

Senator Albers of the 56th offered the following amendment #1:

1 *Amend the House substitute to SB 217 (LC 39 3965S) by deleting lines 1 through the end and*
2 *inserting in lieu thereof the following:*

3 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
4 traffic, so as to provide for the offense of operation of a motor vehicle with a fraudulent
5 license plate; to provide for a definition; to provide for penalties; to authorize civil forfeiture
6 in certain instances; to provide for punishment for commission of such while committing a
7 felony; to repeal provisions relating to obscuring a license plate in order to impede detection;
8 to repeal and designate as reserved provisions relating to removing or affixing a license plate
9 with the intent to conceal; to provide for suspension and revocation of a vehicle registration
10 for certain offenses of operating a motor vehicle with a fraudulent license plate; to revise a
11 definition; to provide for times when a school zone speed limit may be enforced through the
12 use of an automated traffic enforcement safety device; to authorize a local governing body
13 to apply for a permit to operate such devices; to provide for admissible evidence for proof
14 of a violation of speed limit through the use of speed detection devices; to provide for
15 investigations of unauthorized use by local governing bodies or agents and penalties; to
16 provide for penalties for violation of laws relative to automated traffic enforcement safety
17 devices by an agent, law enforcement agency, or governing body; to revise standards for use
18 of civil monetary penalties in the permissible ratio to an agency's budget; to provide for
19 procedures, conditions, and limitations for issuing citations for the violation of speed limit
20 through the use of automated traffic enforcement safety devices; to provide for procedures
21 for contesting such citations; to provide for nonrenewal eligibility of motor vehicle
22 registration in certain instances; to provide for the use of collected civil monetary penalties;
23 to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to

24 authorize district attorneys, solicitors-general, and prosecuting attorneys to enforce civil
25 monetary penalties relative to the enforcement of laws regarding speeding in a school zone
26 using recorded images; to amend Code Section 40-6-163 of the Official Code of Georgia
27 Annotated, relating to duty of driver of vehicle meeting or overtaking school bus, reporting
28 of violations, and civil monetary penalty for violations captured by school bus camera, so as
29 to revise penalties for failure to pay a civil monetary penalty relating to illegal passing of a
30 school bus; to revise procedures for contesting such citations; to provide for nonrenewal
31 eligibility of motor vehicle registration in certain instances; to provide for the use of such
32 collected civil monetary penalties; to provide for related matters; to repeal conflicting laws;
33 and for other purposes.

34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

35 **SECTION 1.**

36 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
37 amended by revising Code Section 40-2-6, relating to alteration of license plates and
38 operation of vehicle with altered or improperly transferred plate, as follows:

39 "40-2-6.

40 ~~Except as otherwise provided in this chapter, any person who shall willfully mutilate,~~
41 ~~obliterate, deface, alter, change, or conceal any numeral, letter, character, county~~
42 ~~designation, or other marking of any license plate issued under the motor vehicle~~
43 ~~registration laws of this state; who shall knowingly operate a vehicle bearing a license plate~~
44 ~~on which any numeral, letter, character, county designation, or other marking has been~~
45 ~~willfully mutilated, obliterated, defaced, altered, changed, or concealed; or who shall~~
46 ~~knowingly operate a vehicle bearing a license plate issued for another vehicle and not~~
47 ~~properly transferred as provided by law shall be guilty of a misdemeanor.~~

48 (a) As used in this Code section, the term 'conceal' includes the use of:

- 49 (1) A material or part of an individual's body to cover a license plate;
50 (2) Blurring or reflective matter that significantly impairs the readability of the name of
51 the state in which the vehicle is registered or the letters or numbers of the license plate
52 number at any time;
53 (3) An attached illuminated device or sticker, decal, emblem, or other insignia that is not
54 authorized by law and that interferes with the readability of the name of the state in which
55 the vehicle is registered or the letters or numbers of the license plate number at any time;
56 (4) A position of the license plate which is not authorized by law and that interferes with
57 the readability of the name of the state in which the vehicle is registered or the letters or
58 numbers of the license plate at any time; or
59 (5) A coating, covering, protective substance, or other material that at any time:
60 (A) Distorts angular visibility or detectability by a camera or an automated license
61 plate recognition system as such term is defined in Code Section 35-1-22;
62 (B) Alters or obscures one-half or more of the name of the state in which the vehicle
63 is registered; or
64 (C) Alters or obscures the color, letters, or numbers of the license plate number.
65 (b)(1) A person commits the offense of operation of a motor vehicle with a fraudulent
66 license plate when he or she willfully and with intent to obscure or misrepresent the
67 identity of the vehicle or its owner:
68 (A) Conceals any portion of the license plate;
69 (B) Removes, defaces, or destroys a license plate;
70 (C) Displays a license plate issued for a different motor vehicle;
71 (D) Displays a revalidation decal other than one assigned to the motor vehicle; or
72 (E) Displays a license plate not issued by the department which has the appearance of
73 one validly issued by the department.
74 (2) Any person who violates this Code section shall be guilty of a misdemeanor and
75 punished as follows:

