

Senate Bill 6

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

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
2 drivers' licenses, so as to clarify and provide for persons who may obtain certain licenses,
3 permits, or cards; to provide for driving safety cards for persons who are current recipients
4 of grants of deferred action on deportation which shall operate the same as drivers' licenses;
5 to provide for exceptions; to provide for the design of driving safety cards; to provide for
6 special identification cards for persons who are current recipients of grants of deferred action
7 on deportation; to provide for the design of such special identification cards; to provide for
8 criminal penalties; to provide for related matters; to provide for a contingent effective date;
9 to repeal conflicting laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
13 is amended by revising paragraph (15) of Code Section 40-5-1, relating to definitions, to read
14 as follows:

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

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

23 (B) Any person who, except for infrequent, brief absences, has been present in the state
24 for 30 or more days;

25 provided, however, that no person shall be considered a resident for purposes of this
 26 chapter unless such person is either a United States citizen or an alien ~~with legal~~
 27 ~~authorization from the U.S. Immigration and Naturalization Service~~ having lawful status
 28 to be present in the United States."

29 **SECTION 2.**

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

33 "(a) No person, except those expressly exempted in this chapter or in Chapter 6 of this title,
 34 shall drive any motor vehicle upon a highway in this state unless such person has a valid
 35 driver's license or a driving safety card under this chapter for the type or class of vehicle
 36 being driven. Any person who is a resident of this state for 30 days shall obtain a Georgia
 37 driver's license before operating a motor vehicle in this state. Any court having jurisdiction
 38 over traffic offenses in this state shall report to the department the name and other
 39 identifying information of any individual convicted of driving without a license. This Code
 40 section shall not apply to a person driving with a suspended license or license that has been
 41 revoked. Any person convicted of violating this Code section shall be punished as
 42 provided in subsection (a) of Code Section 40-5-121; provided, however, that if:

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

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

51 (a.1)(1) Except as provided for in subsection (a.2) of this Code section, any person who
 52 is a current recipient of a grant of deferred action on deportation from the United States
 53 Department of Homeland Security shall obtain a Georgia driving safety card before
 54 operating a motor vehicle in this state. Pursuant to the terms of this subsection, upon
 55 payment of the required fee, the department shall issue to every applicant qualifying
 56 therefor a driving safety card indicating the type or general class of vehicle the applicant
 57 may drive. Notwithstanding any other provision of this title and except as otherwise
 58 provided for in this subsection, such driving safety card shall:

59 (A) In every way operate in like manner for types or classes of vehicles as a citizen's
 60 driver's license, including but not limited to fees, instructional permits, training,
 61 examinations, expirations, restrictions, points, issuances, renewals, and replacements,
 62 as if such driving safety card were a driver's license;

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

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

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

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

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

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

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

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

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

90 (6) The department shall not issue any temporary driving privileges as provided for in
 91 subsection (e) of Code Section 40-5-24 to any person who is a current recipient of a grant
 92 of deferred action on deportation from the United States Department of Homeland
 93 Security.

94 (a.2) No person who is a current recipient of a grant of deferred action on deportation from
 95 the United States Department of Homeland Security shall be eligible to obtain a driver's
 96 license or a special identification card other than a special identification card provided for
 97 under subsection (d) of Code Section 40-5-21.1; provided, however, that any person who
 98 is a current recipient of such grant of deferred action on deportation and who has a valid
 99 driver's license or special identification card other than a special identification card
 100 provided for under subsection (d) of Code Section 40-5-21.1 shall, upon expiration of such
 101 driver's license or special identification card, be subject to the provisions of this chapter
 102 relating to a driving safety card or special identification card." expiration of such driver's
 103 license, be subject to the provisions of this chapter relating to a driving safety card."

104 "(c)(1) Except as provided in paragraph (2) of this subsection and in Code Section
 105 40-5-32, no person shall receive a driver's license or driving safety card unless and until
 106 such person surrenders to the department all valid licenses in such person's possession
 107 issued to him or her by this or any other jurisdiction. All surrendered licenses issued by
 108 another jurisdiction shall be destroyed. The license information shall be forwarded to the
 109 previous jurisdiction. No person shall be permitted to have more than one valid driver's
 110 license or more than one valid driving safety card at any time or a valid driver's license
 111 and a valid driving safety card at the same time.

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

122 SECTION 3.

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

126 "40-5-21.1.

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

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

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

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

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

134 (5) Approved deferred action on deportation status;

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

138 (7) Verification of lawful presence as provided by Code Section 40-5-21.2

139 may be issued a temporary license, permit, or special identification card. Such temporary
 140 license, permit, or special
 141 identification card shall be valid only during the period of time of the applicant's authorized
 142 stay in the United States or five years, whichever occurs first.

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

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

161 (d)(1) Notwithstanding any other provision of the title, an applicant who is a current
 162 recipient of a grant of deferred action on deportation from the United States Department

163 of Homeland Security may be issued a special identification card which shall be valid
 164 only during the period of time of the applicant's grant of deferred action on deportation
 165 or five years, whichever occurs first. Notwithstanding any other provision of this title
 166 and except as otherwise provided for in this subsection, such special identification card
 167 shall in every way conform to the provisions governing personal identification cards
 168 provided for by this title, including but not limited to fees, proof of birth date, unlawful
 169 use, issuances, renewals, and replacements.

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

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

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

183 **SECTION 4.**

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

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

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

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

196 "(e) A person determined to be a current recipient of a grant of deferred action on
 197 deportation from the United States Department of Homeland Security pursuant to this Code

198 section shall be eligible for a card as provided for in subsection (a.1) of Code Section
 199 40-5-20 or subsection (d) of Code Section 40-5-21.1."

200 **SECTION 5.**

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

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

217 **SECTION 6.**

218 Said chapter is further amended by revising paragraphs (1), (2), and (3) of Code Section
 219 40-5-120, relating to the unlawful use of license or identification card and penalties for
 220 violations of chapter generally, as follows:

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

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

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

229

SECTION 7.

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

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

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

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

235

SECTION 8.

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