

The Senate Committee on Public Safety offered the following substitute to SB 6:

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 persons who possess a lawful alien status are the only  
3 category of noncitizens who may obtain certain licenses, permits, or cards; to provide for  
4 driver's privilege cards for persons who are current recipients of grants of deferred action  
5 which shall operate the same as drivers' licenses; to provide for definitions; to provide for  
6 exceptions; to provide for the design of drivers' privilege cards; to provide for special  
7 identification cards for persons who are current recipients of grants of deferred action; to  
8 provide for the design of such special identification cards; to provide for criminal penalties;  
9 to amend Code Section 50-36-1 of the Official Code of Georgia Annotated, relating to  
10 verification requirements, procedures, and conditions, exceptions, regulations, and criminal  
11 and other penalties for violations, so as to revise the verification standard of the sworn  
12 affidavit concerning drivers' licenses and state identification cards; to provide for related  
13 matters; to provide for a contingent effective date; to repeal conflicting laws; and for other  
14 purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 SECTION 1.

17 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
18 is amended by revising paragraph (15) and adding a new paragraph to Code Section 40-5-1,  
19 relating to definitions, to read as follows:

20 "(10.5) 'Lawful alien status' means an alien status provided for by the federal  
21 Immigration and Nationality Act or any other provision by the United States Congress;  
22 provided, however, that lawful alien status shall not include a grant of any deferred action  
23 from the United States Department of Homeland Security."

24 "(15) 'Resident' means a person who has a permanent home or abode in Georgia to  
25 which, whenever such person is absent, he or she has the intention of returning. For the

26 purposes of this chapter, there is a rebuttable presumption that the following person is a  
 27 resident:

28 (A) Any person who accepts employment or engages in any trade, profession, or  
 29 occupation in Georgia or enters his or her children to be educated in the private or  
 30 public schools of Georgia within ten days after the commencement of such employment  
 31 or education; or

32 (B) Any person who, except for infrequent, brief absences, has been present in the state  
 33 for 30 or more days;

34 provided, however, that no person shall be considered a resident for purposes of this  
 35 chapter unless such person is either a United States citizen or ~~an alien with legal~~  
 36 ~~authorization from the U.S. Immigration and Naturalization Service~~ present in the United  
 37 States pursuant to a lawful alien status."

## 38 SECTION 2.

39 Said chapter is further amended by revising subsections (a) and (c) and adding new  
 40 subsections to Code Section 40-5-20, relating to license required, surrender of prior licenses,  
 41 and local licenses prohibited, to read as follows:

42 "(a) No person, except those expressly exempted in this chapter or in Chapter 6 of this title,  
 43 shall drive any motor vehicle upon a highway in this state unless such person has a valid  
 44 driver's license or a driver's privilege card under this chapter for the type or class of vehicle  
 45 being driven. Any person who is a resident of this state for 30 days shall obtain a Georgia  
 46 driver's license before operating a motor vehicle in this state. Any court having jurisdiction  
 47 over traffic offenses in this state shall report to the department the name and other  
 48 identifying information of any individual convicted of driving without a license. This Code  
 49 section shall not apply to a person driving with a suspended license or license that has been  
 50 revoked. Any person convicted of violating this Code section shall be punished as  
 51 provided in subsection (a) of Code Section 40-5-121; provided, however, that if:

52 (1) Such person is driving with a driver's license issued by this state that has been  
 53 expired for less than 31 days at the time of the offense and he or she produces in court a  
 54 driver's license that would have been valid at the time of the offense, he or she shall not  
 55 be guilty of such offense; and

56 (2) Such person is driving without a valid driver's license or receipt issued by the  
 57 department reflecting issuance, renewal, replacement, or reinstatement in his or her  
 58 possession but he or she has a valid driver's license, Code Section 40-5-29 shall apply to  
 59 such offense.