76 (A) For a first conviction, a fine of \$250.00; provided, however, that such fine shall not
77 exceed \$25.00 if a person shows to the court having jurisdiction of the offense that the
78 item causing the obstruction or misrepresentation has been removed;
79 (B) For a second conviction, a fine of \$500.00; and
80 (C) For a third or subsequent conviction, a fine of not less than \$750.00 and
81 imprisonment for not less than 15 days which shall not be suspended, probated,
82 deferred, or withheld by a sentencing court without consent of the prosecuting attorney.
83 (3)(A) Any motor vehicle operated by a person who has been convicted of a fourth or
84 subsequent violation of this Code section is declared to be contraband and subject to
85 forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9.
86 (B) In any case where a vehicle which is the only family vehicle is determined to be
87 subject to forfeiture, the court may, if it determines that the financial hardship to the
88 family as a result of the forfeiture and sale outweighs the benefit to the state from such
89 forfeiture, order the title to the vehicle transferred to another family member who is a
90 duly licensed operator and who requires the use of such vehicle for employment or
91 family transportation purposes. Such transfer shall be subject to any valid liens and
92 shall be granted only once.
93 (4) For the purpose of imposing a sentence under this Code section, a plea of nolo
94 contendere or first offender treatment by a court of competent jurisdiction based on a
95 violation of this Code section shall constitute a conviction.
96 (c) Any person who operates a motor vehicle with a fraudulent license plate in violation
97 of this Code section during the commission of a felony shall be guilty of a misdemeanor
98 and punished by a fine of not less than \$750.00 and imprisonment for not less than
99 nine months, and the first 30 days of such sentence shall not be suspended, probated,
100 deferred, or withheld by a sentencing court."

101 **SECTION 2.**

102 Said title is further amended by repealing Code Section 40-2-6.1, relating to obscuring
103 license plate in order to impede surveillance equipment.

104 **SECTION 3.**

105 Said title is further amended by repealing and designating as reserved Code Section 40-2-7,
106 relating to removing or affixing license plate with intent to conceal or misrepresent.

107 **SECTION 4.**

108 Said title is further amended by revising Code Section 40-2-41, relating to display of license
109 plates, as follows:

110 "40-2-41.

111 Unless otherwise permitted under this chapter, every vehicle required to be registered under
112 this chapter, which is in use upon the highways, shall at all times display the license plate
113 issued to the owner for such vehicle, and the plate shall be fastened to the rear of the
114 vehicle in a position so as not to swing and shall be at all times plainly visible. No person
115 shall display on the rear of a motor vehicle any temporary or permanent plate or tag not
116 issued by the State of Georgia which is intended to resemble a license plate which is issued
117 by the State of Georgia. The commissioner is authorized to adopt rules and regulations so
118 as to permit the display of a license plate on the front of certain vehicles. ~~It shall be the~~
119 ~~duty of the operator of any vehicle to keep the license plate legible at all times. No license~~
120 ~~plate shall be covered with any material unless the material is colorless and transparent.~~
121 ~~No apparatus that obstructs or hinders the clear display and legibility of a license plate shall~~
122 ~~be attached to the rear of any motor vehicle required to be registered in the state. Any~~
123 ~~person who violates any provision of this Code section shall be guilty of a misdemeanor."~~

SECTION 5.

Said title is further amended by revising Code Section 40-2-135, relating to revocation and seizure of license plates and renewal decals, as follows:

"40-2-135.

(a)(1) The commissioner shall revoke any regular, prestige, special, or distinctive license plate which the commissioner determines was issued in error and shall revoke the special and distinctive license plate issued to a member of the General Assembly at such time as the holder ceases to hold such public office. The commissioner or his or her designated agent may revoke any license plate purchased with a check which was returned for any reason. The commissioner shall notify the holder of such regular, prestige, special, or distinctive license plate or of such other license plate of such revocation. The holder of such revoked license plate shall return the license plate to the commissioner or the commissioner's designated agent and register his or her vehicle as otherwise required by this chapter.

(2) Any state or county law enforcement officer or any special agent or enforcement officer appointed under Code Section 40-2-134 may, upon the direction or request of the commissioner, go upon public or private property to seize a license plate or renewal decal which has been revoked pursuant to this subsection.

(b) The commissioner shall suspend or revoke any permanent registration and license plate issued in accordance with Code Section 40-2-47 when the owner has not complied with the annual requirement of the payment of ad valorem taxes and is delinquent for more than 12 months from the last date of ad valorem tax payment.

(c)(1) Upon a second conviction under Code Section 40-2-6 with the same motor vehicle by any owner or operator of such vehicle, the court shall issue an order requiring that the license plate of the vehicle be surrendered to the court. The court shall notify the commissioner within ten days after issuing any such order and send by first-class mail a copy of such order to the vehicle owner when the underlying conviction was issued to an

151 operator other than the vehicle owner. The commissioner shall suspend the vehicle
152 registration upon receiving such notice and, if such license plate is a digital license plate,
153 shall inform the digital license plate provider of the suspension of vehicle registration.
154 The court shall issue a receipt for the surrendered license plate. The court shall forward
155 the surrendered license plate to the local tag agent immediately upon receipt; provided,
156 however, that, if the surrendered license plate is a digital license plate, the court shall
157 allow such person to retain the digital license plate. Upon the passage of 180 days and
158 payment of a \$160.00 restoration fee, the owner may apply for registration of the motor
159 vehicle.

160 (2) Upon a third or subsequent conviction under Code Section 40-2-6 with the same
161 motor vehicle by any owner or operator of such vehicle, the court shall issue an order
162 requiring that the license plate of the vehicle be surrendered to the court. The court shall
163 notify the commissioner within ten days after issuing any such order and send by
164 first-class mail a copy of such order to the vehicle owner when the underlying conviction
165 was issued to an operator other than the vehicle owner. The commissioner shall revoke
166 the vehicle registration upon receiving such notice and, if such license plate is a digital
167 license plate, shall inform the digital license plate provider of the revocation of vehicle
168 registration. The court shall issue a receipt for the surrendered license plate. The court
169 shall forward the surrendered license plate to the local tag agent immediately upon
170 receipt; provided, however, that, if the surrendered license plate is a digital license plate,
171 the court shall allow such person to retain the digital license plate.

