

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 1448:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to provide for the enforcement of laws regarding the operation of a motor
3 vehicle with an expired, revoked, canceled, or suspended registration using recorded images
4 to be penalized by a civil monetary penalty; to provide for definitions; to provide for
5 procedures, conditions, and limitations for the enforcement of laws regarding such offenses
6 using recorded images; to provide for conforming changes; to provide for disclosure of
7 certain records of the Department of Revenue for purposes of issuance of civil monetary
8 penalties relating to the operation of a motor vehicle with an expired, revoked, canceled, or
9 suspended registration; to provide for automatic repeal; to amend Title 15 of the Official
10 Code of Georgia Annotated, relating to courts, so as to authorize district attorneys,
11 solicitors-general, and prosecuting attorneys to enforce civil monetary penalties relative to
12 the enforcement of laws regarding the operation of a motor vehicle with an expired, revoked,
13 canceled, or suspended registration and speeding in a school zone using recorded images; to
14 amend Code Section 35-1-22, relating to prohibition on law enforcement retaining license
15 plate data obtained from automated license plate recognition systems, limited use of data, and
16 public disclosure prohibited, so as to revise a definition; to provide for related matters; to
17 repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
21 amended in Code Section 40-2-8, relating to operation of unregistered vehicle or vehicle
22 without current license plate, revalidation decal, or county decal and temporary plate issued
23 by dealers of new or used motor vehicles, by revising subsection (a) as follows:

24 "(a)(1) Any person owning or operating any vehicle described in Code Section 40-2-20
25 on any ~~public highway or street~~ of this state without complying with that Code section
26 shall be guilty of a misdemeanor, provided that a person shall register his or her motor
27 vehicle within 30 days after becoming a resident of this state.

28 (2) Any person renting, leasing, or loaning any vehicle described in Code
29 Section 40-2-20 which is being used on any ~~public highway or street~~ of this state without
30 complying with that Code section shall be guilty of a misdemeanor and, upon conviction
31 thereof, shall be punished by a fine of \$100.00 for each violation; and each day that such
32 vehicle is operated in violation of Code Section 40-2-20 shall be deemed to be a separate
33 and distinct offense.

34 (3) The provisions of this subsection may be enforced as provided for in subsection (b)
35 of Code Section 40-6-15; provided, however, that such violation shall not be a
36 misdemeanor, and the penalty shall instead be a civil monetary penalty."

37 **SECTION 2.**

38 Said title is further amended in Code Section 40-3-23, relating to issuance of certificate of
39 title, maintenance of record of certificates issued, public inspection, and furnishing records
40 for fee, by revising subsection (d) as follows:

41 "(d) The motor vehicle records which the commissioner or the commissioner's duly
42 authorized county tag agent is required to maintain under this Code section or any other

43 provision are exempt from the provisions of any law of this state requiring that such
44 records be open for public inspection; provided, however, that, subject to subsection (f) of
45 this Code section, the records may be disclosed for use as provided in the federal Driver's
46 Privacy Protection Act of 1994, 18 U.S.C. Chapter 123, and by the following:

- 47 (1) Any licensed dealer of new or used motor vehicles;
48 (2) Any tax collector, tax receiver, or tax commissioner; ~~and~~
49 (3) A person or entity authorized by the commissioner for use in providing notice to the
50 owners of towed or impounded vehicles; and
51 (4) A person or entity authorized by the commissioner for use in furtherance of the
52 purposes of Code Section 40-6-15."

53 **SECTION 3.**

54 Said title is further amended in Code Section 40-5-54, relating to mandatory suspension of
55 license and notice of suspension, by revising paragraph (6) of subsection (a) as follows:

56 "(6) Operating a motor vehicle with a revoked, canceled, or suspended registration in
57 violation of subsection (a) of Code Section 40-6-15."

58 **SECTION 4.**

59 Said title is further amended in Code Section 40-5-142, relating to definitions relative to
60 commercial drivers' licenses, by revising subparagraph (I) of paragraph (18.2) as follows:

61 "(I) Operating a motor vehicle with a revoked, canceled, or suspended registration in
62 violation of subsection (a) of Code Section 40-6-15;"

63 **SECTION 5.**

64 Said title is further amended by revising Code Section 40-6-15, relating to knowingly driving
65 motor vehicle on suspended, canceled, or revoked registration, as follows:

66 "40-6-15.

