

House Bill 566

By: Representatives Burchett of the 176th, Hitchens of the 161st, Sainz of the 180th, Corbett of the 174th, Crowe of the 110th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated,
2 relating to cancellation, suspension, and revocation of licenses, so as to provide for when
3 reasonable grounds exist for a law enforcement officer to request a chemical test or tests with
4 regard to driving or being in actual physical control of a moving motor vehicle upon the
5 highways or elsewhere in this state; to provide for related matters; to repeal conflicting laws;
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 3 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
10 cancellation, suspension, and revocation of licenses, is amended by revising Code Section
11 40-5-55, relating to implied consent to chemical tests, as follows:

12 "40-5-55.

13 (a) The State of Georgia considers that any person who drives or is in actual physical
14 control of any moving vehicle in violation of any provision of Code Section 40-6-391
15 constitutes a direct and immediate threat to the welfare and safety of the general public.
16 Therefore, any person who operates a motor vehicle upon the highways or elsewhere

17 throughout this state shall be deemed to have given consent, subject to Code Section
18 40-6-392, to a chemical test or tests of his or her blood, breath, urine, or other bodily
19 substances for the purpose of determining the presence of alcohol or any other drug, if
20 arrested for any offense arising out of acts alleged to have been committed in violation of
21 Code Section 40-6-391 or if such person is involved in any traffic accident resulting in
22 serious injuries or fatalities. The test or tests shall be administered at the request of a law
23 enforcement officer having reasonable grounds to believe that the person has been driving
24 or was in actual physical control of a moving motor vehicle upon the highways or
25 elsewhere throughout this state in violation of Code Section 40-6-391; provided, however,
26 that it shall be presumed that such law enforcement officer has reasonable grounds to
27 request such test or tests if such person is involved in any traffic accident resulting in
28 serious injuries or fatalities or where exigent circumstances create a compelling need for
29 such request, unless such law enforcement officer finds that no reasonable grounds exist
30 and articulates his or her reasons in a report regarding the incident. The test or tests shall
31 be administered as soon as possible to any person who operates a motor vehicle upon the
32 highways or elsewhere throughout this state who is involved in any traffic accident
33 resulting in serious injuries or fatalities. Subject to Code Section 40-6-392, the requesting
34 law enforcement officer shall designate which of the test or tests shall be administered,
35 provided a blood test with drug screen may be administered to any person operating a
36 motor vehicle involved in a traffic accident resulting in serious injuries or fatalities.

37 (b) Any person who is dead, unconscious, or otherwise in a condition rendering such
38 person incapable of refusal shall be deemed not to have withdrawn the consent provided
39 by subsection (a) of this Code section, and the test or tests may be administered, subject to
40 Code Section 40-6-392.

41 (c) As used in this Code section, the term 'traffic accident resulting in serious injuries or
42 fatalities' means any motor vehicle accident in which a person was killed or in which one

43 or more persons suffered a fractured bone, severe burns, disfigurement, dismemberment,
44 partial or total loss of sight or hearing, or loss of consciousness.”

45 **SECTION 2.**

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