172 (3) For purposes of this subsection, a plea of nolo contendere shall constitute a
173 conviction. Any state or county law enforcement officer or any special agent or
174 enforcement officer appointed under Code Section 40-2-134 may, upon the direction or
175 request of the commissioner, go upon public or private property to seize a license plate
176 or renewal decal which has been revoked as provided in subsection (a) of this Code
177 section."

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SECTION 6.

Said title is further amended in Code Section 40-14-1.1, relating to definitions, by revising paragraph (5) as follows:

"(5) 'School zone' means the area ~~within 1,000 feet of the boundary of~~ defined in an existing master state order or local ordinance as a school zone area for any public or private elementary or secondary school."

SECTION 7.

Said title is further amended by revising Code Section 40-14-8, relating to when case may be made and conviction had, as follows:

"40-14-8.

(a) No county, city, or campus officer shall be allowed to make a case based on the use of any speed detection device, unless the speed of the vehicle exceeds the posted speed limit by more than ten miles per hour and no conviction shall be had thereon unless such speed is more than ten miles per hour above the posted speed limit.

(b) The limitations contained in subsection (a) of this Code section shall not apply in: ~~properly marked school zones one hour before, during, and one hour after the normal hours of school operation or programs for care and supervision of students before school, after school, or during vacation periods as provided for under Code Section 20-2-65;~~

(1) School zones properly marked with warning signs while the reduction of the speed limit for the school zone is in effect, when the speed detection device is operated by an on-site law enforcement officer;

(2) Properly in properly marked historic districts; and

(3) Properly in properly marked residential zones.

(c) For purposes of this chapter, thoroughfares with speed limits of 35 miles per hour or more shall not be considered residential ~~districts~~ zones. For purposes of this Code section, the term 'historic district' means a historic district as defined in ~~paragraph (5) of Code~~

204 Section 44-10-22 and which is listed on the Georgia Register of Historic Places or as
205 defined by ordinance adopted pursuant to a local constitutional amendment."

206 **SECTION 8.**

207 Said title is further amended by revising Code Section 40-14-9, relating to certain evidence
208 inadmissible and use of device on hill, as follows:

209 "40-14-9.

210 Evidence obtained by county or municipal law enforcement officers in using speed
211 detection devices, other than automated traffic enforcement safety devices, within 300 feet
212 of a reduction of a speed limit inside an incorporated municipality or within 600 feet of a
213 reduction of a speed limit outside an incorporated municipality or consolidated city-county
214 government shall be inadmissible in the prosecution of a violation of any municipal
215 ordinance, county ordinance, or state law regulating speed; nor shall such evidence be
216 admissible in the prosecution of a violation as aforesaid when such violation has occurred
217 within 30 days following a reduction of the speed limit in the area where the violation took
218 place, except that this 30 day limitation shall not apply to a speeding violation within a
219 highway work zone, as defined in Code Section 40-6-188, or in an area with variable speed
220 limits, as defined in Code Section 40-6-182. No speed detection device shall be employed
221 by county, municipal, or campus law enforcement officers on any portion of any highway
222 which has a grade in excess of 7 percent. No automated traffic enforcement safety device
223 shall be employed by any county, municipal, or campus law enforcement or any agent
224 thereof other than as provided for in this chapter."

225 **SECTION 9.**

226 Said title is further amended by revising Code Section 40-14-11, relating to investigations
227 by commissioner of public safety, issuance of order suspending or revoking permit, and ratio
228 of speeding fines to agency's budget, as follows:

229 "40-14-11.

230 (a) Upon a complaint being made to the commissioner of public safety that any county,
231 municipality, college, or university is employing speed detection devices for purposes other
232 than the promotion of the public health, welfare, and safety or in a manner which violates
233 this chapter or violates its speed detection device permit, the commissioner or the
234 commissioner's designee is authorized and empowered to conduct an investigation into the
235 acts and practices of such county, municipality, college, or university with respect to speed
236 detection devices. If, as a result of this investigation, the commissioner or the
237 commissioner's designee finds that there is probable cause to suspend or revoke the speed
238 detection device permit of such county, municipality, college, or university, he or she shall
239 issue an order to that effect. When the commissioner of public safety finds that there is
240 probable cause to suspend or revoke a permit for a speed detection device which is an
241 automated traffic enforcement safety device, such commissioner shall send a copy of such
242 order to the commissioner of transportation.

243 (b) Upon the suspension or revocation of any speed detection device permit, other than one
244 issued for an automated traffic enforcement safety device, for the reasons set forth in this
245 Code section, the commissioner of public safety shall notify the executive director of the
246 Georgia Peace Officer Standards and Training Council of the action taken.

247 (c) Upon receipt from the executive director of the Georgia Peace Officer Standards and
248 Training Council that an officer's certification to operate speed detection devices has been
249 withdrawn or suspended pursuant to Code Section 35-8-12, the commissioner of public
250 safety or the commissioner's designee shall suspend the speed detection device permit for
251 the employing agency. The period of suspension or revocation shall be consistent with the
252 action taken by the Georgia Peace Officer Standards and Training Council.

253 (c) Any agent, law enforcement agency, or governing body that violates any provision of
254 this article relating to automated traffic enforcement safety devices shall be assessed a fine
255 of \$1,000.00 by the commissioner of public safety.

