



Probate Court Judges Seminar
Athens, Georgia
April 12, 2010



Introduction

- Topics for Discussion:
 - Traffic Law Update
 - Notice of License Suspensions
 - License Withdrawals
 - Nuts and Bolts of Driver's License Law
 - New License System

Traffic Law Update*



***And some other bills that might interest you**

5/25/2012



House Bill 2

- Requires all public employers to verify employment eligibility of all new employees. Employers will be required to post their user ID's on their websites.
- Contractors providing physical performance of services for the state must also verify employment eligibility of all new employees and subcontractors.



House Bill 2 (cont'd)

- Jails must determine nationality of anyone confined (in accordance with Vienna Convention).
- All governmental entities must verify the lawful presence of any applicant for public benefits.
- Effective January 1, 2010.



House Bill 71

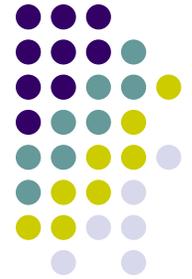
- Amends O.C.G.A. §16-9-4 to provide that it is not a defense to a charge of manufacturing, possessing, etc. false identity documents if the card states that it is a novelty or other words indicating that the card is not a legitimate form of identification.
- Effective October 1, 2009.



House Bill 160

- Governor's "Super-Speeder" Bill to raise funds to support trauma care
- Increases reinstatement fees for many suspensions, including the following:

Under 16 DUI and drug offenses	O.C.G.A. §40-5-22.1	1 st : \$210.00 2 nd +: \$310.00
License restriction violations	O.C.G.A. §40-5-30	From \$0.00 to \$210.00
Failure to appear	O.C.G.A. §40-5-56	From \$35.00 to \$100.00



House Bill 160 (cont'd)

- Suspension fee increases (cont'd):

TAADRA	O.C.G.A. §40-5-57.1	1 st : \$210.00 2 nd +: \$310.00
HV revocations	O.C.G.A. §40-5-58	\$410.00
Insurance convictions	O.C.G.A. §40-5-70	1 st : \$210.00 2 nd +: \$310.00
VGCSA convictions	O.C.G.A. §40-5-75	1 st : \$210.00 2 nd : \$310.00 3 rd : \$410.00



House Bill 160 (cont'd)

- Suspension fee increases (cont'd):

2nd Mandatory and 2 nd /3 rd Points	O.C.G.A. §40-5-84	1 st : \$210.00 2 nd : \$310.00 3 rd : \$410.00
Driving on suspended license	O.C.G.A. §40-5-121	1 st : \$210.00 2 nd : \$310.00 3 rd : \$410.00



House Bill 160 (cont'd)

- Language was added to O.C.G.A. §40-6-187 to require that all speeding charges must indicate if the offense occurred on a two-lane road.
- DDS made changes to the UTC to accommodate this requirement, and completing/reporting this check-box is the only additional burden on law enforcement and the courts.

DDS-32 (01/10) **GEORGIA**
UNIFORM TRAFFIC CITATION, SUMMONS AND ACCUSATION
 GADDSXXXX 123321123
 Court Case Number NCIC Number Citation Number

GEORGIA DEPARTMENT OF DRIVER SERVICES

License 4.0
 Month 10/11 Year 11
 Operator License # _____
 License Class or Type _____ Endorsements _____
 N2000 _____
 Address (APT) _____ (TWO) _____ (THIRD) _____
 City _____ State _____ Co. _____
 ZIP _____ (THREE) _____ (FOUR) _____ (SIX) _____ (SEVEN) _____
 Vehicle Make _____ Style _____ Color _____

Registration No. _____
 CEN YES NO ADJUTANT YES NO BULKING YES NO RATED YES NO
 SHARED ROAD TRUCKS/TRACTORS/COMBINATION HARVESTERS VESICLES LASER HAZARD
 With the State of Georgia and on the following terms: SPEEDING - Decided by PATROL/VEHICLE OFFICER
 (SPEED) _____ (CALCULATED) _____ (MILES PER HOUR) _____
 BLOOD ALCOHOL BREATH URINE OTHER (SEE INSTRUCTIONS)
 TEST ADMINISTERED BY (NAME) _____
 OFFENSE (Other than above) _____
 in violation of Code Section _____ (11) (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z) (aa) (ab) (ac) (ad) (ae) (af) (ag) (ah) (ai) (aj) (ak) (al) (am) (an) (ao) (ap) (aq) (ar) (as) (at) (au) (av) (aw) (ax) (ay) (az) (ba) (bb) (bc) (bd) (be) (bf) (bg) (bh) (bi) (bj) (bk) (bl) (bm) (bn) (bo) (bp) (bq) (br) (bs) (bt) (bu) (bv) (bw) (bx) (by) (bz) (ca) (cb) (cc) (cd) (ce) (cf) (cg) (ch) (ci) (cj) (ck) (cl) (cm) (cn) (co) (cp) (cq) (cr) (cs) (ct) (cu) (cv) (cw) (cx) (cy) (cz) (da) (db) (dc) (dd) (de) (df) (dg) (dh) (di) (dj) (dk) (dl) (dm) (dn) (do) (dp) (dq) (dr) (ds) (dt) (du) (dv) (dw) (dx) (dy) (dz) (ea) (eb) (ec) (ed) (ee) (ef) (eg) (eh) (ei) (ej) (ek) (el) (em) (en) (eo) (ep) (eq) (er) (es) (et) (eu) (ev) (ew) (ex) (ey) (ez) (fa) (fb) (fc) (fd) (fe) (ff) (fg) (fh) (fi) (fj) (fk) (fl) (fm) (fn) (fo) (fp) (fq) (fr) (fs) (ft) (fu) (fv) (fw) (fx) (fy) (fz) (ga) (gb) (gc) (gd) (ge) (gf) (gg) (gh) (gi) (gj) (gk) (gl) (gm) (gn) (go) (gp) (gq) (gr) (gs) (gt) (gu) (gv) (gw) (gx) (gy) (gz) (ha) (hb) (hc) (hd) (he) (hf) (hg) (hh) (hi) (hj) (hk) (hl) (hm) (hn) (ho) (hp) (hq) (hr) (hs) (ht) (hu) (hv) (hw) (hx) (hy) (hz) (ia) (ib) (ic) (id) (ie) (if) (ig) (ih) (ii) (ij) (ik) (il) (im) (in) (io) (ip) (iq) (ir) (is) (it) (iu) (iv) (iw) (ix) (iy) (iz) (ja) (jb) (jc) (jd) (je) (jf) (jg) (jh) (ji) (jj) (jk) (jl) (jm) (jn) (jo) (jp) (jq) (jr) (js) (jt) (ju) (jv) (jw) (jx) (jy) (jz) (ka) (kb) (kc) (kd) (ke) (kf) (kg) (kh) (ki) (kj) (kk) (kl) (km) (kn) (ko) (kp) (kq) (kr) (ks) (kt) (ku) (kv) (kw) (kx) (ky) (kz) (la) (lb) (lc) (ld) (le) (lf) (lg) (lh) (li) (lj) (lk) (ll) (lm) (ln) (lo) (lp) (lq) (lr) (ls) (lt) (lu) (lv) (lw) (lx) (ly) (lz) (ma) (mb) (mc) (md) (me) (mf) (mg) (mh) (mi) (mj) (mk) (ml) (mm) (mn) (mo) (mp) (mq) (mr) (ms) (mt) (mu) (mv) (mw) (mx) (my) (mz) (na) (nb) (nc) (nd) (ne) (nf) (ng) (nh) (ni) (nj) (nk) (nl) (nm) (nn) (no) (np) (nq) (nr) (ns) (nt) (nu) (nv) (nw) (nx) (ny) (nz) (oa) (ob) (oc) (od) (oe) (of) (og) (oh) (oi) (oj) (ok) (ol) (om) (on) (oo) (op) (oq) (or) (os) (ot) (ou) (ov) (ow) (ox) (oy) (oz) (pa) (pb) (pc) (pd) (pe) (pf) (pg) (ph) (pi) (pj) (pk) (pl) (pm) (pn) (po) (pp) (pq) (pr) (ps) (pt) (pu) (pv) (pw) (px) (py) (pz) (qa) (qb) (qc) (qd) (qe) (qf) (qg) (qh) (qi) (qj) (qk) (ql) (qm) (qn) (qo) (qp) (qq) (qr) (qs) (qt) (qu) (qv) (qw) (qx) (qy) (qz) (ra) (rb) (rc) (rd) (re) (rf) (rg) (rh) (ri) (rj) (rk) (rl) (rm) (rn) (ro) (rp) (rq) (rr) (rs) (rt) (ru) (rv) (rw) (rx) (ry) (rz) (sa) (sb) (sc) (sd) (se) (sf) (sg) (sh) (si) (sj) (sk) (sl) (sm) (sn) (so) (sp) (sq) (sr) (ss) (st) (su) (sv) (sw) (sx) (sy) (sz) (ta) (tb) (tc) (td) (te) (tf) (tg) (th) (ti) (tj) (tk) (tl) (tm) (tn) (to) (tp) (tq) (tr) (ts) (tt) (tu) (tv) (tw) (tx) (ty) (tz) (ua) (ub) (uc) (ud) (ue) (uf) (ug) (uh) (ui) (uj) (uk) (ul) (um) (un) (uo) (up) (uq) (ur) (us) (ut) (uu) (uv) (uw) (ux) (uy) (uz) (va) (vb) (vc) (vd) (ve) (vf) (vg) (vh) (vi) (vj) (vk) (vl) (vm) (vn) (vo) (vp) (vq) (vr) (vs) (vt) (vu) (vv) (vw) (vx) (vy) (vz) (wa) (wb) (wc) (wd) (we) (wf) (wg) (wh) (wi) (wj) (wk) (wl) (wm) (wn) (wo) (wp) (wq) (wr) (ws) (wt) (wu) (wv) (ww) (wx) (wy) (wz) (xa) (xb) (xc) (xd) (xe) (xf) (xg) (xh) (xi) (xj) (xk) (xl) (xm) (xn) (xo) (xp) (xq) (xr) (xs) (xt) (xu) (xv) (xw) (xx) (xy) (xz) (ya) (yb) (yc) (yd) (ye) (yf) (yg) (yh) (yi) (yj) (yk) (yl) (ym) (yn) (yo) (yp) (yq) (yr) (ys) (yt) (yu) (yv) (yw) (yx) (yz) (za) (zb) (zc) (zd) (ze) (zf) (zg) (zh) (zi) (zj) (zk) (zl) (zm) (zn) (zo) (zp) (zq) (zr) (zs) (zt) (zu) (zv) (zw) (zx) (zy) (zz)

