



2008 Legislative Update

DDS Requested Changes: HB-1111



- Changes proposed by DDS were consolidated into a single bill: House Bill 1111
- All changes deal with “cleaning up” existing verbiage or enacting provisions required by Federal Motor Carrier Safety Administration (FMCSA) for compliance with federal laws relating to commercial driver’s licenses
- Effective January 1, 2009

HB-1111 (cont'd)



- Section 1-amends O.C.G.A. 40-5-2
- Allows DDS to release driver's license photographs and signatures to voter registrars and the Secretary of State's Office when needed for voter registration identity verification

HB-1111 (cont'd)



- Section 2-amends O.C.G.A. 40-5-22
- Deletes reference to O.C.G.A. 20-2-701 from TAADRA license suspension language relating to school absences, withdrawals and misconduct
- Clarifies that proof of re-enrollment in school only resolves TAADRA license suspensions based upon withdrawal from school

HB-1111 (cont'd)



- Section 3-amends O.C.G.A. 40-5-25
- Allows the DDS to charge fees up to \$10.00 for anyone failing written tests or \$50.00 for CDL applicants who fail to appear for road test appointments
- Requested as part of DDS' budget submission for FY 2009 (beginning July 1, 2008)

HB-1111 (cont'd)



- Section 4-amends O.C.G.A. 40-5-54.1
- Requires mailing of notice of license suspension for child support non-payment via certified mail (added following Court of Appeals' decision in *State v. Fuller*, 289 Ga. App. 283 (decided January 24, 2008))
- Deletes reference to limited driving permit for child support suspension (otherwise deleted from statutes in 2003)

HB-1111 (cont'd)



- Section 5-amends O.C.G.A. 40-5-56
- Requires mailing of notice of license suspension for failure to appear on traffic citation via certified mail (added following Court of Appeals' decision in *State v. Fuller*, 289 Ga. App. 283 (decided January 24, 2008))

HB-1111 (cont'd)



- Section 6-amends O.C.G.A. 40-5-60
- Clarifies that all license suspensions and revocations resulting from convictions occur by operation of law (added following Court of Appeals' decision in *State v. Fuller*, 289 Ga. App. 283 (decided January 24, 2008))
 - “Cheat Sheet” for quick reference to all license suspensions has been included with printed materials

HB-1111 (cont'd)



- Section 7-amends O.C.G.A. 40-5-64
- Allows DDS to renew limited driving permits (LDP) and for replacement of lost or stolen LDP's

HB-1111 (cont'd)



- Section 8-amends O.C.G.A. 40-5-103
- Allows DDS to renew identification cards

HB-1111 (cont'd)



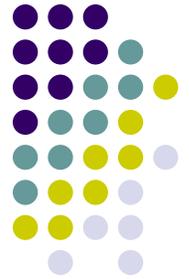
- Section 9-amends O.C.G.A. 40-5-147
- Requires DDS to obtain out-of-state records for CDL applicants and impose any federal disqualifications not imposed by prior jurisdiction(s)
- Required for FMCSA compliance

HB-1111 (cont'd)



- Section 10-amends O.C.G.A. 40-5-149
- Requires use of full legal name on CDL applications

HB-1111 (cont'd)



- Section 11-amends O.C.G.A. 40-5-150
- Prohibits use of social security number as license number on CDL
- Required by federal law

HB-1111 (cont'd)



- Section 12-amends O.C.G.A. 40-5-151
- Enhances potential civil penalties imposed by DDS for commercial driver violations
- Required for FMCSA compliance

HB-1111 (cont'd)



- Section 13-amends O.C.G.A. 40-5-159
- Enhances potential civil penalties imposed by DDS for commercial driver employer violations
- Required for FMCSA compliance

HB-1111 (cont'd)



- Section 14-amends O.C.G.A. 40-5-171
- Prohibits use of social security number as license number on identification cards for the disabled
- Required by federal law

HB-1111 (cont'd)



- Section 15-amends O.C.G.A. 40-8-27
- Allows for use of LED's in lieu of strobes on log trucks
- Added at request of Motor Carrier Compliance Division of Department of Public Safety

Red-light Camera Changes: HB-77



- Section 1: Amends O.C.G.A. 40-6-20(f)(3) to require red-light camera citations be issued by sworn law enforcement officers
- Section 1.1: Amends O.C.G.A. 40-6-20(f)(5) to require a second summons sent via certified mail if the vehicle owner fails to appear at the initially scheduled hearing on a red-light camera citation