256 (d) There shall be a rebuttable presumption that a law enforcement agency is employing
 257 speed detection devices for purposes other than the promotion of the public health, welfare,
 258 and safety if the fines levied based on the use of speed detection devices for speeding
 259 offenses are equal to or greater than 35 percent of a municipal or county law enforcement
 260 agency's budget. For purposes of this Code section, fines collected for citations issued for
 261 violations of Code Section 40-6-180 shall be included when calculating total speeding fine
 262 revenue for the agency; provided, however, that fines for speeding violations exceeding 20
 263 miles per hour over the established speed limit ~~and civil monetary penalties for speeding~~
 264 ~~violations issued pursuant to Code Section 40-14-18~~ shall not be considered when
 265 calculating total speeding fine revenue for the agency."

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SECTION 10.

267 Said title is further amended by revising Code Section 40-14-18, relating to enforcement of
 268 speed limit in school zones with recorded images, civil monetary penalty, and vehicle
 269 registration and transfer of title restrictions for failure to pay penalty, as follows:

270 "40-14-18.

271 (a)(1) The speed limit within any school zone ~~as provided for in Code Section 40-14-8~~
 272 ~~and~~ marked pursuant to Code Section 40-14-6 may be enforced by using photographically
 273 recorded images for violations which occurred only 60 minutes prior to and 30 minutes
 274 after the school's official starting time and 30 minutes prior to and 60 minutes after the
 275 school's official dismissal time and when such violations are in excess of ten miles per
 276 hour over the speed limit; provided, however, that, when any portion of a school's
 277 property is bisected by a highway, such enforcement may occur on a school day during
 278 the time in which instructional classes are taking place and one hour before such classes
 279 are scheduled to begin and for one hour after such classes have concluded when such
 280 violations are in excess of ten miles per hour over the speed limit.

281 (2) Prior to the placement of a device within a school zone, ~~each school within whose~~
282 ~~school zone such~~ the governing body of the county or municipality whose law
283 enforcement agency shall be authorized to enforce the speed limit where an automated
284 traffic enforcement safety device is to be placed shall first apply for and secure a permit
285 from the Department of Transportation for the use of such automated traffic enforcement
286 safety device. Such permit shall be awarded based upon need. The Department of
287 Transportation shall promulgate rules and regulations for the implementation of this
288 paragraph.

289 (b) For the purpose of enforcement pursuant to this Code section:

290 (1) The owner of a motor vehicle shall be liable for a civil monetary penalty to the
291 governing body of the law enforcement agency provided for in paragraph (2) of this
292 subsection if such vehicle is found, as evidenced by photographically recorded images,
293 to have been operated in disregard or disobedience of the speed limit within any school
294 zone and such disregard or disobedience was not otherwise authorized by law. The
295 amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00
296 for a second or any subsequent violation, in addition to fees associated with the electronic
297 processing of such civil monetary penalty which shall not exceed \$25.00; provided,
298 however, that for a period of 30 days after the first automated traffic enforcement safety
299 device is introduced by a law enforcement agency within a school zone, the driver of a
300 motor vehicle shall not be liable for a civil monetary penalty but shall be issued a civil
301 warning for disregard or disobedience of the speed limit within the school zone;

302 (2) A law enforcement agency authorized to enforce the speed limit of a school zone, or
303 an agent working on behalf of a law enforcement agency or governing body, shall send
304 by ~~first class~~ first-class mail addressed to the owner of the motor vehicle within 30 days
305 after obtaining the name and address of the owner of the motor vehicle from the
306 Department of Revenue but no later than 60 days after the date of the alleged violation:

- 307 (A) A citation for the alleged violation, which shall include the date and time of the
308 violation, the location of the infraction, the maximum speed at which such motor
309 vehicle was traveling in photographically recorded images, the maximum speed
310 applicable within such school zone, the civil warning or the amount of the civil
311 monetary penalty imposed, ~~and~~ the date by which a civil monetary penalty shall be
312 paid, and a statement that informs the recipient of the consequences for failure to pay
313 the civil monetary penalty;
- 314 (B) An image taken from the photographically recorded images showing the vehicle
315 involved in the infraction;
- 316 (C) A website address where photographically recorded images showing the vehicle
317 involved in the infraction and a duplicate of the information provided for in this
318 paragraph may be viewed;
- 319 (D) A copy of a certificate sworn to or affirmed by a certified peace officer employed
320 by a law enforcement agency authorized to enforce the speed limit of the school zone
321 and stating that, based upon inspection of photographically recorded images, the
322 owner's motor vehicle was operated in disregard or disobedience of the speed limit in
323 the marked school zone and that such disregard or disobedience was not otherwise
324 authorized by law;
- 325 (E) A statement of the inference provided by paragraph (4) of this subsection and of
326 the means specified therein by which such inference may be rebutted;
- 327 (F) Information advising the owner of the motor vehicle of the manner in which
328 liability as alleged in the citation may be contested ~~through an administrative hearing~~
329 which shall include an assigned hearing date to contest liability that shall be no later
330 than 60 days from the date of issuance of the citation; and
- 331 (G) A warning that failure to pay the civil monetary penalty or to contest liability in
332 a timely manner through the submission of a sworn notarized statement or at the

333 assigned hearing as provided for in subsection (d) of this Code section shall waive any
334 right to contest liability;

335 (3) Proof that a motor vehicle was operated in disregard or disobedience of the speed
336 limit of the marked school zone shall be evidenced by photographically recorded images.
337 A copy of a certificate sworn to or affirmed by a certified peace officer employed by a
338 law enforcement agency and stating that, based upon inspection of photographically
339 recorded images, a motor vehicle was operated in disregard or disobedience of the speed
340 limit in the marked school zone and that such disregard or disobedience was not
341 otherwise authorized by law shall be prima-facie evidence of the facts contained therein;
342 and