WEATHER	ROAD	TRAFFIC	LIGHTING	COMMERCIAL VIOLATION INFORMATION
<input type="checkbox"/> Clear	<input type="checkbox"/> Dry	<input type="checkbox"/> Light	<input type="checkbox"/> Daylight	<input type="checkbox"/> 10 - Passengers
<input type="checkbox"/> Cloudy	<input type="checkbox"/> Wet	<input type="checkbox"/> Medium	<input type="checkbox"/> Dusk	<input type="checkbox"/> Commercial Vehicle Violation
<input type="checkbox"/> Rainy	<input type="checkbox"/> Ice	<input type="checkbox"/> Heavy	<input type="checkbox"/> Night	<input type="checkbox"/> Hazardous Material Violation
<input type="checkbox"/> Fog	<input type="checkbox"/> Other			

County _____ (NINE) _____ (TWO) _____ (THREE) _____ (FOUR) _____ (FIVE) _____ (SIX) _____ (SEVEN) _____ (EIGHT) _____ (NINE) _____ (TEN) _____ (ELEVEN) _____ (TWELVE) _____ (THIRTEEN) _____ (FOURTEEN) _____ (FIFTEEN) _____ (SIXTEEN) _____ (SEVENTEEN) _____ (EIGHTEEN) _____ (NINETEEN) _____ (TWENTY) _____ (TWENTY-ONE) _____ (TWENTY-TWO) _____ (TWENTY-THREE) _____ (TWENTY-FOUR) _____ (TWENTY-FIVE) _____ (TWENTY-SIX) _____ (TWENTY-SEVEN) _____ (TWENTY-EIGHT) _____ (TWENTY-NINE) _____ (THIRTY) _____ (THIRTY-ONE) _____ (THIRTY-TWO) _____ (THIRTY-THREE) _____ (THIRTY-FOUR) _____ (THIRTY-FIVE) _____ (THIRTY-SIX) _____ (THIRTY-SEVEN) _____ (THIRTY-EIGHT) _____ (THIRTY-NINE) _____ (FORTY) _____ (FORTY-ONE) _____ (FORTY-TWO) _____ (FORTY-THREE) _____ (FORTY-FOUR) _____ (FORTY-FIVE) _____ (FORTY-SIX) _____ (FORTY-SEVEN) _____ (FORTY-EIGHT) _____ (FORTY-NINE) _____ (FIFTY) _____ (FIFTY-ONE) _____ (FIFTY-TWO) _____ (FIFTY-THREE) _____ (FIFTY-FOUR) _____ (FIFTY-FIVE) _____ (FIFTY-SIX) _____ 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House Bill 160 (cont'd)

- Officers will continue to cite drivers for violations of O.C.G.A. §40-6-181, and the conviction will be reported showing the same speed detail as before (____ mph in a ____ mph zone).
- The DDS will use the speed information and the two-lane road indicator to determine whether HB-160 applies.



House Bill 160 (cont'd)

- “Two-lane road” means ‘a road or highway with two lanes for through-traffic movement exclusive of any portion of the road or highway adjoining the traveled way for parking, speed change, turning, weaving, truck climbing, or other purposes supplementary to through-traffic movement.’



House Bill 160 (cont'd)

- The bill also enacted a new code section, O.C.G.A. §40-6-189 that imposes the “Super-Speeder” penalties, which include the following:
 - DDS must impose a fee of \$200.00 on any driver who is convicted of driving at a speed of 85 miles per hour or more on any road or highway or 75 miles per hour or more on any two-lane road or highway.



House Bill 160 (cont'd)

- Failure to pay the Super-Speeder fee within 90 days after receipt of the notice will result in the suspension of the person's driver's license or driving privileges.
- Reinstatement will be of indefinite duration until the person pays the Super-Speeder fee and a reinstatement fee of \$50.00.



House Bill 160 (cont'd)

- The reinstatement fee increases went into effect on July 1, 2009.
- The Super-Speeder fee went into effect on January 1, 2010.



House Bill 160 (cont'd)

- DDS received 142 “super speeder” citations in January 2010.
- DDS received 1084 “super speeder” citations in February 2010.
- Since customers have 90 days to pay the fee, no suspensions have been imposed yet.



House Bill 245

- Amends O.C.G.A. §15-11-66(b) to modify the maximum number of days that a juvenile court can order a child to be held in a YDC upon an adjudication of delinquency.
- This bill was effective upon the Governor's signature on April 21, 2009.



House Bill 549

- Amends O.C.G.A. §21-2-231 to require Superior Court Clerks to submit monthly lists to Secretary of State identifying jurors who appear for service but deny United States citizenship.
- Effective January 1, 2010.



House Bill 549 (cont'd)

- Also amends O.C.G.A. §40-5-2 to allow DDS to expand the amount of data provided to counties and AOC for creating jury lists.
- This bill was effective upon the Governor's signature on April 30, 2009.