HB-77 (cont'd)



- Section 2: Amends O.C.G.A. 40-6-20(f)(8) to prohibit the issuance of a civil citation if the owner of the vehicle was cited criminally
- Section 3: Amends O.C.G.A. 40-14-20 to add a definition of “governing authority”

HB-77 (cont'd)



- Section 4: Amends O.C.G.A. 40-14-21 to require “governing authorities” to obtain a red-light camera permit from GDOT
 - Must hold public hearing
 - DOT permit application must include proof of safety need for red-light camera at intersection
 - Application must include traffic engineering study

HB-77 (cont'd)



- Section 5: Amends O.C.G.A. 40-14-22 to prohibit adjustments to red and yellow light timing for red-light cameras
- Section 6: Amends O.C.G.A. 40-14-23 to require posting of signs warning of red-light cameras at intersections

HB-77 (cont'd)



- Section 7: Amends O.C.G.A. 40-14-24 to require governing authorities to submit annual reports to DOT
- Failure to file report requires forwarding of all fines collected to general fund
- Annual reports must be forwarded by DOT to General Assembly

HB-77 (cont'd)



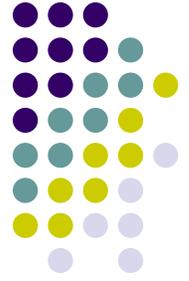
- Section 8: Amends O.C.G.A. 40-14-25 to establish red-light camera complaint procedure through DOT
- Creates rebuttable presumption of misconduct if operated without a permit or otherwise in violation of camera provisions
- Creates appeal procedure for governing authority if DOT denies permit application
- Effective December 31, 2008

Significant Changes to DUI Penalties: HB-336



- Section 1: Amends O.C.G.A. 40-5-63.1
 - Requires clinical evaluation and treatment (if recommended) for license reinstatement for suspensions resulting from second or subsequent DUI in ten (10) years (currently applies to 2nd+ in 5 years)

HB-336 (cont'd)



- Section 2: Amends DUI penalties in O.C.G.A. 40-6-391
 - Fourth or subsequent DUI conviction becomes a felony
 - Clinical evaluation and treatment (if recommended) required for all DUI convictions (judge can waive on 1st offense)

HB-336 (cont'd)



- Section 3: Amends O.C.G.A. 40-6-391(d)
 - Allows for adjudication of “high and aggravated” misdemeanors in municipal courts
- Section 4: Amends O.C.G.A. 40-6-391(g)(2)
 - Grants discretion to suspend portion of fine for completion of substance abuse treatment following clinical evaluation

HB-336 (cont'd)



- All provisions effective July 1, 2008 and apply to convictions entered on or after that date
- Potential for confusion about the verbiage in O.C.G.A. 40-6-391(c)(4), which makes the window for determining criminal penalties using the incident dates after July 1, 2008, and the language in O.C.G.A. 40-6-391(c)(7) that says that the changes only apply to convictions entered after July 1, 2008.

HB-336 (cont'd)



- The only license suspension impact is the expansion of the five-year window to ten years for requiring a clinical evaluation for license reinstatement. O.C.G.A. 40-5-63.1.
- DDS has updated its programming to determine whether a conviction falls under the pre-07/01/08 rule or the post 07/01/08 rule.

HB-336 (cont'd)



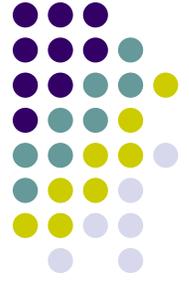
- DDS has also started accepting convictions reported under O.C.G.A. 40-6-391(c)(4) whenever a defendant is convicted of a felony DUI.

House Bill 969



- Expands exemption from requirement of obtaining a driver's license for students currently enrolled in school and those enrolled during the immediately preceding semester
- Expands definition of "approved driver education course" to include home schooling
- Effective July 1, 2008

House Bill 978



- Allows for towing of vehicle when driver cited for driving without a license in violation of O.C.G.A. 40-5-20
- Extends sunset of fees collected for driver's education programs under Joshua's Law

VETOED

House Bill 1027



- Allowed for creation of on-line driver improvement programs

VETOED

HB-1235



- Amends O.C.G.A. 40-6-10(a)(8)(B) to provide that for political subdivision to be liable for impounding and/or towing fees if a law enforcement officer wrongfully impounds a vehicle subject to a fleet insurance policy
- Effective July 1, 2008