343 (4) Liability under this Code section shall be determined based upon a preponderance of
344 the evidence. Prima-facie evidence that the vehicle described in the citation issued
345 pursuant to this Code section was operated in violation of the speed limit of the school
346 zone, together with proof that the defendant was, at the time of such violation, the
347 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that
348 such owner of the vehicle was the driver of the vehicle at the time of the alleged
349 violation. Such an inference may be rebutted if the owner of the vehicle:

350 ~~(A) Testifies~~ testifies under oath in open court or submits to the court prior to the
351 assigned hearing date a sworn notarized statement that he or she was not the operator
352 of the vehicle at the time of the alleged violation;

353 ~~(B) Presents to the court a certified copy of a police report showing that the vehicle had~~
354 ~~been reported to the police as stolen prior to the time of the alleged violation.~~

355 (c) A violation for which a civil warning or a civil monetary penalty is imposed pursuant
356 to this Code section shall not be considered a moving traffic violation for the purpose of
357 points assessment under Code Section 40-5-57. Such violation shall be deemed
358 noncriminal, and imposition of a civil warning or civil monetary penalty pursuant to this
359 Code section shall not be deemed a conviction and shall not be made a part of the operating

360 record of the person upon whom such liability is imposed, nor shall it be used for any
361 insurance purposes in the provision of motor vehicle insurance coverage. A civil monetary
362 penalty imposed pursuant to this Code section shall not be taxed nor shall any additional
363 fine, penalty, fee, or surcharge be assessed upon such penalty except as authorized by this
364 Code section.

365 (d) If a person issued and mailed a citation pursuant to subsection (b) of this Code section
366 fails to pay the civil monetary penalty for the violation or fails to appear on the assigned
367 hearing date to contest liability or has not ~~filed a police report or submitted a~~ notarized
368 statement pursuant to paragraph (4) of subsection (b) of this Code section ~~in no less than~~
369 ~~30 nor more than 60 days after, within 60 days of the date of~~ such mailing as determined
370 and noticed by the law enforcement agency, the agent or law enforcement agency shall
371 send to such person by ~~first-class~~ first-class mail a second notice of any unpaid civil
372 monetary penalty, except in cases where there is an adjudication that no violation occurred
373 or there is otherwise a lawful determination that no civil monetary penalty shall be
374 imposed. No more than a \$5.00 late fee shall be imposed for any unpaid civil monetary
375 penalty imposed under this Code section. The second notice shall include all information
376 required in paragraph (2) of subsection (b) of this Code section except for an assigned
377 hearing date and shall include a new date of return which shall be no less than 30 days after
378 such mailing as determined and noticed by the law enforcement agency. If such person
379 notified by second notice again fails to pay the civil monetary penalty or ~~file a police report~~
380 ~~or submit a~~ notarized statement pursuant to paragraph (4) of subsection (b) of this Code
381 section by the new date of return, such person shall have waived the right to contest the
382 violation and shall be liable for the civil monetary penalty provided for under this Code
383 section, except in cases where there is an adjudication that no violation occurred or there
384 is otherwise a lawful determination that no civil monetary penalty shall be imposed.

385 (e) Notices mailed by ~~first-class~~ first-class mail pursuant to this Code section shall be
386 adequate notification of the fees and penalties imposed by this Code section. No other
387 notice shall be required for the purposes of this Code section.

388 (f) Any court having jurisdiction over traffic violations ~~of subsection (a) of this Code~~
389 ~~section or traffic ordinances~~ shall have jurisdiction over cases arising under this ~~subsection~~
390 Code section and shall be authorized to impose the civil monetary penalty provided by this
391 ~~subsection~~ Code section. Except as otherwise provided in this ~~subsection~~ Code section, the
392 provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and
393 payment and distribution of penalties otherwise applicable to traffic violations ~~of~~
394 ~~subsection (a) of this Code section or traffic ordinances~~ shall apply to enforcement under
395 this Code section except as otherwise provided in subsection (b) of this Code section;
396 provided, however, that any appeal from superior or state court shall be by application in
397 the same manner as that provided by Code Section 5-6-35.

398 (g) If a violation has not been contested and the assessed penalty has not been paid, the
399 agent or governing body shall send to the person who is the registered owner of the motor
400 vehicle a final notice of any unpaid civil monetary penalty authorized by this Code section,
401 except in cases where there is an adjudication that no violation occurred or there is
402 otherwise a lawful determination that no civil monetary penalty shall be imposed. The
403 notice shall inform the registered owner that the agent or governing body shall send a
404 referral to the Department of Revenue if the assessed penalty is not paid within 30 days
405 after the final notice was mailed and ~~such that such referral shall result in the nonrenewal~~
406 ~~of the registration of such motor vehicle and shall prohibit the title transfer of such motor~~
407 ~~vehicle within this state~~ of the consequences for failure to pay such penalty and any late
408 fee.