67 (a)(1) Any person who knowingly ~~drives~~ operates a motor vehicle on any ~~public road or~~
68 highway of this state at a time when the ~~vehicle~~ registration of such vehicle is suspended,
69 canceled, or revoked as determined in person by a law enforcement officer shall be guilty
70 of a misdemeanor.

71 ~~(b)~~(2) Upon a first conviction thereof or a plea of nolo contendere, such person shall be
72 punished by imprisonment for not more than 12 months and there may be imposed in
73 addition thereto a fine of not less than \$500.00 nor more than \$1,000.00, at the discretion
74 of the court.

75 ~~(c)~~(3) For a second or subsequent conviction within five years as measured from the
76 dates of previous arrests for which convictions were obtained or pleas of nolo contendere
77 were accepted to the date of the current arrest for which a conviction is obtained or a plea
78 of nolo contendere accepted, such person shall be guilty of a high and aggravated
79 misdemeanor and shall be punished by imprisonment for not less than ten days nor more
80 than 12 months and there may be imposed in addition thereto a fine of not less than
81 \$1,000.00 nor more than \$2,500.00.

82 ~~(d)~~(4) The Department of Revenue, upon receiving a record of the conviction of any
83 person under this ~~Code section~~ subsection upon a charge of ~~driving~~ operating a vehicle
84 while the registration of such vehicle was suspended or revoked, shall extend the period
85 of suspension or revocation for six months. The Department of Revenue may reinstate
86 the suspended or revoked vehicle registration following the expiration of the original
87 suspension or revocation period, the additional six-month suspension imposed pursuant
88 to this ~~subsection~~ paragraph, and upon payment of a restoration fee of \$210.00, or
89 \$200.00 when such reinstatement is processed by mail.

90 ~~(e)~~(5) For purposes of pleading nolo contendere, only one nolo contendere plea shall be
91 accepted to a charge of ~~driving~~ operating a motor vehicle with a suspended, canceled, or
92 revoked ~~vehicle~~ registration within a five-year period of time as measured from the date

93 of the previous arrest for which a conviction was obtained or plea of nolo contendere was
94 accepted to the date of the current arrest. All other nolo contendere pleas within such
95 period of time shall be considered convictions.

96 ~~(f)(6)~~ Notwithstanding the limits set forth in Article 14 of this chapter and in any
97 municipal charter, any municipal court of any municipality in this state shall be
98 authorized to impose the punishment provided for in this ~~Code section~~ subsection upon
99 a conviction of violating this ~~Code section~~ subsection or upon conviction of violating any
100 ordinance adopting the provisions of this ~~Code section~~ subsection.

101 (b)(1) As used in this subsection, the term:

102 (A) 'Agent' means a person or entity that is authorized through a contract with a law
103 enforcement agency or governing body thereof to administer the procedures contained
104 herein and:

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

106 (ii) Operates, maintains, leases, or licenses an automated license plate recognition
107 system; or

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

110 (B) 'Automated license plate recognition system' means a system which converts
111 recorded images from a video recording device into computer readable data which is
112 compared to information relating to motor vehicle registrations maintained by the
113 Department of Revenue.

114 (C) 'Owner' means the registrant of a motor vehicle, except that such term shall not
115 include a motor vehicle rental company when a motor vehicle registered by such
116 company is being operated by another person under a rental agreement with such
117 company.

118 (D) 'Recorded images' means images recorded by a video recording device of motor
119 vehicle license plates and showing the date and time the recording was made.

120 (E) 'Video recording device' means a camera installed upon a motor vehicle marked
121 in accordance with Code Section 40-8-91 capable of producing photographically
122 recorded still or video images of another motor vehicle license plate while such other
123 vehicle is driving in front of, behind, or on either side of such marked vehicle and
124 showing the date and time the recording was made.

