

Senate Bill 389

By: Senator Gooch of the 51st

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 issuance, use, and display of drivers' licenses and
3 identification cards in electronic format; to provide for definitions; to provide for standards
4 for issuance of drivers' licenses and personal identification cards; to provide that display of
5 an electronic driver's license or identification card does not equate to consent to a search of
6 a person's wireless telecommunications device; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
11 amended in Code Section 40-1-1, relating to definitions, by revising paragraphs (15) and (24)
12 and adding a new paragraph to read as follows:

13 "(15) 'Driver's license' means any license to operate a motor vehicle issued in either a
14 physical or electronic format under the laws of this state."

15 "(20.1) 'Identification card' means any document in either a physical or electronic format
16 issued by the Department of Driver Services under the laws of this state for purposes of
17 proving identity of the holder."

18 "(24) 'License' or 'license to operate a motor vehicle' means any driver's license or any
19 other license or permit to operate a motor vehicle issued in either a physical or electronic
20 format under, or granted by, the laws of this state, including:

21 (A) Any temporary license or instruction permit;

22 (B) The privilege of any person to drive a motor vehicle whether or not such person
23 holds a valid license; and

24 (C) Any nonresident's operating privilege as defined in this Code section."

25 **SECTION 2.**

26 Said title is further amended in Code Section 40-5-28, relating to issuance of licenses, county
 27 tag agents, and Class E and Class F licenses for volunteer firefighters, by revising subsection
 28 (a) as follows:

29 "(a) Except as provided in subsection (c) of this Code section, the department shall, upon
 30 payment of the required fee, issue to every applicant qualifying therefor a driver's license
 31 indicating the type or general class of vehicles the licensee may drive, which license shall
 32 be upon a form prescribed by the department and which shall bear thereon a distinguishing
 33 number assigned to the licensee, a photograph of the licensee, the licensee's full legal name,
 34 either a facsimile of the signature of the licensee or a space upon which the licensee shall
 35 write his or her usual signature with a pen and ink immediately upon receipt of the license,
 36 and such other information or identification as is required by the department. No license
 37 shall be valid until it has been so signed by the licensee. A license issued pursuant to this
 38 subsection may be in a physical format or an electronic format which is capable of being
 39 viewed upon a wireless telecommunications device as such term is defined in Code Section
 40 40-6-241. The department shall not require applicants to submit or otherwise obtain from
 41 applicants any fingerprints or any other biological characteristic or information which
 42 uniquely identifies an individual, including without limitation deoxyribonucleic acid
 43 (DNA) and retinal scan identification characteristics but not including a photograph, by any
 44 means upon application."

45 **SECTION 3.**

46 Said title is further amended in Code Section 40-5-29, relating to license to be carried and
 47 exhibited on demand, by revising subsection (b) as follows:

48 "(b)(1) Every licensee shall display his or her license upon the demand of a law
 49 enforcement officer. A refusal to comply with such demand not only shall constitute a
 50 violation of this subsection but shall also give rise to a presumption of a violation of
 51 subsection (a) of this Code section and of Code Section 40-5-20.

52 (2) Any person utilizing a wireless telecommunications device as such term is defined
 53 in Code Section 40-6-241 to display his or her license in electronic format in order to
 54 comply with subsection (a) of this Code section shall not be considered to have consented
 55 to a search of such device by a law enforcement officer."

56 **SECTION 4.**

57 Said title is further amended in Code Section 40-5-100, relating to personal identification
 58 cards, contents, possession of more than one card prohibited, and optional contributions to
 59 and participation in voluntary programs, by revising subsection (a) as follows:

60 "(a) The department shall issue personal identification cards to all residents as defined in
61 Code Section 40-5-1 who make application to the department in accordance with rules and
62 regulations prescribed by the commissioner. Cards issued to applicants under 21 years of
63 age shall contain the distinctive characteristics of drivers' licenses issued pursuant to Code
64 Section 40-5-26. The identification card shall be similar in form but distinguishable in
65 color from motor vehicle drivers' licenses, may be in either physical or electronic format,
66 and may contain a recent photograph of the applicant and include the following
67 information:

- 68 (1) Full legal name;
- 69 (2) Address of residence;
- 70 (3) Birth date;
- 71 (4) Date identification card was issued;
- 72 (5) Sex;
- 73 (6) Height;
- 74 (7) Weight;
- 75 (8) Eye color;
- 76 (9) Signature of person identified or facsimile thereof;
- 77 (10) Designation of participation in an anatomical gift donation program when such
78 person is eligible to make such gift pursuant to Code Section 44-5-142; and
- 79 (11) Such other information or identification as required by the department; provided,
80 however, that the department shall not require an applicant to submit or otherwise obtain
81 from an applicant any fingerprints or any other biological characteristic or information
82 which uniquely identifies an individual, including without limitation deoxyribonucleic
83 acid (DNA) and retinal scan identification characteristics but not including a photograph,
84 by any means upon application."

85 **SECTION 5.**

86 Said title is further amended by adding a new Code section to read as follows:

87 "40-5-106.

88 Any person utilizing a wireless telecommunications device as such term is defined in Code
89 Section 40-6-241 to display his or her identification card in electronic format shall not be
90 considered to have consented to a search of such device by a law enforcement officer."

91 **SECTION 6.**

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