Senate Bill 196

- Section 1 creates an affirmative defense for DWOL if the person brings a valid driver's license to court.
- A last minute amendment from the Senate changed the language to provide that the license need not have been valid at the time of the incident in order for the defendant to be eligible for this defense.



Senate Bill 196 (cont'd)

- Section 3 amends O.C.G.A. §40-5-121 to delete the verbiage that creates an affirmative defense to DWSL if the defendant appears in court with a valid driver's license.



Senate Bill 196 (cont'd)

- Section 2 creates a new Code Section, §40-5-57.3, that will suspend a defendant's driver's license for a period of thirty (30) days if he or she is convicted of a second or subsequent violation of O.C.G.A. §40-6-77 within five (5) years.



Senate Bill 196 (cont'd)

- Section 4 amends O.C.G.A. §40-6-77 to amend the definition of serious injury in the context of injuries resulting from collisions that occur when a motorist fails to yield the right of way to a motorcyclist, bicyclist, pedestrian, or farmer operating any vehicle used to transport agricultural products, livestock, farm machinery, or farm supplies.



Senate Bill 196 (cont'd)

- Section 5 amends O.C.G.A. §40-6-96 to prohibit pedestrians from walking in the roadway if a sidewalk is provided unless there is not a vehicle within 1000 feet of the pedestrian or the sidewalk is too dangerous to use.



Senate Bill 196 (cont'd)

- Section 6 amends O.C.G.A. §40-5-83 to increase the assessment fee for DUI Drug or Alcohol Use Risk Reduction Programs from \$75.00 to \$82.00.
- Requested by DHR to offset additional expenses resulting from the drastic increase in clinical evaluations/treatment following the enactment of HB-336 (2008).



Senate Bill 196 (cont'd)

- Section 7 amends O.C.G.A. §40-6-144 to allow local governments the authority to authorize children age twelve (12) and younger to ride their bicycles on the sidewalk.
- Effective July 1, 2009.



McNair Decision

- The Supreme Court struck down O.C.G.A. §40-6-120(a)(2) as unconstitutionally vague in *McNair v. State*, S09A0487 (decided June 8, 2009).
- This conclusion was based upon the wording of the statute, which the Justices found was subject to two (2) interpretations that were essentially the opposite of each other.



Case Law (cont'd)

- First Possible Interpretation: A driver who wants to make a left turn onto a roadway with multiple lanes must make the turn in a manner that leaves the intersection or other extreme left-hand lane location lawfully available, i.e., open or clear, to traffic moving in the same direction on the roadway the driver has just entered.



Case Law (cont'd)

- Second Possible Interpretation: A driver who wants to make a left turn onto a roadway with multiple lanes must make the turn so that, when the driver departs from or 'leaves' the intersection or other location, the turning vehicle is itself located in the lane farthest to the left that is lawfully available to traffic moving in that same direction.



Case Law (cont'd)

- The potential for differing interpretations makes the statute too vague to be enforced and, therefore, “unconstitutional under the due process clauses of the Georgia and United States Constitutions.”

Notice Requirements for Charging Suspended Licenses



- The State bears the burden of proving that a defendant has notice of the suspension of his driver's license.
- Some license suspensions require actual notice, while notice is inferred for other suspensions based upon the mechanism that caused the suspension.

Suspended Licenses (cont'd)



- An example of a situation in which the evidence would show that a defendant had actual notice of a suspension would be if he/she admits that he/she knows that the license is suspended.
- Documentary evidence would also work as proof of actual notice, such as the 1205 issued for an administrative suspension or the certified mail receipt from correspondence sent by the DDS.

Suspended Licenses (cont'd)



- Proof of actual notice of a license suspension is now only required for the following suspensions:
 - ALS or implied consent
 - Failure to appear (pre-January 1, 2010)
 - Child support
 - School suspensions
 - Safety responsibility
 - Insurance cancellation (no new insurance cancellation suspensions were imposed after October 2002)

Suspended Licenses (cont'd)

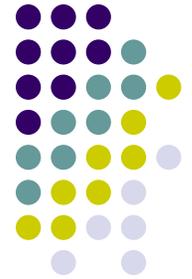


- All other suspensions are imposed by operation of law, so the suspect has notice of his or her license suspension by virtue of his or her conviction for the underlying offense.



Failure to Appear

- Effective January 1, 2010, notice of suspensions for failure to appear is based upon the verbiage found on the UTC that warns the violator of the potential for a license suspension if he/she fails to appear on the ticket.



FTA (cont'd)

- The FTA suspension must have been imposed on or after January 1, 2010, OR you must have proof of actual notice of the suspension.



Recent FTA Case Law

- The Court of Appeals upheld the search of a vehicle incident to the driver's arrest for DWSL despite the fact that the State ended up not proceeding with the DWSL charge due to insufficient evidence of notice of the suspension. *Johnson v. State*, A09A0083 (decided April 1, 2009).



Johnson (cont'd)

- In addition to clarifying a search and seizure issue, the Court gave a detailed analysis of the notice requirements for DWSL.
- The opinion specifically noted that notice for an FTA suspension would be satisfied by the language on the UTC as of January 1, 2010.

License Withdrawals



5/25/2012



Conviction Reporting

- Georgia law requires all courts that handle traffic offenses and other convictions that are reportable to a defendant's driving record to submit those convictions to the DDS electronically within ten (10) days of the conviction. O.C.G.A. §40-5-53.

Conviction Reporting (cont'd)



- Additional non-traffic offenses that must be reported:
 - Underage alcohol violations
 - Drug offenses
 - Felonies in the commission of which a vehicle is used (not applicable to Probate Courts)
 - Any offense committed in or using a commercial motor vehicle

Conviction Reporting (cont'd)



- Three (3) ways to send convictions:
 - Georgia Electronic Citation Processing System (GECPS)
 - Uniform Traffic Citation
 - DS-32C Conviction Reporting Form

Conviction Reporting (cont'd)



- GECPS
 - Your court may already be connected to GECPS.
 - If it is not, you can get started toward that connection by visiting the DDS' website, www.dds.ga.gov.
 - Click on the Business Partners link, which will take you to the GECPS page.

Conviction Reporting (cont'd)



- GECPS (cont'd)
 - Courts are able to report both convictions and failures to appear (FTA's) via GECPS, plus an FTA can be released.
 - The greatest benefits of GECPS are efficiency and timeliness.
 - No duplicate data entry is required.
 - Conviction information (or FTA's/FTA releases) are processed more quickly.
 - DDS pays courts \$.40 per conviction, if timely.

Conviction Reporting (cont'd)



- Uniform Traffic Citation (UTC)
 - Contents of the form are dictated by DDS pursuant to O.C.G.A. §40-13-1.
 - Arresting officer completes the front at the time the citation is issued to the violator.
 - Court may use the spaces on the back to handle the charge in court.

Conviction Reporting (cont'd)



- UTC (cont'd)
 - Be sure to update tickets if disposition involves changes from offense cited
 - Reduced charge
 - Reduced speed

Conviction Reporting (cont'd)



- DS-32C
 - DDS created a form for use when a UTC is not available.
 - It contains all of the fields needed by DDS to process a conviction.
 - The court may submit as many DS-32C forms as needed to report the convictions for all of the offenses from the incident, but please, list only one disposition per DS-32C form.