125 (2) Any person who knowingly operates a motor vehicle on any highway of this state at
126 a time when the registration of such vehicle is expired, suspended, canceled, or revoked
127 shall be liable for a civil monetary penalty as set forth in this subsection when such
128 violation is evidenced by recorded images.

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

130 (A) The owner of a motor vehicle shall be liable for a civil monetary penalty if such
131 vehicle is found, as evidenced by recorded images, to have been operated in violation
132 of paragraph (2) of this subsection and such operation was not otherwise authorized by
133 law. The amount of such civil monetary penalty shall be \$100.00 for operating a
134 vehicle with an expired registration and \$500.00 for operating a vehicle with a
135 suspended, canceled, or revoked registration.

136 (B) The law enforcement agency authorized to enforce the provisions of this subsection
137 or agent thereof shall send by first-class mail addressed to the owner of the motor
138 vehicle not later than ten days after obtaining the name and address of such owner from
139 the Department of Revenue:

140 (i) A citation for the alleged violation, which shall include the type of violation
141 alleged, the date and time of the alleged violation, the location of the alleged
142 violation, the amount of the civil monetary penalty imposed, and the date by which
143 the civil monetary penalty shall be paid;

144 (ii) An image taken from the recorded image showing the vehicle involved in the
145 alleged violation;

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

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

153 (v) Information advising the owner of the motor vehicle of the manner and time in
154 which the violation as alleged in the citation may be contested in court; and

155 (vi) A warning that failure to pay the civil monetary penalty or to contest the
156 violation in a timely manner shall waive any right to contest such violation and shall
157 result in a civil monetary penalty;

158 (C) Proof that a motor vehicle was operated at a time when the registration of such
159 vehicle was expired, suspended, canceled, or revoked may be evidenced by recorded
160 images. A copy of a certificate sworn to or affirmed by a certified peace officer
161 employed by a law enforcement agency and stating that, based upon inspection of
162 recorded images, a motor vehicle was operated at a time when the registration of such
163 vehicle was expired, suspended, canceled, or revoked and that such operation was not
164 otherwise authorized by law shall be prima-facie evidence of the facts contained
165 therein; and

166 (D) Liability under this subsection shall be determined based upon preponderance of
167 the evidence. Prima-facie evidence that the vehicle described in the citation issued
168 pursuant to this subsection was operated at a time when the registration of such vehicle
169 was expired, suspended, canceled, or revoked, together with proof that the defendant
170 was at the time of such violation the registered owner of the vehicle, shall permit the
171 trier of fact in its discretion to infer that such owner of the vehicle was the operator of

172 the vehicle at the time of the alleged violation. Such an inference may be rebutted if
173 the owner of the vehicle:

174 (i) Testifies under oath in open court or submits to the court a sworn notarized
175 statement that he or she was not the operator of the vehicle at the time of the alleged
176 violation and identifies the name of the operator of the vehicle at the time of the
177 alleged violation; or

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

180 (4) A violation for which a civil monetary penalty is imposed pursuant to this subsection
181 shall not be considered a moving traffic violation for the purpose of points assessment
182 under Code Section 40-5-57. Such violation shall be deemed noncriminal, and
183 imposition of a civil monetary penalty pursuant to this subsection shall not be deemed a
184 conviction and shall not be made a part of the operating record of the person upon whom
185 such penalty is imposed, nor shall it be used for any purposes in the provision of motor
186 vehicle insurance coverage.

187 (5) If a person issued and mailed a citation pursuant to subparagraph (B) of paragraph (3)
188 of this subsection fails to pay the civil monetary penalty for the violation or has not filed
189 a police report or sworn notarized statement or testified under oath pursuant to
190 subparagraph (D) of paragraph (3) of this subsection in no less than 30 nor more than 60
191 days after such mailing as determined and noticed by the law enforcement agency or
192 agent thereof, the agent or law enforcement agency shall send to such person by
193 first-class mail a second notice of any unpaid civil monetary penalty, except in cases
194 where there is an adjudication that no violation occurred or there is otherwise a lawful
195 determination that no civil monetary penalty shall be imposed. The second notice shall
196 include all information required in subparagraph (B) of paragraph (3) of this subsection
197 and shall include a new date of return which shall be no less than 30 days after such
198 mailing as determined and noticed by the law enforcement agency or agent thereof. If

199 such person notified by second notice again fails to pay the civil monetary penalty or file
200 a police report or sworn notarized statement or testify under oath pursuant to
201 subparagraph (D) of paragraph (3) of this subsection by the new date of return, such
202 person shall have waived the right to contest the violation and shall be liable for the civil
203 monetary penalty provided for under this subsection, except in cases where there is an
204 adjudication that no violation occurred or there is otherwise a lawful determination that
205 no civil monetary penalty shall be imposed.