60 (a.1)(1) Except as provided for in subsection (a.2) of this Code section, any person who  
 61 is a current recipient of a grant of deferred action from the United States Department of

62 Homeland Security shall obtain a Georgia driver's privilege card before operating a motor  
63 vehicle in this state. Pursuant to the terms of this subsection, upon payment of the  
64 required fee, the department shall issue to every applicant qualifying therefor a driver's  
65 privilege card indicating the type or general class of vehicle the applicant may drive.  
66 Notwithstanding any other provision of this title and except as otherwise provided for in  
67 this subsection, such driver's privilege card shall:

68 (A) In every way operate in like manner for types or classes of vehicles as a citizen's  
69 driver's license, including but not limited to fees, instructional permits, training,  
70 examinations, expirations, restrictions, points, issuances, renewals, and replacements,  
71 as if such driver's privilege card were a driver's license;

72 (B) Be subject to the same carrying, exhibition, reporting, and motor vehicle insurance  
73 requirements as a citizen's driver's license;

74 (C) Confer the same privileges and responsibilities for driving a motor vehicle upon  
75 a highway in this state as a citizen's driver's license; and

76 (D) Be subject to the same laws and penalties in the law, including but not limited to  
77 suspension or revocation, in the same manner as a citizen's driver's license.

78 (2) A driver's privilege card shall be valid only during the period of time of the  
79 applicant's grant of deferred action or five years, whichever occurs first.

80 (3)(A) A driver's privilege card shall be valid only for the privilege of operating a  
81 motor vehicle upon a highway in this state and shall not be valid for identification  
82 purposes, including but not limited to verifying the identity, residency, or citizenship  
83 status of its holder.

84 (B) It shall be a misdemeanor to attempt to use a driver's privilege card for  
85 identification purposes other than presentment to a law enforcement officer.

86 (4) Prior to the issuance of a driver's privilege card, the department shall obtain the  
87 fingerprints of the applicant.

88 (5)(A) The department shall distinguish a driver's privilege card from a driver's license  
89 issued by the department by the use of font and color.

90 (B) A driver's privilege card shall, in white letters displayed on a black banner  
91 positioned at the top or bottom, or both, of the driver's privilege card, include the terms  
92 'DRIVER'S PRIVILEGE CARD ONLY', 'NOT FOR ID PURPOSES', 'LEGAL  
93 PRESENCE, NO LAWFUL STATUS', and 'UNDER GRANT OF DEFERRED  
94 ACTION'. Other than as provided for in this paragraph, a driver's privilege card shall  
95 contain the same physical characteristics of, and be similar in form to, a driver's license  
96 issued by the department.

97 (6) The department shall not issue any temporary driving privileges as provided for in  
 98 subsection (e) of Code Section 40-5-24 to any person who is a current recipient of a grant  
 99 of deferred action from the United States Department of Homeland Security.

100 (a.2) Any person who is a current recipient of a grant of deferred action from the United  
 101 States Department of Homeland Security and who has a valid driver's license shall, upon  
 102 expiration of such driver's license, be subject to the provisions of this chapter relating to  
 103 a driver's privilege card."

104 "(c)(1) Except as provided in paragraph (2) of this subsection and in Code Section  
 105 40-5-32, no person shall receive a driver's license or driver's privilege card unless and  
 106 until such person surrenders to the department all valid licenses in such person's  
 107 possession issued to him or her by this or any other jurisdiction. All surrendered licenses  
 108 issued by another jurisdiction shall be destroyed. The license information shall be  
 109 forwarded to the previous jurisdiction. No person shall be permitted to have more than  
 110 one valid driver's license or more than one valid driver's privilege card at any time or a  
 111 valid driver's license and a valid driver's privilege card at the same time.

112 (2) Any noncitizen who is eligible for issuance of a driver's license or driver's privilege  
 113 card pursuant to the requirements of this chapter may be issued a driver's license or  
 114 driver's privilege card without surrendering any driver's license or such other similar  
 115 licenses previously issued to him or her by any foreign jurisdiction. This exemption shall  
 116 not apply to a person who is applying for a commercial driver's license or who is required  
 117 to terminate any previously issued driver's license or similar license pursuant to federal  
 118 law. The department shall make a notation on the driving record of any person who  
 119 retains a foreign driver's license, and this information shall be made available to law  
 120 enforcement officers and agencies on such person's driving record through the Georgia  
 121 Crime Information Center."

### 122 SECTION 3.

123 Said chapter is further amended by revising Code Section 40-5-21.1, relating to temporary  
 124 licenses, permits, or special identification cards, foreign licenses or identification cards as  
 125 evidence of legal presence in the United States, and extensions, as follows:

126 "40-5-21.1.