State of Georgia Report of Conviction



Last Name	First Name	Middle Name	Suffix	Operator/Drivers License Number/Class _____
Street Address				Country/State of License _____
City	State	Zip Code		Date of Birth _____ Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
Commercial Driver? <input type="checkbox"/> Yes <input type="checkbox"/> No	Commercial Vehicle? <input type="checkbox"/> Yes <input type="checkbox"/> No	Involved in an Accident? <input type="checkbox"/> Yes <input type="checkbox"/> No		Hazardous Materials Violation/Placard(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No
License Attached? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Lost License Affidavit	Blood Alcohol Concentration, if applicable _____ %		Interlock Device Ordered? <input type="checkbox"/> Yes <input type="checkbox"/> No	
				If Accident, Fatality? <input type="checkbox"/> Yes <input type="checkbox"/> No
				If applicable, Actual Speed _____ Speed Limit _____
Date of Violation/Offense _____				County of Violation _____

WHAT IS THE CODE SECTION OF THE OFFENSE FOR WHICH THE VIOLATOR WAS CONVICTED?
O.C.G.A. Section: _____ Description of Offense: _____

Date of Disposition _____

Disposition Code (CHECK ONE): (3) Plead Guilty (4) Not Contendere (2) Bond Forfeiture (1) Found Guilty

Sentence Amount Fine/Fortifiture Amount \$ _____ Name of Arresting Officer _____

Department/Issuing Agency _____
Agency Name

CHECK THE APPROPRIATE BOX (ONLY ONE) AND FILL IN THE REQUIRED INFORMATION	
Zero Points Court Order Issued per O.C.G.A. 40-5-57(c)(1)(C)? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, Court Ordered License Suspension Duration _____ Years/Months/Days
License Suspension Court Ordered as a Condition of Probation? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Court Case Number _____ Citation Number _____

Court _____
Court Name NCC #

Mailing Address of Court _____

Physical Address of Court _____

Signature of Judge, Court Clerk or Court Official _____

Mail to: Georgia Department of Driver Services, Conviction Processing Unit, P.O. Box 80447, Conyers, GA 30013

DS-32C (07/2005)

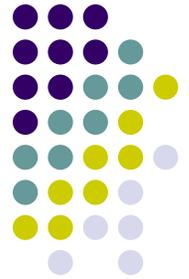
5/25/2012



License Withdrawals

- Georgia law directs DDS to use information provided by courts about convictions to make eligibility decisions when each customer comes in for licensing or license renewal.
- Most convictions, either by themselves or combined with others on the defendant's driving record, can result in a withdrawal of his/her driving privilege.

License Withdrawals (cont'd)



- Most license withdrawals are referred to generically as “suspensions,” but there are actually several different actions taken by the DDS, including:
 - Cancellations
 - Suspensions
 - Revocations
 - Disqualifications



Cancellation

- 'Cancellation of driver's license' means the annulment or termination by formal action of the Department of Driver Services of a person's license because of some error or defect in the license or because the licensee is no longer entitled to such license.



Cancellation (cont'd)

- The cancellation of a license is without prejudice, and application for a new license may be made at any time after such cancellation. O.C.G.A. §40-5-1(3).



Suspension

- 'Suspension of driver's license' means the temporary withdrawal by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the department. O.C.G.A. §40-5-1(17).



Revocation

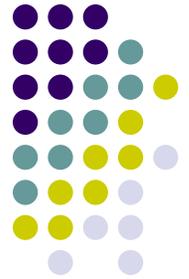
- 'Revocation of driver's license' means the termination by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways, which license shall not be subject to renewal or restoration, except that an application for a new license may be presented and acted upon by the department after the expiration of the applicable period of time prescribed in this chapter. O.C.G.A. §40-5-1(16).



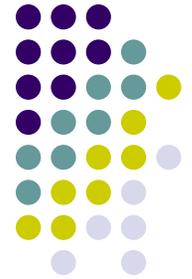
Withdrawal Mechanism

- Withdrawals are either administrative or imposed by operation of law
- Operation of law = conviction
- Administrative = arrest, court appearance, civil proceedings, etc.
- All based in statutes

Withdrawals Resulting from Convictions

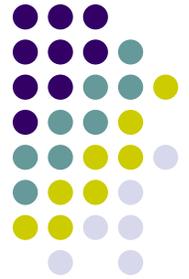


Statute	Description	Predicate Offenses	Comments
O.C.G.A. §32-6-30	Refusal to weigh	O.C.G.A. §32-6-30	*Commercial vehicles only *Six (6) month suspension



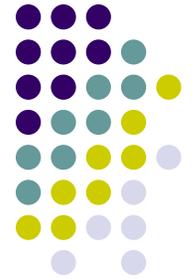
Withdrawals (cont'd)

Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-22.1	DUI or drug conviction prior to age 16	O.C.G.A. §40-6-391 O.C.G.A. §16-13-2 O.C.G.A. §16-13-30 O.C.G.A. §16-13-72	*1st Offense: Not eligible for license until age 17 *2nd + Offense: No license until age 18



Withdrawals (cont'd)

Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-30	Violation of license restriction	O.C.G.A. §40-5-30	Six (6) month suspension



Withdrawals (cont'd)

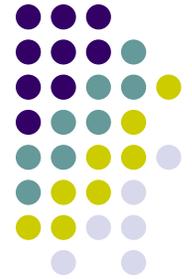
Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-54	Mandatory suspensions for serious offenses	O.C.G.A. §40-6-393(b) O.C.G.A. §40-6-270 O.C.G.A. §40-6-186 O.C.G.A. §40-6-395 O.C.G.A. §40-5-120 O.C.G.A. §40-5-125 O.C.G.A. §40-6-15 Felony with Vehicle	*Suspension terms are found in O.C.G.A. §40-5-63(a)

Withdrawals (cont'd)

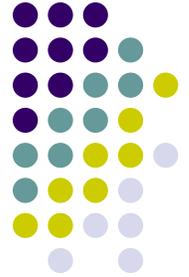


Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-57	Points suspension for accumulation of 15 points within 24 months based upon incident dates	All moving violations for which no other suspension is imposed	O.C.G.A. §40-5-57(c)(1)(B) and (c) allow points avoidance for 1 nolo plea or 1 driver improvement clinic every 5 years (course completion also results in reduction of fine)

Withdrawals (cont'd)



Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-57.1	TAADRA	<ul style="list-style-type: none">● Accumulation of 4+ points under age 18● 4+ point offense under age 21● Mandatory offenses	<p>1st offense: 6 month suspension</p> <p>2nd offense: 12 month suspension</p> <ul style="list-style-type: none">● No limited driving permit available



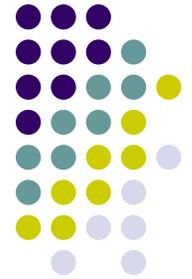
Withdrawals (cont'd)

Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-57.2	Gas drive off	O.C.G.A. §40-6-255	Unlimited number of nolo pleas



Withdrawals (cont'd)

Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-57.3	Failure to yield resulting in serious injury	O.C.G.A. §40-6-77	Applies to second or subsequent conviction within five (5) years.



Withdrawals (cont'd)

Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-58	Habitual violator revocation based upon 3 convictions within 5 years based on arrest dates	All offenses listed in O.C.G.A. 40-5-54 O.C.G.A. 40-6-391 O.C.G.A. 40-6-393 O.C.G.A. 40-6-393.1 O.C.G.A. 40-6-394 O.C.G.A. 40-6-395	*Multiple offenses from a single incident can be counted *Conviction for violation of HVPL results in greater of additional 2 year suspension or remaining period of original revocation.



HV Appellate Decisions

- In 2008, the Court of Appeals opined that when a court serves a defendant with notice of the revocation of his driver's license as an HV, but there is a delay in the submission of the conviction that is the basis thereof, the defendant's period of revocation is based upon the date on which the Court served him/her with notice of the revocation. *Lokey v. Ga. Dept. of Driver Svcs.*, 291 Ga. App. 856 (2008)



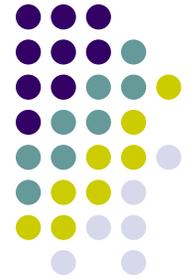
HV Decisions (cont'd)

- In *Eason v. Dozier*, 298 Ga. App. 65 (2009), the Court differentiated a situation in which there was a similar delay, but no service by the Court and held that “a trial court's failure to timely transmit the records, which failure results in delayed revocation of an individual's license, does not affect the validity of the revocation or the calculation of the five-year period.”