206 (6) Notices mailed by first-class mail pursuant to this subsection shall be adequate
207 notification of the fees and penalties imposed by this subsection. No other notice shall
208 be required for the purposes of this subsection.

209 (7) Any court having jurisdiction over violations relating to operation of a vehicle with
210 an expired, suspended, canceled, or revoked registration shall have jurisdiction over cases
211 arising under this subsection and shall be authorized to impose the civil monetary penalty
212 provided by this subsection. Except as otherwise provided in this subsection, the
213 provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and
214 payment and distribution of penalties otherwise applicable to violations relating to
215 operation of a vehicle with an expired, suspended, canceled, or revoked registration shall
216 apply to enforcement under this subsection; provided, however, that any appeal from a
217 superior or state court shall be by application in the same manner as that provided by
218 Code Section 5-6-35.

219 (8) If a violation has not been contested and the assessed penalty has not been paid, the
220 agent or law enforcement agency shall send to the registered owner of the motor vehicle
221 a final notice of any unpaid civil monetary penalty authorized by this subsection, except
222 in cases where there is an adjudication that no violation occurred or there is otherwise a
223 lawful determination that no civil monetary penalty shall be imposed. The notice shall
224 inform the registered owner that the agent or law enforcement agency shall send a referral
225 to the Department of Revenue if the assessed penalty is not paid within 30 days after the

226 final notice was mailed and of the consequences for failure to pay such penalty and any
227 late fee.

228 (9) The agent or law enforcement agency shall send a referral to the Department of
229 Revenue not sooner than 30 days after the final notice required under paragraph (8) of
230 this subsection is mailed if a violation of an ordinance or resolution adopted under this
231 subsection has not been contested and the assessed penalty has not been paid, except in
232 cases where there is an adjudication that no violation occurred or there is otherwise a
233 lawful determination that no civil monetary penalty shall be imposed. The referral to the
234 Department of Revenue shall include the following:

235 (A) Any information known or available to the agent or law enforcement agency
236 concerning the license plate number, year of registration, and name of the owner of the
237 motor vehicle;

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

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

240 (D) The date on which the notice required under this subsection was mailed.

241 (9.1)(A) If the Department of Revenue receives a referral under paragraph (9) of this
242 subsection, such referral shall be entered into the motor vehicle data base within five
243 days of receipt and the Department of Revenue shall refuse to renew the registration of
244 such motor vehicle unless and until the civil monetary penalty plus any late fee is paid
245 to the governing body. The Department of Revenue shall mail a notice to the registered
246 owner of such motor vehicle that informs such owner:

247 (i) That the registration of the vehicle involved in the violation will not be permitted
248 to be renewed;

249 (ii) That the aforementioned penalty is being imposed due to the failure to pay the
250 civil monetary penalty plus any late fee for an ordinance violation adopted under the
251 authority of this Code section; and

252 (iii) Of the procedure that the person may follow to remove the penalty.

253 (B) The Department of Revenue shall remove the penalty on a vehicle if any person
254 presents the Department of Revenue with adequate proof that the penalty and any late
255 fee, if applicable, has been paid.

256 (C) The provisions of this paragraph shall stand repealed on June 30, 2023.

257 (10)(A) On and after July 1, 2023, within ten days of receipt of a referral under
258 paragraph (9) of this subsection, the Department of Revenue shall send a notice to the
259 owner of the motor vehicle stating that the department has been informed of the fact
260 that a civil monetary penalty is owed for a violation of this Code section and providing
261 an explanation of the penalties provided for by law.