127 (a) Notwithstanding any other provision of this title, an applicant who presents in person  
 128 valid documentary evidence of:

129 (1) Admission to the United States in a valid, unexpired nonimmigrant status;

130 (2) A pending or approved application for asylum in the United States;

131 (3) Admission into the United States in refugee status;

132 (4) An approved application for temporary protected status in the United States;

133 (5) ~~Approved deferred action status;~~  
 134 ~~(6) Other federal documentation verified by the United States Department of Homeland~~  
 135 ~~Security to be valid documentary evidence of lawful presence in the United States under~~  
 136 ~~federal immigration law alien status; or~~  
 137 ~~(7)(6) Verification of lawful presence alien status as provided by Code Section 40-5-21.2~~  
 138 ~~may be issued a temporary license, permit, or special identification card as provided for in~~  
 139 ~~subsections (b) and (c) of this Code section. Such temporary license, permit, or special~~  
 140 ~~identification card shall be valid only during the period of time of the applicant's authorized~~  
 141 ~~stay in the United States or five years, whichever occurs first.~~  
 142 (b) A driver's license or identification card issued by any state or territory which, on or  
 143 after July 1, 2006, authorized such driver's license or identification card to be issued to  
 144 persons ~~not lawfully present in the United States~~ who do not have a lawful alien status may  
 145 not be accepted as evidence of ~~legal presence in the United States~~ lawful alien status.  
 146 (c) Any noncitizen applicant who possesses a lawful alien status and whose Georgia  
 147 driver's license or identification card has expired, or will expire within 30 days, and who  
 148 has filed, or on whose behalf has been filed, a request for an extension with the United  
 149 States Department of Homeland Security, or similar such federal issuing agency, for time  
 150 to remain lawfully within the United States shall be issued a temporary driving permit or  
 151 identification card valid for 120 days from the date of the expiration of his or her valid  
 152 driver's license or identification card. The noncitizen applicant shall be required to present  
 153 evidence of the application for extension by submitting a copy or copies of documentation  
 154 designated by the department. A temporary driving permit or identification card shall be  
 155 issued upon submission of the required documentation and an application fee in an amount  
 156 to be determined by the department. Upon the expiration of the temporary driving permit  
 157 or identification card, no further consecutive temporary permits or identification cards shall  
 158 be authorized; provided, however, that application may be made following the expiration  
 159 of an additional valid Georgia driver's license or identification card.  
 160 (d)(1) Notwithstanding any other provision of the title, an applicant who is a current  
 161 recipient of a grant of deferred action from the United States Department of Homeland  
 162 Security may be issued a special identification card which shall be valid only during the  
 163 period of time of the applicant's grant of deferred action or five years, whichever occurs  
 164 first. Notwithstanding any other provision of this title and except as otherwise provided  
 165 for in this subsection, such special identification card shall in every way conform to the  
 166 provisions governing personal identification cards provided for by this title, including but  
 167 not limited to fees, proof of birth date, unlawful use, issuances, renewals, and  
 168 replacements.

169 (2) Prior to the issuance of such special identification card as provided for in  
 170 paragraph (1) of this subsection, the department shall obtain the fingerprints of the  
 171 applicant.

172 (3)(A) The department shall distinguish the special identification card provided for in  
 173 this subsection from other personal identification cards issued by the department by the  
 174 use of font and color.

175 (B) A special identification card provided for in this subsection shall, in white letters  
 176 displayed on a black banner positioned at the top or bottom, or both, of the special  
 177 identification card, include the terms 'LEGAL PRESENCE, NO LAWFUL STATUS'  
 178 and 'UNDER GRANT OF DEFERRED ACTION'. Other than as provided for in this  
 179 paragraph, such special identification card shall contain the same physical  
 180 characteristics of, and be similar in form to, other personal identification cards issued  
 181 by the department."

#### 182 **SECTION 4.**

183 Said chapter is further amended by revising subsection (b) and adding a new subsection to  
 184 Code Section 40-5-21.2, relating to compliance with the Systematic Alien Verification for  
 185 Entitlements Program, application, and implementation, to read as follows:

186 "(b) The department shall utilize the following procedures in this subsection before issuing  
 187 an identification card, license, permit, or other official document to an applicant who is a  
 188 noncitizen:

189 (1) The department shall attempt to confirm through the SAVE program that the  
 190 applicant is lawfully present in the United States possesses a lawful alien status; and

191 (2) If the SAVE program does not provide sufficient information to the department to  
 192 make a determination, the department shall be authorized to accept verbal ~~or~~ e-mail, or  
 193 other means of confirmation of the legal alien status of the applicant from the Department  
 194 of Homeland Security."