Withdrawals (cont'd)

Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-63	(a) Mandatory offenses	*See O.C.G.A. §40-5-54, <i>supra</i> *DUI	*Convictions for DUI of drugs are treated like convictions for VGCSA pursuant to O.C.G.A. §40-5-63(a).
	(d) Vehicular homicide (1st degree) and serious injury by vehicle	O.C.G.A. §§40-6-393(a) and 40-6-394	



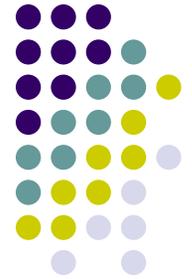
Withdrawals (cont'd)

Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-63 (cont'd)	(e) and (f) Underage Possession of Alcohol (if not covered in O.C.G.A. §40-5- 57.1)	O.C.G.A. §3-3-23 (offense committed in vehicle or attempt to purchase alcohol)	Conditional discharge for underage possession while operating vehicle avoids suspension



Withdrawals (cont'd)

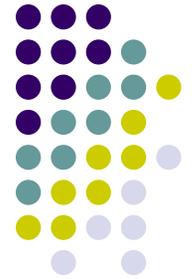
Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-64	Limited permit revocation	Moving violations and violations of permit limitations	Additional six (6) month suspension



Withdrawals (cont'd)

Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-70	Insurance convictions	O.C.G.A. §40-6-10	<i>Nolo</i> plea to 1st offense within 5 years avoids suspension, but 2nd conviction after (including another <i>nolo</i> plea) that is treated as 2nd offense. O.C.G.A. §40-5-70(d).

Withdrawals (cont'd)

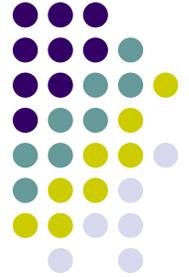


Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-75	Controlled substance convictions	Possession of marijuana and all violations of the Georgia Controlled Substances Act	<p>*Suspension runs consecutively to any existing suspensions.</p> <p>*<i>Nolo</i> plea avoids suspension for misdemeanor marijuana</p> <p>*First offender avoids suspension</p> <p>*Conditional discharge avoids suspension</p>

Withdrawals (cont'd)



Statute	Description	Predicate Offenses	Comments
O.C.G.A. §40-5-121	Driving on suspended license	O.C.G.A. §40-5-75(f) O.C.G.A. §40-5-121	* <i>Nolo</i> plea avoids suspension once every 5 years



Withdrawals (cont'd)

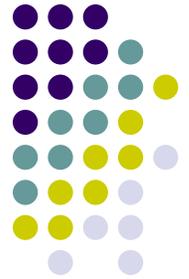
Statute	Description	Length	Comments
O.C.G.A. §40-6-189	Excessive speeding	Indefinite until fee is paid	*Applies to anyone convicted of speeding at 85 mph or more on any road or 75 mph or more on any 2-lane road *Effective January 1, 2010

Withdrawals Not Based on Convictions



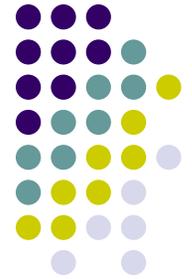
Statute	Description	Length	Comments
O.C.G.A. §17-10-3	Court ordered suspension	Indefinite up to full term of probation ordered in sentence(s) from criminal charge(s)	
O.C.G.A. §40-5-22	School absence or conduct violations	One year or until age 18, whichever is earlier	

Withdrawals (cont'd)



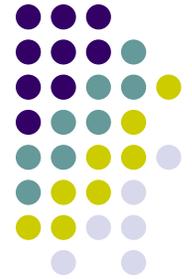
Statute	Description	Length	Comments
O.C.G.A. §40-5-22	Denial	Indefinite until out-of-state issue is resolved	
O.C.G.A. §40-5-26	Parent requested revocation	At least three (3) months, but no longer than until age eighteen (18)	Only available to person who signed for child to obtain DL

Withdrawals (cont'd)

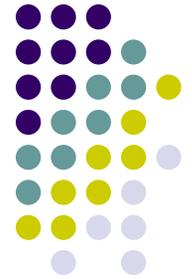


Statute	Description	Length	Comments
O.C.G.A. §40-5-50	Cancellation due to ineligibility or failure to provide required information	Indefinite until eligible or required information provided	Examples include social security cancellations and cancellations due to withdrawals in other states
O.C.G.A. §40-5-54.1	Failure to pay child support	Indefinite until released by Child Support Enforcement	

Withdrawals (cont'd)



Statute	Description	Length	Comments
O.C.G.A. §40-5-56	Failure to appear	Indefinite until released by reporting court	
O.C.G.A. §40-5-59	Medical revocations	Indefinite until released by physician and complete re-testing	DDS accepts reports from doctors, courts, law enforcement, prosecutors, and the public



Withdrawals (cont'd)

Statute	Description	Length	Comments
O.C.G.A. §40-5-67.1 *Counts toward suspension for DUI conviction. *If DUI is dismissed or reduced, DDS must delete the ALS/IC from the driver's record.	Administrative license suspensions (per se)	1st in 5 years: 1 year (early reinstatement-30 days) 2nd in 5 years: 18 months 3rd in 5 years: 5 years	Under 21-.02 Over 21-.08 CMV-.04
	Implied consent (refusals)	One (1) year	No permit availability and no early reinstatement



Implied Consent

- When a driver is arrested for driving under the influence (DUI), the arresting officer reads the violator the appropriate implied consent notice and asks him or her to submit to a test of his or her blood, breath, urine or other bodily substances for the purpose of determining whether he or she is under the influence of alcohol or drugs.



Initiating the Suspension

- If the driver refuses to submit to the test requested by the officer, or if the test results indicate a blood alcohol concentration in excess of one of the *per se* thresholds, then the officer initiates an administrative suspension of the defendant's driver's license or non-resident driving privilege by completing a DDS Form 1205. O.C.G.A. §§40-5-67.1(c) and (d).

DDS Form 1205



GEORGIA DEPARTMENT OF DRIVER SERVICES
P.O. BOX 80447 / CONYERS, GEORGIA 30013

ATTACH
DRIVERS LICENSE
HERE

SWORN REPORT OF THE ARRESTING OFFICER: ADMINISTRATIVE LICENSE SUSPENSION AND IMPLIED CONSENT

TYPE OR PRINT CLEARLY (IN INK) ALL REQUESTED INFORMATION

INCIDENT DATA				
INCIDENT DATE: MM/DD/YY	INCIDENT TIME: AM PM	CITY OF OCCURRENCE:	ROAD OF OCCURRENCE:	DIRECTION & DISTANCE FROM & NAME OF NEAREST TOWN:
DUPLICATION NUMBER DATE:	COMMERCIAL VEHICLE: YES _____ NO _____	HAZARDOUS MATERIALS PRESENT: YES _____ NO _____		

DRIVER DATA				
NAME: LAST	FIRST	MIDDLE	DATE OF BIRTH: MM/DD/YY	
CURRENT ADDRESS (STREET, CITY, STATE, ZIP CODE):				
DRIVERS LICENSE NUMBER:	STATE OF ISSUE:	LICENSE CLASS:	LICENSE RESTRICTIONS:	HEIGHT: _____
				WEIGHT: _____
				SEX: _____ ____ MALE _____ FEMALE

SWORN REPORT, ARRESTING OFFICER DATA, AND TEST DATA

ARRESTING OFFICER'S NAME: LAST	FIRST	MIDDLE	A/C TELEPHONE NO.:	ARRESTING OFFICER'S PRECINCT, ZONE, OR POST ASSIGNMENT:
NAME OF LAW ENFORCEMENT AGENCY REPRESENTED BY ARRESTING OFFICER:				
LAW ENFORCEMENT AGENCY MAILING ADDRESS (STREET, CITY, AND ZIP CODE):				AGENCY'S OR NUMBER:
TEST RESULTS:	INSTRUMENT SERIAL NUMBER:	OPERATOR'S NAME:	OPERATOR PERMIT NO.:	
GRAMS				

This arresting officer swears or affirms that at the date and time noted above, the arresting officer, having reasonable grounds to believe that the driver had been driving or in actual physical control of a moving motor vehicle while under the influence of alcohol or a controlled substance, lawfully arrested the driver for violating O.C.G.A. 40-6-301; or that the driver was involved in a motor vehicle accident or collision that resulted in serious injury or fatality.