409 (h) The agent or governing body shall send a referral to the Department of Revenue not
410 sooner than 30 days after the final notice required under subsection (g) was mailed if a
411 violation ~~of an ordinance or resolution adopted under this article~~ has not been contested and

412 the assessed penalty has not been paid, except in cases where there is an adjudication that
413 no violation occurred or there is otherwise a lawful determination that no civil monetary
414 penalty shall be imposed. The referral to the Department of Revenue shall include the
415 following:

416 (1) Any information known or available to the agent or governing body concerning the
417 license plate number, year of registration, and the name of the owner of the motor
418 vehicle;

419 (2) The date on which the violation occurred;

420 (3) The citation number issued for the violation; and

421 ~~(3)(4) The date when the notice required under this Code section was mailed; and~~

422 ~~(4) The seal, logo, emblem, or electronic seal of the governing body.~~

423 (i) If the Department of Revenue receives a referral under subsection (h) of this Code
424 section, such referral shall be entered into the motor vehicle ~~database~~ data base within five
425 days of receipt and the Department of Revenue shall refuse to renew the registration of the
426 motor vehicle ~~and shall prohibit the title transfer of such vehicle within this state unless and~~
427 ~~until the civil monetary penalty plus any late fee is paid to the agent or governing body.~~

428 ~~The Department of Revenue shall mail a notice to the registered owner:~~

429 ~~(1) That the registration of the vehicle involved in the violation will not be permitted to~~
430 ~~be renewed;~~

431 ~~(2) That the title of the vehicle involved in the violation will not be permitted to be~~
432 ~~transferred in this state;~~

433 ~~(3) That the aforementioned penalties are being imposed due to the failure to pay the~~
434 ~~civil monetary penalty and any late fee for an ordinance violation adopted under the~~
435 ~~authority of this Code section; and~~

436 ~~(4) Of the procedure that the person may follow to remove the penalties.~~

437 (j) The Department of Revenue shall remove the ~~penalties~~ penalty on a vehicle registration
438 if any person presents the Department of Revenue with adequate proof from the agent or
439 governing body that the penalty and any late fee, if applicable, has been paid.

440 (k) Recorded images made for purposes of this Code section shall not be a public record
441 for purposes of Article 4 of Chapter 18 of Title 50.

442 (l) A civil warning or civil monetary penalty under this Code section on the owner of a
443 motor vehicle shall not be imposed if the operator of the vehicle was arrested or issued a
444 citation and notice to appear by a certified peace officer for the same violation.

445 (m) The money collected and remitted to the governing body pursuant to paragraph (1) of
446 subsection (b) of this Code section shall be remitted by the governing body to the Peace
447 Officers' Annuity and Benefit Fund provided for under Chapter 17 of Title 47 toward such
448 governing body's responsibilities thereto; provided, however, that once such governing
449 body's responsibilities to the Peace Officers' Annuity and Benefit Fund have been met, the
450 remainder of any moneys collected and remitted to the governing body shall only be used
451 by such governing body to fund local law enforcement or public safety initiatives. This
452 subsection shall not preclude the appropriation of a greater amount than collected and
453 remitted under this subsection."

454

SECTION 11.

455 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Code
456 Section 15-9-155, relating to prosecuting attorney's duties and authority in probate courts in
457 counties in which there are no state courts, by revising subparagraph (a)(1)(A) as follows:

458 "(A) In the prosecution of any violation of the laws or ordinances of such county which
459 is within the jurisdiction of such probate court and punishable by confinement or a fine
460 or both or by a civil penalty authorized by Code Section 40-6-163 or 40-14-18;"

461 **SECTION 12.**

462 Said title is further amended in Code Section 15-18-6, relating to duties of district attorney,
463 by revising paragraph (5) as follows:

464 "(5) To prosecute civil actions to enforce any civil penalty set forth in Code
465 Section 40-6-163 or 40-14-18 and to prosecute or defend any other civil action in the
466 prosecution or defense of which the state is interested, unless otherwise specially
467 provided for;"

468 **SECTION 13.**

469 Said title is further amended in Code Section 15-18-66, relating to duties and authority of
470 solicitors-general of state courts, by revising paragraph (4) of subsection (b) as follows:

471 "(4) To prosecute civil actions to enforce any civil penalty set forth in Code
472 Section 40-6-163 or 40-14-18 and when authorized by law to prosecute or defend any
473 civil action in the state court in the prosecution or defense of which the state is interested,
474 unless otherwise specially provided for;"

475 **SECTION 14.**

476 Said title is further amended in Code Section 15-18-96, relating to authority of prosecuting
477 attorney of municipal courts, by revising subparagraph (a)(1)(A) as follows:

478 "(A) In the prosecution of any violation of the laws or ordinances of such municipality
479 which is within the jurisdiction of such municipal court and punishable by confinement
480 or a fine or both or by a civil penalty authorized by Code Section 40-6-163 or 40-14-18;
481 and"

482 **SECTION 15.**

483 Code Section 40-6-163 of the Official Code of Georgia Annotated, relating to duty of driver
484 of vehicle meeting or overtaking school bus, reporting of violations, and civil monetary

485 penalty for violations captured by school bus camera, is amended by revising subsection (d)
486 as follows:

487 "(d)(1) As used in this subsection, the term:

488 (A) 'Agent' means a person or entity that is authorized by a law enforcement agency
489 or governing body to administer the procedures contained herein and:

490 (i) Provides services to such law enforcement agency or governing body;

491 (ii) Operates, maintains, leases, or licenses a video recording device; or

492 (iii) Is authorized by such law enforcement agency or governing body to review and
493 assemble the recorded images.

494 (B) 'Owner' means the registrant of a motor vehicle, except that such term shall not
495 include a motor vehicle rental company when a motor vehicle registered by such
496 company is being operated by another person under a rental agreement with such
497 company.

498 (C) 'Recorded images' means images recorded by a video recording device mounted
499 on a school bus with a clear view of vehicles passing the bus on either side and showing
500 the date and time the recording was made and an electronic symbol showing the
501 activation of amber lights, flashing red lights, stop arms, and brakes.