195 "(e) A person determined to possess a lawful alien status pursuant to this Code section  
 196 shall be eligible for a license, permit, or card as provided for in subsections (a), (b), and (c)  
 197 of Code Section 40-5-21.1. A person determined to be a current recipient of a grant of  
 198 deferred action from the United States Department of Homeland Security pursuant to this  
 199 Code section shall be eligible for a card as provided for in subsection (a.1) of Code Section  
 200 40-5-20 or subsection (d) of Code Section 40-5-21.1."

#### 201 **SECTION 5.**

202 Said chapter is further amended by revising subsection (a) of Code Section 40-5-28, relating  
 203 to the issuance of licenses and contents, as follows:

204 "(a) Except as provided in subsection (c) of this Code section, the department shall, upon  
 205 payment of the required fee, issue to every applicant qualifying therefor a driver's license  
 206 indicating the type or general class of vehicles the licensee may drive, which license shall  
 207 be upon a form prescribed by the department and which shall bear thereon a distinguishing  
 208 number assigned to the licensee, a photograph of the licensee, the licensee's full legal name,  
 209 either a facsimile of the signature of the licensee or a space upon which the licensee shall  
 210 write his or her usual signature with a pen and ink immediately upon receipt of the license,  
 211 and such other information or identification as is required by the department. No license  
 212 shall be valid until it has been so signed by the licensee. Except as provided for under  
 213 Code Section 40-5-20 or 40-5-21.1, the ~~The~~ department shall not require applicants to  
 214 submit or otherwise obtain from applicants any fingerprints or any other biological  
 215 characteristic or information which uniquely identifies an individual, including without  
 216 limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but  
 217 not including a photograph, by any means upon application."

218 **SECTION 6.**

219 Said chapter is further amended by revising paragraphs (1), (2), and (3) of Code Section  
 220 40-5-120, relating to the unlawful use of license or identification card and penalties for  
 221 violations of chapter generally, as follows:

222 "(1) Display or cause or permit to be displayed or have in his or her possession any  
 223 canceled, revoked, or suspended driver's license or personal identification card issued  
 224 pursuant to ~~Code Section 40-5-100~~ this chapter;

225 (2) Fail or refuse to surrender to the department upon lawful demand any driver's license  
 226 or personal identification card issued pursuant to ~~Code Section 40-5-100~~ this chapter  
 227 which has been suspended, revoked, disqualified, or canceled;

228 (3) Permit any unlawful use of a driver's license or personal identification card issued  
 229 pursuant to ~~Code Section 40-5-100~~ this chapter issued to such person;"

230 **SECTION 7.**

231 Code Section 50-36-1 of the Official Code of Georgia Annotated, relating to verification  
 232 requirements, procedures, and conditions, exceptions, regulations, and criminal and other  
 233 penalties for violations, is amended by revising subsections (b) and (g) as follows:

234 "(b) Except as provided in ~~subsection~~ subsections (d) and (g) of this Code section or where  
 235 exempted by federal law, every agency or political subdivision shall verify the lawful  
 236 presence in the United States under federal immigration law of any applicant for public  
 237 benefits."

238 "(g)(1) The Department of Driver Services shall require every applicant for a state issued  
 239 driver's license or state identification card to submit, in person, an original secure and  
 240 verifiable document, as defined in Code Section 50-36-2, and execute a signed and sworn  
 241 affidavit verifying ~~the applicant's lawful presence in the United States under federal~~  
 242 ~~immigration law~~ that the applicant is a resident.

243 (2) The requirements of this subsection shall not apply to any applicant renewing a state  
 244 issued driver's license or state identification card when such applicant has previously  
 245 complied with the requirements of this subsection by submission of a secure and  
 246 verifiable document, as defined in Code Section 50-36-2, and a signed and sworn  
 247 affidavit affirming that such applicant is a United States citizen.

248 (3) As used in this subsection, the term 'resident' shall have the same meaning as  
 249 provided for under Code Section 40-5-1."

250

### SECTION 8.

251 (a) This Act shall become effective only if funds are specifically appropriated for purposes  
 252 of this Act in an appropriations Act enacted by the General Assembly.

253 (b) If funds are so appropriated, then this Act shall become effective on the later of:

254 (1) The date on which such appropriations Act becomes effective; or

255 (2) The beginning date of the fiscal year for which such appropriations are made.

256

### SECTION 9.

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