MARK ONE ONLY: The driver was requested to submit to state administered chemical testing as required by law and:

_____ The driver refused to submit to the designated state administered chemical testing; or

_____ Chemical test results indicated an alcohol concentration of 0.08 grams or more; or

_____ The driver was under the age of 21 and the chemical tests results indicated an alcohol concentration of 0.02 grams or more; or

_____ The driver was operating a moving commercial motor vehicle and the chemical tests results indicated an alcohol concentration of 0.04 grams or more.

The arresting officer's signature constitutes certification that the arresting officer delivered a copy of this form to the driver: _____ Sworn and Subscribed to me this _____ day of _____, 20____

Arresting Officer's Signature _____ Report Date _____
NOTE: PERSONALLY GIVE YELLOW COPY TO LICENSEE Notary Public _____

OFFICIAL NOTICE OF INTENT TO SUSPEND

You are hereby served Official Notice of the Suspension of your drivers license and/or your privilege to operate a motor vehicle for a period to be determined by the Department of Driver Services. If you refuse chemical testing, your license will be suspended for one year. Your suspension will begin at midnight on the 30th day following the date of arrest for the reason checked above. Hearing procedures are on the reverse side of the Driver's copy.

TEMPORARY DRIVING PERMIT

This is a valid temporary driving permit for a period of (30) days from the incident date above if signed by the arresting officer. This is not a temporary driving permit if the driver's license or privilege is suspended, cancelled or revoked or driver is unlicensed.

NOTE TO OFFICER: The reason for non-issuance of this permit must be stated on this form and the driver must receive a copy of this "Notice" to meet the requirements as stated in O.C.G.A. 40-5-67.1. **TEMPORARY LICENSE MUST BE SIGNED IF DRIVER WAS VALID AT THE TIME OF ARREST.**

____ Yes _____ No License surrendered? If No, state the reason. _____

____ Yes _____ No Is the surrendered license attached on the upper left corner of the DDB copy of this report? _____

____ Yes _____ No Is the surrendered license a Habitual Violator Probationary license? _____

Signature of Driver: _____

Signature of Arresting Officer: _____

SIGN TO VALIDATE TEMPORARY DRIVING PERMIT
Department of Driver Services Copy

DDS 1205 (Rev. 04/08)

5/25/2012

DDS Form 1205 (cont'd)



Hearing Procedures

A request for a Hearing must be in writing and postmarked within ten (10) business days of the date of arrest. If a hearing is not requested within ten (10) business days, your right to a hearing is waived. Your driver's license or privilege will be then suspended as indicated on the *OFFICIAL NOTICE TO SUSPEND*. The hearing will be held in accordance with the "Georgia Administrative Procedures Act" and the Department of Driver Services Rule 570-1-.05.

Your request must contain all of the following information: (1) your full name, (2) your current address, (3) your driver's license number, (4) your date of birth, and (5) a telephone number where you can be reached between the hours of 8:00 am and 4:00 pm (Monday through Friday.)

Issues Before the Administrative Law Judge

1. If the Arresting Officer has reasonable grounds to believe that the person was driving or in actual physical control of a moving motor vehicle while under the influence of alcohol or a controlled substance and was lawfully placed under arrest for violating code Section 40-6-391; or,
2. The person was involved in a motor vehicle accident or collision resulting in serious injury or fatality; and
3. Whether at the time of the request for the test or tests the officer informed the person of the person's implied consent rights and the consequence of submitting or refusing to submit to such test; and
4. Whether the person refused the test; or
5. Whether a test or tests were administered and the results indicated an alcohol concentration (A.C.) of 0.08 grams or more or, for a person under the age of 21, an A.C. of 0.02 grams or more; for a person operating or having actual physical control of a moving commercial motor vehicle, an A.C. of 0.04 grams or more; and
6. Whether the test or tests were properly administered by an individual possessing a valid permit issued by the Division of Forensic Sciences of the Georgia Bureau of Investigation on an instrument approved by the Division of Forensic Sciences or a test conducted by the Division of Forensic Sciences.

The Licensee also must include the following information in his or her request for a Hearing:

1. The name and address of all interested parties who may testify;
2. A clear and concise statement of the facts upon which the contested case arises;
3. A statement setting forth the relief sought;
4. If represented by counsel, please provide counsel's name, address, and phone number.

All correspondence must be sent to the address noted in the letterhead.

Driver's Copy

DDS 1205 (Rev. 04/08)

5/25/2012



Process (cont'd)

- The officer mails the completed Form DDS-1205 to DDS' Headquarters where it is added to the defendant's driving record.
- If the defendant does not appeal the suspension, it will go into effect thirty (30) days from the date the Form 1205 is issued to the driver by the officer.



License Surrender

- The officer takes possession of the driver's license, and the Form 1205 contains a thirty (30) day temporary driving permit for the driver to carry in lieu of his or her license until the administrative suspension goes into effect. O.C.G.A. §§40-5-67 and 40-5-67.1.



Per Se Limits

- According to O.C.G.A. §40-6-392(c), the “per se” blood alcohol limits for an ALS are as follows:
 - Age 21 and over: 0.08 grams
 - Under age 21: 0.02 grams
 - Commercial vehicles: 0.04 grams



Timeliness

- Defendants have ten (10) business days from the date of the arrest to appeal a pending administrative license suspension. O.C.G.A. §40-5-67.1(g)(1).



Timeliness (cont'd)

- Exceptions are granted only when “events uncontrollable by the aggrieved person are shown by him or her to have prevented a timely request.” Ga. Admin. Comp. Ch. 375-3-3-.04(c).



Referral to OSAH

- If the customer requests a hearing, the DDS forwards the case to the Office of State Administrative Hearings (OSAH).
- The suspension effective date delayed until the appeal is resolved.
- DDS sends out a 90-day extension of the temporary driving permit issued by the arresting officer.



The Hearing

- Once a case reaches OSAH, a hearing is scheduled.
- The arresting officer represents the DDS. Ga. Admin. Comp. Ch. 375-3-3-.04(h).



The Hearing (cont'd)

- Many attorneys negotiate resolutions to both the administrative suspension and the pending criminal case while meeting with the officer at the ALS hearing
- Important to remember:
 - The officer cannot withdraw 1205 after ALJ issues final decision (if defendant has appealed suspension)
 - The officer cannot withdraw 1205 after 10 business days from arrest (if defendant has not appealed suspension)

DDS/Officer's Burden of Proof



- Four elements:
 - Lawful arrest for DUI
 - Proper implied consent warning given
 - Test or refusal
 - If test, results exceed *per se* thresholds

Limitation on Scope of Hearing



- All other matters, including the completeness of 1205 form, etc. fall outside the scope of the hearing. *Miles v. Ahearn*, 243 Ga. App. 741, 742-743 (2000).

Administrative vs. Criminal



- The administrative license suspension process is handled separately from the prosecution of the criminal charge and may result in a driver losing his or her driving privilege before the criminal charge is resolved.
- Implied consent suspension will make DUI ineligible for limited driving permit.