502 (D) 'Video recording device' means a camera capable of recording digital images
503 showing the date and time of the images so recorded.

504 (2) Subsection (a) of this Code section may be enforced by using recorded images as
505 provided in this subsection.

506 (3) For the purpose of enforcement pursuant to this subsection:

507 (A) The owner of a motor vehicle shall be liable for a civil monetary penalty to the
508 governing body of the law enforcement agency provided for in subparagraph (B) of this
509 paragraph if such vehicle is found, as evidenced by recorded images, to have been
510 operated in disregard or disobedience of subsection (a) of this Code section and such

511 disregard or disobedience was not otherwise authorized by law. The amount of such
512 civil monetary penalty shall be \$250.00;

513 (B) The law enforcement agency authorized to enforce the provisions of this Code
514 section shall send by ~~first-class~~ first-class mail addressed to the owner of the motor
515 vehicle not later than ten days after obtaining the name and address of the owner of the
516 motor vehicle from the Department of Revenue:

517 (i) A citation for the alleged violation, which shall include the date and time of the
518 violation, the location of the infraction, the amount of the civil monetary penalty
519 imposed, ~~and~~ the date by which the civil monetary penalty shall be paid, and a
520 statement that informs the recipient of the consequences for failure to pay the civil
521 monetary penalty;

522 (ii) An image taken from the recorded image showing the vehicle involved in the
523 infraction;

524 (iii) A copy of a certificate sworn to or affirmed by a certified peace officer employed
525 by a law enforcement agency authorized to enforce this Code section and stating that,
526 based upon inspection of recorded images, the owner's motor vehicle was operated
527 in disregard or disobedience of subsection (a) of this Code section and that such
528 disregard or disobedience was not otherwise authorized by law;

529 (iv) A statement of the inference provided by subparagraph (D) of this paragraph and
530 of the means specified therein by which such inference may be rebutted;

531 (v) Information advising the owner of the motor vehicle of the manner ~~and time~~ in
532 which liability as alleged in the citation may be contested in court which shall include
533 an assigned hearing date no later than 60 days from the date of issuance of the
534 citation; and

535 (vi) A warning that failure to pay the civil monetary penalty or to contest liability in
536 ~~a timely manner~~ through the submission of a sworn notarized statement or at the

537 assigned hearing shall waive any right to contest liability and result in a civil
538 monetary penalty;

539 (C) Proof that a motor vehicle was operated in disregard or disobedience of
540 subsection (a) of this Code section shall be evidenced by recorded images. A copy of
541 a certificate sworn to or affirmed by a certified peace officer employed by a law
542 enforcement agency and stating that, based upon inspection of recorded images, a
543 motor vehicle was operated in disregard or disobedience of subsection (a) of this Code
544 section and that such disregard or disobedience was not otherwise authorized by law
545 shall be prima-facie evidence of the facts contained therein; and

546 (D) Liability under this subsection shall be determined based upon preponderance of
547 the evidence. Prima-facie evidence that the vehicle described in the citation issued
548 pursuant to this subsection was operated in violation of subsection (a) of this Code
549 section, together with proof that the defendant was at the time of such violation the
550 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that
551 such owner of the vehicle was the driver of the vehicle at the time of the alleged
552 violation. Such an inference may be rebutted if the owner of the vehicle:

553 ~~(i) Testifies~~ testifies under oath in open court or submits to the court prior to the
554 assigned hearing date a sworn notarized statement that he or she was not the operator
555 of the vehicle at the time of the alleged violation ~~and identifies the name of the~~
556 ~~operator of the vehicle at the time of the alleged violation; or~~

557 ~~(ii) Presents to the court a certified copy of a police report showing that the vehicle~~
558 ~~had been reported to the police as stolen prior to the time of the alleged violation.~~

559 (4) A violation for which a civil penalty is imposed pursuant to this subsection shall not
560 be considered a moving traffic violation for the purpose of points assessment under Code
561 Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil
562 penalty pursuant to this subsection shall not be deemed a conviction and shall not be
563 made a part of the operating record of the person upon whom such liability is imposed,

564 nor shall it be used for any insurance purposes in the provision of motor vehicle insurance
565 coverage. A civil monetary penalty imposed pursuant to this subsection shall not be
566 taxed nor shall any additional fine, penalty, fee, or surcharge be assessed upon such
567 penalty except as authorized by this subsection.

568 (5) If a person is mailed a citation by ~~first-class~~ first-class mail pursuant to
569 subparagraph (B) of paragraph (3) of this subsection, such person may pay the penalty
570 or ~~request a court date~~ contest the citation on the assigned hearing date or submit a
571 notarized statement for rebuttal. Any citation executed pursuant to this paragraph shall
572 provide to the person issued the citation at least ~~30~~ 60 business days from the mailing of
573 the citation to inspect information collected by the video recording device in connection
574 with the violation. If the person ~~requesting a court date~~ issued a citation fails to appear
575 on the date and time of ~~such~~ the assigned hearing or ~~if a person~~ has not paid the penalty
576 for the violation or ~~filed a police report or~~ submitted a notarized statement pursuant to
577 subparagraph (D) of paragraph (3) of this subsection, such person shall then be sent a
578 second citation by ~~first-class~~ first-class mail. No more than a \$5.00 late fee shall be
579 imposed for any unpaid civil monetary penalty imposed under this subsection. The
580 second citation shall include all information required in subparagraph (B) of paragraph
581 (3) of this subsection for the initial citation ~~and shall include a~~ except for an assigned
582 hearing date and time. If ~~a person fails to appear on the date and time of such hearing set~~
583 ~~out in the second citation or if the person has failed to pay the penalty or file~~ submit an
584 appropriate document for rebuttal, the person issued the second citation shall have waived
585 the right to contest the violation and shall be liable for the civil monetary penalty
586 provided in paragraph (3) of this subsection.