262 (B) The Department of Revenue shall send such notice to the address of the owner of
263 the motor vehicle shown in the records of the department.

264 (C) The mailing of such notice by the Department of Revenue shall be deemed notice
265 of such owner's duty to pay the civil monetary penalty plus any late fee and the possible
266 penalties and consequences for failing to do so and shall be deemed to satisfy all notice
267 requirements of law.

268 (11) On and after July 1, 2023, it shall be the duty of the owner of such motor vehicle to
269 pay any civil monetary penalties and applicable late fees within 30 days of the date of
270 such notice. If an agent or governing body does not receive payment of any civil
271 monetary penalties and applicable late fees owed within such time, the agent or governing
272 body shall inform the Department of Revenue of such and the registration of such motor
273 vehicle shall be suspended immediately by operation of law by the Department of
274 Revenue. Such suspension shall terminate upon submission by the agent or governing
275 body to the department of proof of payment of the civil monetary penalties and fees
276 owed, which proof shall be submitted within 24 hours of such payment in an electronic
277 method provided for by the department, and payment by the owner of a \$60.00
278 restoration fee. If any restoration fee provided for in this Code section is paid to the
279 county tax commissioner, the county shall retain \$10.00 thereof as a collection fee.

280 (12) Recorded images made for purposes of this subsection shall not be a public record
281 for purposes of Article 4 of Chapter 18 of Title 50.

282 (13) A civil monetary penalty under this subsection on the owner of a motor vehicle shall
283 not be imposed if the operator of the vehicle was arrested or issued a citation and notice
284 to appear by a certified peace officer for the same violation.

285 (14) Any agreement entered into between an agent and local governing body or law
286 enforcement agency for the administration of this subsection shall provide that recorded
287 images be maintained in a system compliant with security and privacy standards set forth
288 by the Georgia Crime Information Center Council for criminal justice information
289 systems.

290 (15) The money collected and remitted to the governing body or law enforcement agency
291 pursuant to this subsection shall only be used by such governing body or law enforcement
292 agency to fund local law enforcement or public safety initiatives. This subsection shall
293 not preclude the appropriation of a greater amount than collected and remitted under this
294 subsection for such purposes."

295 **SECTION 6.**

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

299 "(A) In the prosecution of any violation of the laws or ordinances of such county which
300 is within the jurisdiction of such probate court and punishable by confinement or a fine
301 or both or by a civil penalty authorized by Code Section 40-6-15, 40-6-163, or
302 40-14-18;"

303 **SECTION 7.**

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

306 "(5) To prosecute civil actions to enforce any civil penalty set forth in Code
307 Section 40-6-15, 40-6-163, or 40-14-18 and to prosecute or defend any other civil action
308 in the prosecution or defense of which the state is interested, unless otherwise specially
309 provided for;"

310 **SECTION 8.**

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

313 "(4) To prosecute civil actions to enforce any civil penalty set forth in Code
314 Section 40-6-15, 40-6-163, or 40-14-18 and when authorized by law to prosecute or
315 defend any civil action in the state court in the prosecution or defense of which the state
316 is interested, unless otherwise specially provided for;"

317 **SECTION 9.**

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

320 "(A) In the prosecution of any violation of the laws or ordinances of such municipality
321 which is within the jurisdiction of such municipal court and punishable by confinement
322 or a fine or both or by a civil penalty authorized by Code Section 40-6-15, 40-6-163,
323 or 40-14-18; and"

324 **SECTION 10.**

325 Code Section 35-1-22 of the Official Code of Georgia Annotated, relating to prohibition on
326 law enforcement retaining license plate data obtained from automated license plate

327 recognition systems, limited use of data, and public disclosure prohibited, is amended by
328 revising paragraph (3) of subsection (a) as follows:

329 "(3) 'Law enforcement agency' means the Department of Public Safety, the Department
330 of Transportation, and any other state, federal, local, public transit, school, college, or
331 university agency that is responsible for the prevention and detection of crime, local
332 government code enforcement, and the enforcement of penal, traffic, toll violation,
333 regulatory, game, or controlled substance laws or any agent thereof authorized pursuant
334 to written contract."

335 **SECTION 11.**

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