No Collateral Impact

- The ruling made by the administrative law judge in an administrative license suspension hearing does not affect the prosecution of the criminal charge, even if the administrative law judge reverses the suspension.

Credit for ALS Toward DUI



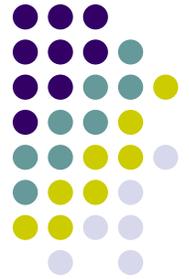
- A conviction for DUI will result in a separate suspension or revocation of the driver's driving privilege. O.C.G.A. §§40-5-63(a) or 40-5-58.

Credit for ALS Toward DUI (cont'd)



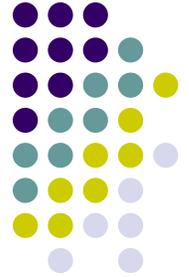
- Defendants are entitled to credit for the period of the administrative suspension toward satisfaction of the suspension for the conviction. O.C.G.A. §40-5-67.2(b).

Credit for ALS Toward DUI (cont'd)



- Credit only given for ALS toward DUI.
- Only applies to first or second DUI in five (5) years.
- No credit toward HV revocation.
- No credit for DUI toward ALS if DUI starts first.

Safety Responsibility



Statute	Description	Length	Comments
O.C.G.A. §40-9-1, <i>et seq.</i>	Safety responsibility	Indefinite until surety posted or judgment satisfied	

Commercial Driving Disqualifications



- Commercial driving privilege is monitored by DDS separately from non-commercial driving privilege.
- CDL penalties are based upon requirements in federal law, 49 C.F.R. §383.51.
- Georgia law imposes commercial penalties on all drivers, even without CDL.

Commercial Driving Disqualifications (cont'd)



- One (1) year disqualification for first major offense as defined in O.C.G.A. §40-5-142(18.2)
- Lifetime disqualification for second conviction for a major offense

Commercial Driving Disqualifications (cont'd)



- Major offenses include the following:
 - DUI (including administrative suspensions and refusals)
 - Hit and run or leaving the scene of an accident (including convictions for O.C.G.A. §§40-6-270, 40-6-271, 40-6-272, and 40-6-273)

Commercial Driving Disqualifications (cont'd)



- Major offenses (cont'd):
 - Felony with a vehicle
 - Operating a CMV with a suspended, revoked or cancelled CDL
 - Vehicular homicide in violation of O.C.G.A. §40-6-393
 - Racing in violation of O.C.G.A. §40-6-186
 - Fleeing and Attempting to Elude in violation of O.C.G.A. §40-6-395

Commercial Driving Disqualifications (cont'd)



- Major offenses (cont'd):
 - Fraudulent Use of License/Fraudulent Application for License in violation of O.C.G.A. §§40-5-120 or 125
 - Operating a motor vehicle with a suspended, revoked or cancelled registration in violation of O.C.G.A. §40-6-15
 - Cargo and/or truck theft in violation of O.C.G.A. §§16-8-2 through 16-8-9

Commercial Driving Disqualifications (cont'd)



- 3 year disqualification for first major offense or felony while transporting hazardous materials
- Lifetime disqualification for drug felony involving use of commercial vehicle

Commercial Driving Disqualifications (cont'd)



- 60 day disqualification for 2nd serious offense as defined in O.C.G.A. §40-5-142(22) within 3 years
- 120 day disqualification for 3rd or subsequent serious offense as defined in O.C.G.A. §40-5-142(22) within 3 years
- Subsequent disqualifications must run consecutively to prior disqualifications

Commercial Driving Disqualifications (cont'd)



- Serious offenses include the following:
 - (A) Speeding 15 or more miles per hour above the posted speed limit;
 - (B) Reckless driving, as defined under state or local law;
 - (C) Following another vehicle too closely, as defined under state or local law;
 - (D) Improper or erratic lane change which presents a risk to any other vehicle, but not including failure to signal a lane change;

Commercial Driving Disqualifications (cont'd)



- Serious offenses (cont'd)
 - (E) A violation, arising in connection with a fatal crash, of state law or a local ordinance, relating to motor vehicle traffic control, excluding parking, weight, length, height, and vehicle defect violations;
 - (F) A railroad grade crossing violation in a non-commercial vehicle;
 - (G) Driving a commercial motor vehicle without obtaining a commercial driver's license;

Commercial Driving Disqualifications (cont'd)



- Serious offenses (cont'd)
 - (H) Driving a commercial motor vehicle without a valid commercial driver's license in the driver's immediate possession; or
 - (I) Driving a commercial motor vehicle without a commercial driver's license of the proper class and/or endorsements for the specific vehicle being operated or for the passengers or type of cargo transported.

Commercial Driving Disqualifications (cont'd)



- Violation of out-of-service order results in disqualification from 180 days to 5 years
- 60 day disqualification for falsifying info on CDL application
- Railroad grade crossing violations in CMV result in disqualification from 60 days to 1 year

Commercial Driving Disqualifications (cont'd)

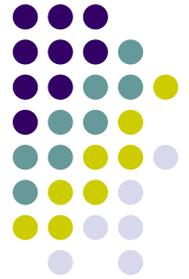


- Unless specified, penalties apply even if driver is not in commercial vehicle
- Neither a *nolo* plea nor first offender treatment will avoid commercial driving disqualification

Nuts and Bolts of DL Law



Suspension-related Issues



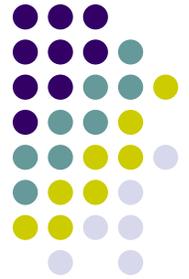
- DDS imposes license suspensions upon non-residents who are convicted of offenses for which a suspension is mandated. O.C.G.A. §40-5-51.

Suspension issues (cont'd)



- The DDS treats convictions imposed upon Georgia residents by courts in other jurisdictions as if they occurred in Georgia and imposes whatever penalty is mandated for such convictions. O.C.G.A. §40-5-52.

Suspension issues (cont'd)



- Courts are required to compel a defendant to surrender his or her driver's license when he or she is convicted of any offense for which a driver's license suspension is imposed. O.C.G.A. §40-5-53.

Suspension issues (cont'd)



- The court should also serve the defendant with notice of the suspension, though service of notice is not required as a pre-requisite to charging the defendant with driving on a suspended license as he/she has notice of the suspension by operation of law.

Suspension issues (cont'd)



- Most suspensions and revocations begin on the date of the conviction that causes the withdrawal.



Suspension issues (cont'd)

- DDS cannot begin calculating the driver's eligibility for reinstatement until he or she surrenders his or her driver's license.
- If not surrendered prior to the date that the conviction goes onto the defendant's driving record, the time starts as of that date. O.C.G.A. §40-5-61(e).



Suspension issues (cont'd)

- A notice of appeal does not stay a license withdrawal. If a defendant appeals a conviction that must be reported to DDS, the court must still report the conviction, and DDS will take whatever withdrawal is required, if any. See *Wells v. State*, 212 Ga. App. 15 (1994). If the conviction is overturned on appeal, DDS will amend the defendant's record.



Limited Driving Permits

- DDS has very limited authority to issue limited driving permits (LDP's), and the suspension for which the customer seeks an LDP must be among those set forth in O.C.G.A. §40-5-64(a).



Permits (cont'd)

- Eligible suspensions:
 - TAADRA suspensions for school withdrawals, misconduct, absences-O.C.G.A. §40-5-22(a.1)(2)
 - First or second points suspensions-O.C.G.A. §40-5-57(d)
 - First mandatory suspension-O.C.G.A. §40-5-63(a)(1)
 - First ALS-O.C.G.A. §40-5-67.2(a)(1)



Permits (cont'd)

- Additional authority for probationary licenses in O.C.G.A. §§40-5-58, 40-5-67.2(a)(3) and 40-5-75 for 3rd suspensions.



