within such five-year period of time shall
 543 constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere to
 544 a charge of violating Code Section 40-6-391 and all prior accepted pleas of nolo
 545 contendere within five years, as measured from the dates of previous arrests for which
 546 convictions were obtained or pleas of nolo contendere were accepted to the date of the
 547 current arrest for which a plea of nolo contendere is accepted, shall be considered and
 548 counted as convictions; or"

549 **SECTION 2-4.**

550 Said chapter is further amended in Code Section 40-5-66, relating to appeals from decisions
 551 of the department, by revising subsection (a) as follows:

552 "(a) Except as provided in subsection (h) of Code Section 40-5-67.1, ~~and~~ subsection (h)
 553 of Code Section 40-5-64, and subsection (g) of Code Section 40-5-64.1, any decision
 554 rendered by the department shall be final unless the aggrieved person shall desire an
 555 appeal. In such case, such person shall have the right to enter an appeal in the superior
 556 court of the county of his residence or in the Superior Court of Fulton County. Such appeal
 557 shall name the commissioner as defendant and must be filed within 30 days from the date
 558 the department enters its decision or order. The person filing the appeal shall not be
 559 required to post any bond nor to pay the costs in advance."

560 **SECTION 2-5.**

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

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

570 **SECTION 2-6.**

571 Said chapter is further amended in Code Section 40-5-76, relating to judicial restoration of
572 a driver's license or issuance of a limited driving permit, by revising subsection (a) as
573 follows:

574 "(a) A judge presiding in a ~~drug court division, mental health court division, or veterans~~
575 ~~court division~~ an accountability court, as such term is defined in Code Section 15-1-18,
576 may order the department to ~~restore~~ reinstate a defendant's driver's license that has been or
577 should be suspended pursuant to Code Section 40-5-75, suspend such license, issue a
578 defendant an ignition interlock device limited driving permit in accordance with Code
579 Section 40-5-64.1, or issue a defendant a limited driving permit in accordance with the
580 provisions set forth in subsections (c) and (d) of Code Section 40-5-64 or with whatever
581 conditions the court determines to be appropriate under the circumstances as a reward or
582 sanction to the defendant's behavior in such court division. The court shall determine what
583 fees, if any, shall be paid to the department for such reward or sanction, provided that such
584 fee shall not be greater than the fee normally imposed for such services."

585 **PART III**

586 **SECTION 3-1.**

587 This Act shall become effective on July 1, 2017.

588 **SECTION 3-2.**

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