

House Bill 283

By: Representatives Allison of the 8th, Cooke of the 18th, Stover of the 71st, Pezold of the 133rd, Caldwell of the 20th, and others

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 provide that a person's conviction of the offense of simple
3 possession of marijuana shall not result in the suspension of such person's driver's license;
4 to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
8 is amended by revising Code Section 40-5-75, relating to suspension of licenses by operation
9 of law for certain drug offenses, as follows:

10 "40-5-75.

11 (a) Except as provided in Code Section 40-5-76, the driver's license of any person
12 convicted of any violation of Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled
13 Substances Act,' including, but not limited to, possession, distribution, manufacture,
14 cultivation, sale, transfer of, trafficking in, the attempt or conspiracy to possess, distribute,
15 manufacture, cultivate, sell, transfer or traffic in a controlled substance or marijuana, or the
16 law of any other jurisdiction, shall by operation of law be suspended, and such suspension
17 shall be subject to the following terms and conditions: provided, however, that this Code
18 section shall not apply to convictions for simple possession of marijuana occurring on or
19 after July 1, 2015:

20 (1) Upon the first conviction of any such offense, with no arrest and conviction of and
21 no plea of nolo contendere accepted to such offense within the previous five years, as
22 measured from the dates of previous arrests for which convictions were obtained to the
23 date of the current arrest for which a conviction is obtained, the period of suspension shall
24 be for not less than 180 days. At the end of 180 days, the person may apply to the
25 department for reinstatement of his or her driver's license. Such license shall be
26 reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use

27 Risk Reduction Program and pays to the department a restoration fee of \$210.00 or
28 \$200.00 when such reinstatement is processed by mail. For purposes of this paragraph,
29 a plea of nolo contendere by a person to a charge of any drug related offense listed in this
30 subsection shall, except as provided in subsection (c) of this Code section, constitute a
31 conviction;

32 (2) Upon the second conviction of any such offense within five years, as measured from
33 the dates of previous arrests for which convictions were obtained to the date of the
34 current arrest for which a conviction is obtained, the period of suspension shall be for
35 three years, provided that after one year from the date of the conviction, the person may
36 apply to the department for reinstatement of his or her driver's license by submitting proof
37 of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the
38 department a restoration fee of \$310.00 or \$300.00 when such reinstatement is processed
39 by mail. For purposes of this paragraph, a plea of nolo contendere and all previous pleas
40 of nolo contendere within such five-year period of time shall constitute a conviction; and

41 (3) Upon the third or subsequent conviction of any such offense within five years, as
42 measured from the dates of previous arrests for which convictions were obtained to the
43 date of the current arrest for which a conviction is obtained, such person's license shall
44 be suspended for a period of five years. At the end of two years, the person may apply
45 to the department for a three-year driving permit upon compliance with the following
46 conditions:

47 (A) Such person has not been convicted or pleaded nolo contendere to any drug related
48 offense, including driving under the influence, for a period of two years immediately
49 preceding the application for such permit;

50 (B) Such person submits proof of completion of a licensed drug treatment program.
51 Such proof shall be submitted within two years of the license suspension and prior to
52 the issuance of the permit. Such licensed drug treatment program shall be paid for by
53 the offender. The offender shall pay a permit fee of \$25.00 to the department;

54 (C) Such person submits proof of financial responsibility as provided in Chapter 9 of
55 this title; and

56 (D) Refusal to issue such permit would cause extreme hardship to the applicant. For
57 the purposes of this subparagraph, the term 'extreme hardship' means that the applicant
58 cannot reasonably obtain other transportation, and, therefore, the applicant would be
59 prohibited from:

60 (i) Going to his or her place of employment or performing the normal duties of his
61 or her occupation;

62 (ii) Receiving scheduled medical care or obtaining prescription drugs;

- 63 (iii) Attending a college or school at which he or she is regularly enrolled as a
 64 student; or
 65 (iv) Attending regularly scheduled sessions or meetings of support organizations for
 66 persons who have addiction or abuse problems related to alcohol or other drugs,
 67 which organizations are recognized by the commissioner.

68 At the end of five years from the date on which the license was suspended, the person
 69 may apply to the department for reinstatement of his or her driver's license by submitting
 70 proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying
 71 to the department a restoration fee of \$410.00 or \$400.00 when such reinstatement is
 72 processed by mail. For purposes of this paragraph, a plea of nolo contendere and all
 73 previous pleas of nolo contendere within such five-year period of time shall constitute a
 74 conviction.

75 (a.1) Any permittee who is convicted of violating any state law or local ordinance relating
 76 to the movement of vehicles or any permittee who is convicted of violating the conditions
 77 endorsed on his or her permit shall have his or her permit revoked by the department. Any
 78 court in which such conviction is had shall require the permittee to surrender the permit to
 79 the court, and the court shall forward it to the department within ten days after the
 80 conviction, with a copy of the conviction. Any person whose limited driving permit has
 81 been revoked shall not be eligible to apply for a driver's license until six months from the
 82 date such permit was surrendered to the department.