Permits (cont'd)

- LDP's allow the defendant to continue driving while his/her driving privilege is suspended or revoked, but only for limited, specific reasons.
- As a general rule, a permit may be used for driving to work, school, medical care or obtaining prescriptions, substance abuse treatment, driver improvement



Permits (cont'd)

- Cannot be used to take family members to school, work, etc. (not advisable even if on the way to licensee's work, school, etc.)



Permits (cont'd)

- Conviction for violating terms of permit (or any moving violation) extends the underlying suspension for 6 more months. O.C.G.A. 40-5-64(g)(1)(A).

Amending Court Dispositions to Address License Consequences



- O.C.G.A. §§40-13-32 and 40-13-33
 - Day 1-90, unlimited discretion
 - Day 91-180, hoops with strict compliance (motion, notice to prosecutor, hearing)
 - Day 181 on, no subject matter jurisdiction
- Does not apply to correction of typographical error on sentence



First Offender Treatment

- Sentences imposed with “first offender” language are considered convictions as defined in O.C.G.A. §40-5-1(4) according to *Salomon v. Earp*, 190 Ga. App. 405, 406-407 (rev’d on other grounds).
- The only exception to *Salomon* is for drug convictions pursuant to *Priest v. State*, 261 Ga. 651 (1991).



Nolo Pleas

- Nolo plea can be used to avoid some suspensions.
- Eligibility will depend upon the offense, the defendant's age, and his/her prior driving record.
- See attached handout for information on specific offenses.



Nolo Pleas (cont'd)

- Main areas of availability:
 - Points bearing offenses: Once every five (5) years (for defendants age 21 or older)
 - Misdemeanor marijuana: Must complete DUI Risk Reduction Program within 120 days of conviction
 - Insurance: Once every five (5) years
 - DWSL: Once every five (5) years

New License Design



5/25/2012

Permanent Driver's License - Front



Overlapping Signatures over Photo



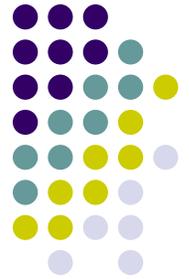
Guilloche Design

Digitized Signature

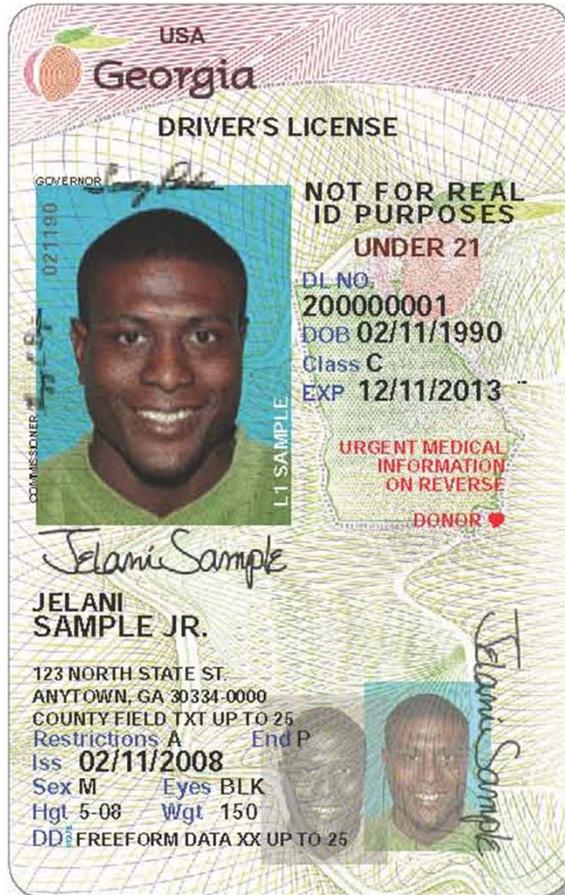
Peach and State Outline

Ghost Images

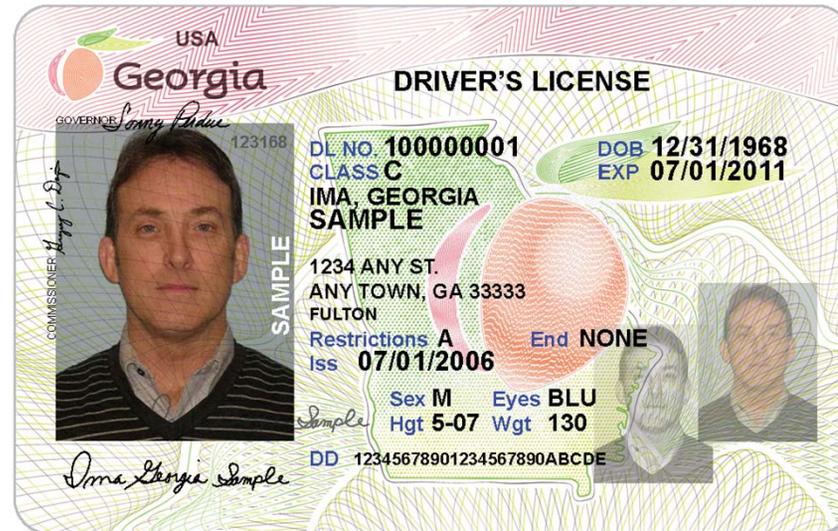
Permanent Driver's License - Back



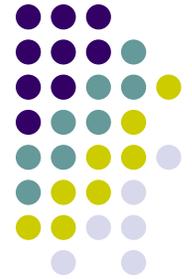
Permanent Driver's License – formats



Under 21



21 and over



Identification Card – formats



Under 21

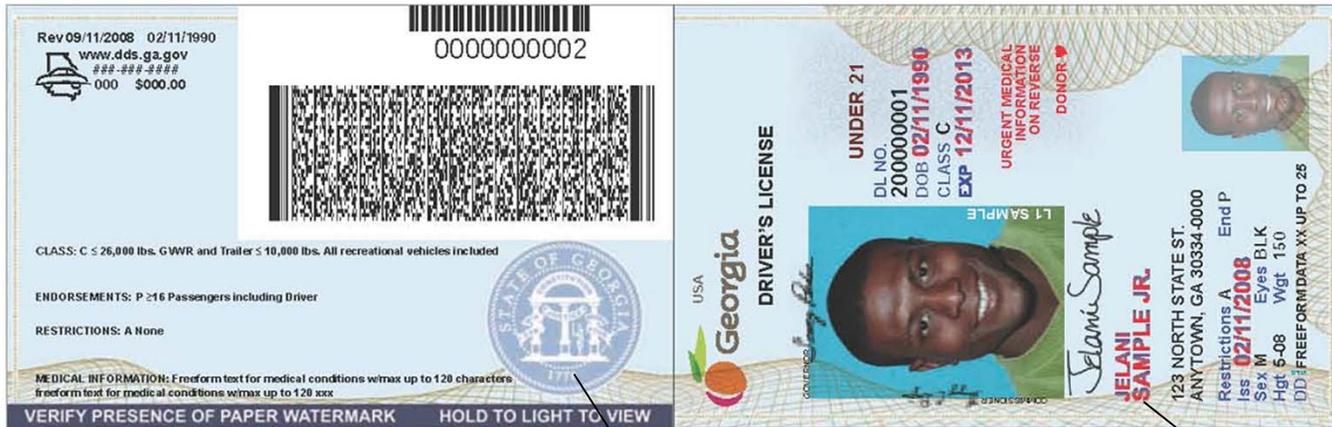


21 and over

Interim Card – formats



21 and over



Under 21

Thermochromatic / Heat Sensitive Ink

Rainbow Text

Questions???

Contact Information:

DDS Legal & Investigative Services
P.O. Box 80447
Conyers, Georgia 30013
(678) 413-8765
jammons@dds.ga.gov
www.dds.ga.gov