Changes to Open Container Law: SB-55



- Section 1: Amends O.C.G.A. 3-6-4 to allow restaurant patrons to remove one (1) unsealed bottle of wine purchased on premises for consumption off premises so long as sealed in tamper evident manner with receipt

SB-55



- Must be in locked trunk or glove compartment (or behind “last upright seat” if no trunk)
- Section 2: Amends O.C.G.A. 40-6-253 to create exception to open container violations if compliant with O.C.G.A. 3-6-4
- Effective July 1, 2008

New Penalties for DWOL: SB-350



- Section 1: Amends O.C.G.A. 40-5-2 to require that the DDS collect convictions for violations of O.C.G.A. 40-5-20, including driving without a license (DWOL)



SB-350 (cont'd)

- Section 2: Amends O.C.G.A. 40-5-20 to change penalties for violations of this Code Section to match those imposed in O.C.G.A. 40-5-121 (minimum fine of \$500.00)
- The penalties for driving with an expired license do not change.
- The penalties for driving without license on person in violation of O.C.G.A. 40-5-29 will not change so long as the defendant appears in court with a driver's license that was valid on the date of the incident.

SB-350 (cont'd)



- Section 3: Amends O.C.G.A. 40-5-121 to make fourth or subsequent conviction for violating O.C.G.A. 40-5-20 or 40-5-121 a felony
- Everyone convicted of DWOL or driving on suspended license must be fingerprinted at the time of the conviction.



SB-350 (cont'd)

- The license suspension for violations of O.C.G.A. 40-5-121 was not expanded to apply to violations of O.C.G.A. 40-5-20, so the only time that a defendant would have a license suspension as a result of a conviction for a violation of O.C.G.A. 40-5-20 would be the 4th or subsequent conviction because it would be a felony with a vehicle. See O.C.G.A. 40-5-54 and 40-5-63.



SB-350 (cont'd)

- Unlike HB-336, this bill contained no verbiage limiting the calculation of the number of priors to offenses occurring after July 1, 2008.
- Questionable whether officers/prosecutors/courts will be able to find all priors since not recorded on MVR or GCIC.



SB-350 (cont'd)

- DDS has updated its programming to begin collecting convictions for violations of O.C.G.A. 40-5-20.
- Courts will report felony convictions for DWOL or suspended license as O.C.G.A. 40-5-20(f) and O.C.G.A. 40-5-121(f), respectively.

SB-350 (cont'd)



- Section 4: Amends O.C.G.A. 42-4-14 to require law enforcement to check nationality of anyone charged with a felony violation of O.C.G.A. 40-5-20
- Effective July 1, 2008

SB-488



- Section 1: Amends O.C.G.A. 40-5-20 to allow non-citizens to retain foreign licenses when obtaining a Georgia DL
- Requires DDS to make a notation about the retention of the foreign DL and make that information available to law enforcement

SB-488 (cont'd)



- Section 2: Amends O.C.G.A. 40-5-21 to allow lawfully present non-citizens who are not Georgia residents to drive using foreign licenses with international driving permits
- Section 3: Amends O.C.G.A. 40-5-21.1 to allow lawful presence to be proven using SAVE

SB-488 (cont'd)



- Section 4: Amends O.C.G.A. 40-5-21.2 to allow DDS to verify immigration documentation with USCIS via phone or email

SB-488 (cont'd)



- Section 5: Amends O.C.G.A. 40-5-100 to allow non-citizens to retain foreign ID cards when obtaining a Georgia ID card
- Requires DDS to make a notation about the retention of the foreign ID card and make that information available to law enforcement
- Effective January 1, 2009

SB-529



- Section 1: Amends O.C.G.A. 40-6-270 to expand duties relating to hit and run (a/k/a leaving the scene of an accident) to include obligation to attempt to contact law enforcement and/or EMS if anyone in the accident is unconscious, appears deceased, or is otherwise unable to communicate

SB-529 (cont'd)



- Section 2: Amends O.C.G.A. 40-6-393 to incorporate changes in O.C.G.A. 40-6-270 in vehicular homicide statute
- Section 3: Amends O.C.G.A. 40-6-393.1 to incorporate changes in O.C.G.A. 40-6-270 in feticide statute (also increases minimum penalty)

SB-529 (cont'd)



- Section 4: Amends O.C.G.A. 52-7-12.2 to incorporate changes in O.C.G.A. 40-6-270 in boating homicide statute
- Section 5: Amends O.C.G.A. 52-7-12.3 to incorporate changes in O.C.G.A. 40-6-270 in boating feticide statute
- Effective July 1, 2008

Questions?



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