587 (6) Any court having jurisdiction over violations of subsection (a) of this Code section
588 shall have jurisdiction over cases arising under this subsection. Any person receiving a
589 notice pursuant to subparagraph (B) of paragraph (3) of this subsection shall have the
590 right to contest such liability for the civil monetary penalty in the magistrate court or

591 other court of competent jurisdiction for a traffic violation. Except as otherwise provided
592 in this subsection, the provisions of law governing jurisdiction, procedure, defenses,
593 adjudication, appeal, and payment and distribution of penalties otherwise applicable to
594 violations of subsection (a) of this Code section shall apply to enforcement under this
595 subsection except as provided in subparagraph (A) of paragraph (3) of this subsection;
596 provided, however, that any appeal from superior or state court shall be by application
597 in the same manner as that provided by Code Section 5-6-35.

598 (7) If a violation has not been contested and the assessed penalty has not been paid, the
599 agent or governing body shall send to the person who is the registered owner of the motor
600 vehicle a final notice of any unpaid civil monetary penalty authorized by this Code
601 section, except in cases where there is an adjudication that no violation occurred or there
602 is otherwise a lawful determination that no civil monetary penalty shall be imposed. The
603 notice shall inform the registered owner that the agent or governing body shall send a
604 referral to the Department of Revenue if the assessed penalty and any late fee is not paid
605 within 30 days after the final notice was mailed and ~~that such referral shall result in the~~
606 ~~nonrenewal of the registration of such motor vehicle and shall prohibit the title transfer~~
607 ~~of such motor vehicle within this state~~ of the consequences for failure to pay such penalty
608 and any late fee.

609 (8) The agent or governing body shall send a referral to the Department of Revenue not
610 sooner than 30 days after the final notice required under paragraph (7) of this subsection
611 was mailed if a violation ~~of an ordinance or resolution adopted under this article~~ has not
612 been contested and the assessed penalty has not been paid, except in cases where there
613 is an adjudication that no violation occurred or there is otherwise a lawful determination
614 that no civil monetary penalty shall be imposed. The referral to the Department of
615 Revenue shall include the following:

616 (A) Any information known or available to the agent or governing body concerning the
 617 license plate number, year of registration, and the name of the owner of the motor
 618 vehicle;

619 (B) The date on which the violation occurred;

620 (C) The citation number issued for the violation; and

621 ~~(C)(D) The date when the notice required under this Code section was mailed; and~~

622 ~~(D) The seal, logo, emblem, or electronic seal of the governing body.~~

623 (9) If the Department of Revenue receives a referral under paragraph (8) of this
 624 subsection, such referral shall be entered into the motor vehicle data base within five days
 625 of receipt and the Department of Revenue shall refuse to renew the registration of such
 626 motor vehicle ~~and shall prohibit the title transfer of such vehicle within this state unless~~
 627 ~~and until the civil monetary penalty plus any late fee is paid to the agent or governing~~
 628 ~~body. The Department of Revenue shall mail a notice to the registered owner of such~~
 629 ~~motor vehicle that informs such owner:~~

630 ~~(A) That the registration of the vehicle involved in the violation will not be permitted~~
 631 ~~to be renewed;~~

632 ~~(B) That the title of the vehicle involved in the violation will not be permitted to be~~
 633 ~~transferred in this state;~~

634 ~~(C) That the aforementioned penalties are being imposed due to the failure to pay the~~
 635 ~~civil monetary penalty plus any late fee for an ordinance violation adopted under the~~
 636 ~~authority of this Code section; and~~

637 ~~(D) Of the procedure that the person may follow to remove the penalties.~~

638 (10) The Department of Revenue shall remove the ~~penalties~~ penalty on a vehicle
 639 registration if any person presents the Department of Revenue with adequate proof from
 640 the agent or governing body that the penalty and any late fee, if applicable, has been paid.

641 (11) Recorded images made for purposes of this subsection shall not be a public record
 642 for purposes of Article 4 of Chapter 18 of Title 50.

643 (12) A governing authority shall not impose a civil penalty under this subsection on the
644 owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation
645 and notice to appear by a certified peace officer for the same violation.

646 (13) A local school system may enter into an intergovernmental agreement with a local
647 governing authority to offset expenses regarding the implementation and ongoing
648 operation of video recording devices serving the purpose of capturing recorded images
649 of motor vehicles unlawfully passing a school bus.

650 (14) Any school bus driver operating a vehicle equipped with an activated video
651 recording device shall be exempt from the recording provisions of subsection (c) of this
652 Code section.

653 (15) The money collected and remitted to the governing body pursuant to
654 subparagraph (B) of paragraph (3) of this subsection shall be remitted by the governing
655 body to the Peace Officers' Annuity and Benefit Fund provided for under Chapter 17 of
656 Title 47 toward such governing body's responsibilities thereto; provided, however, that
657 once such governing body's responsibilities to the Peace Officers' Annuity and Benefit
658 Fund have been met, the remainder of any moneys collected and remitted to the
659 governing body shall only be used by such governing body to fund local law enforcement
660 or public safety initiatives. This paragraph shall not preclude the appropriation of a
661 greater amount than collected and remitted under this subsection."

662

SECTION 16.

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