83 (b) Except as provided in Code Section 40-5-76, whenever a person is convicted of
 84 possession, distribution, manufacture, cultivation, sale, transfer of, the attempt or
 85 conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer a controlled
 86 substance or marijuana, or driving or being in actual physical control of any moving
 87 vehicle while under the influence of such substance in violation of subsection (b) of Code
 88 Section 16-13-2, subsection (a), (b), or (j) of Code Section 16-13-30, or Code Section
 89 16-13-33; paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391; or the law
 90 of any other jurisdiction, the court in which such conviction is had shall require the
 91 surrender to it of any driver's license then held by the person so convicted, and the court
 92 shall thereupon forward such license and a copy of its order to the department within ten
 93 days after the conviction. The periods of suspension provided for in this Code section shall
 94 begin on the date of surrender of the driver's license or on the date that the department
 95 processes the conviction or citation, whichever shall first occur.

96 ~~(c)(1) The decision to accept a plea of nolo contendere to a misdemeanor charge of~~
 97 ~~unlawful possession of less than one ounce of marijuana shall be at the sole discretion of~~
 98 ~~the judge. If a plea of nolo contendere is accepted as provided in this subsection, the judge~~
 99 ~~shall, as a part of the disposition of the case, order the defendant to attend and complete a~~

100 ~~DUI Alcohol or Drug Use Risk Reduction Program. The order shall stipulate that the~~
101 ~~defendant shall complete such program within 120 days and that the defendant shall submit~~
102 ~~evidence of such completion to the department. The judge shall also notify the defendant~~
103 ~~that, if he or she fails to complete such program by the date specified in the court's order,~~
104 ~~his or her driver's license shall be suspended, by operation of law, as provided in this Code~~
105 ~~section. The record of the disposition of the case shall be forwarded to the department.~~

106 ~~(2) If a plea of nolo contendere is accepted and the defendant's driver's license has not~~
107 ~~been suspended under any other provision of this title and if the defendant has not been~~
108 ~~convicted of or has not had a plea of nolo contendere accepted to a charge of violating~~
109 ~~this Code section within the previous five years, the court shall, subject to paragraph (1)~~
110 ~~of this subsection, return the driver's license to the person; otherwise, such driver's license~~
111 ~~shall be forwarded to the department Reserved.~~

112 (d) Application for reinstatement of a driver's license under paragraph (1) or (2) of
113 subsection (a) of this Code section shall be made on such forms as the commissioner may
114 prescribe and shall be accompanied by proof of completion of a DUI Alcohol or Drug Use
115 Risk Reduction Program and a restoration fee of \$210.00 or \$200.00 when such
116 reinstatement is processed by mail. Application for a three-year driving permit under
117 paragraph (3) of subsection (a) of this Code section shall be made on such form as the
118 commissioner may prescribe and shall be accompanied by proof of completion of an
119 approved residential drug treatment program and a fee of \$25.00 for such permit.

120 (e) Notwithstanding any other provision of this Code section or any other provision of this
121 chapter, any person whose license is suspended pursuant to this Code section shall not be
122 eligible for early reinstatement of his or her license and shall not be eligible for a limited
123 driving permit, but such person's license shall be reinstated only as provided in this Code
124 section or Code Section 40-5-76.

125 (f) Except as provided in subsection (a) of this Code section, it shall be unlawful for any
126 person to operate any motor vehicle in this state after such person's license has been
127 suspended pursuant to this Code section if such person has not thereafter obtained a valid
128 license. Any person who is convicted of operating a motor vehicle before the department
129 has reinstated such person's license or issued such person a three-year driving permit shall
130 be punished by a fine of not less than \$750.00 nor more than \$5,000.00 or by imprisonment
131 in the penitentiary for not more than 12 months, or both.

132 (g) Notwithstanding the provisions of Code Section 15-11-606 ~~and except as provided in~~
133 ~~subsection (c) of this Code section~~, an adjudication of a minor child as a delinquent child
134 for any offense listed in subsection (a) of this Code section shall be deemed a conviction
135 for purposes of this Code section.

136 (h) Notwithstanding the provisions of subsection (a) of this Code section, licensed drivers
137 who are 16 years of age who are adjudicated in a juvenile court pursuant to this Code
138 section may, at their option, complete a DUI Alcohol or Drug Use Risk Reduction Program
139 or an assessment and intervention program approved by the juvenile court.

140 (i) Notwithstanding any other provision of this chapter to the contrary, the suspension
141 imposed pursuant to this Code section shall be in addition to and run consecutively to any
142 other suspension imposed by the department at the time of the conviction that results in
143 said suspension. If the person has never been issued a driver's license in the State of
144 Georgia or holds a driver's license issued by another state, the person shall not be eligible
145 for a driver's license for the applicable period of suspension following his or her
146 submission of an application for issuance thereof."

147 **SECTION 2.**

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