

GEORGIA LEGISLATIVE UPDATE 2018 LEGISLATIVE SESSION

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GA CONST Art. 3, § 5, ¶ III

No bill shall pass which refers to more than one subject matter or contains matter different from what is expressed in the title thereof.

TITLE 16 BILLS

HB 732

Amends 16-5-46

Expands the offense of trafficking of individuals for sexual servitude to include the act of patronizing and clarifies punishment provisions for certain types of sexual servitude.

Effective July 1, 2018

HB 803

Enacts 16-5-102.1

Act creates the offense trafficking disabled adults, elder persons, and residents of long-term care facilities.

Effective July 1, 2018

SB 315

Amends 16-9-93 and 16-9-94

Act creates the offense of unauthorized computer access and provides exceptions.
Act clarifies punishment and changes venue provisions for computer crimes.

Effective July 1, 2018

HB 890

Amends 16-11-40

Act creates the offense of using an emergency door after having shoplifted.

Effective July 1, 2018

HB 657

Amends 16-11-113

Act prohibits the knowing transfer of a firearm to felony first offenders and persons convicted of a felony in another state and provides exceptions and punishments.

Firearm provider not required to affirmatively confirm the person to whom the firearm is provided is not a felon (or on first offender).

Effective July 1, 2018

HB 830

Amends 16-13-25, 16-13-26, and 16-13-71

Act makes changes to the lists of Schedules I and II controlled substances and dangerous drugs.

Effective immediately upon Governor's signature or inaction

TITLE 40 BILLS-NEXT PAGE

TITLE 40 BILLS

HB 714

Amends 40-1-8

Act updates the date applicable to Federal Regulations for safe operation of motor carriers and commercial motor vehicles.

Effective July 1, 2018

SB 342

Amends 40-2-8 and 40-2-8.1

Act allows the owner of a motor vehicle which has a valid license plate without the required revalidation decal affixed to the plate to retain custody of the vehicle under certain conditions.

Act provides a penalty for operating a motor vehicle or allowing a motor vehicle to be operated without a valid revalidation decal.

Effective July 1, 2018

HB 695

Amends 40-2-37 and 40-2-86

Act authorizes the commissioner of Department of Revenue to grant waivers to requirements relating to display of special license plates for government owned vehicles.

Act changes the amount dedicated to the department of Agriculture for the sale of license plate promoting dog and cat sterilization.

Act creates special license plate honoring Georgia's working forests.

Effective July 1, 2018

Working Forest License Plate provisions effective July 1, 2019

HB 671

Amends 40-2-41.1 and 40-2-86

Act revises definition of "authentic historical Georgia license plate" and the authorized use of the plate.

Act creates special license plate honoring Georgia Beekeepers Association

Effective immediately upon Governor's signature or inaction

HB 898

Amends 40-2-50 through 40-2-55, and 40-2-86

Act revises registration of fleet vehicles.

Act revises provisions relating to a special license plate for use on personal vehicles of fire fighters.

Effective July 1, 2018

HB 287

Amends 40-2-85.3

Act provides for the issuance to eligible family members of a second Gold Star license plate honoring family members killed in action.

Effective July 1, 2018

HB 815

Amends 40-2-86

Act establishes a special license plate honoring Georgia Masonic Charities Foundation.

Effective immediately upon Governor's signature or inaction

HB 784

Amends 40-2-86

Act establishes a special license plate promoting the conservation and enhancement of waterfowl populations and their habitats.

Effective July 1, 2019

HB 761

Amends 40-3-33

Act allows motor vehicle dealers selling no more than 10 motor vehicles per month to apply for a waiver from requirement of submitting certificates of title to the Department of Revenue electronically.

Act provides for a dealer selling a motor vehicle to a person not a resident of the county in which the dealer is located may file an application for title with the county tag agent in the county where the dealer is located.

Effective immediately upon Governor's signature or inaction

HB 673

Amends 40-5-57, 40-5-142, 40-5-159, 40-6-165, and 40-6-241

Repeals 40-6-241.1 and 40-6-241.2

Hands-Free Georgia Act

While operating a motor vehicle may not:

- Physically hold or support, with any part of the body:
 - Mobile Wireless Device
 - Stand alone electronic device (Ex. iPod)
- Write, send, or read any text based communication device (don't email, text, message, surf the web)
 - EXCEPTION: Voice based message converted to text
 - EXCEPTION: Use of such device for navigation or gps purposes
- Watch a video or movie other than watching data related to navigation of the vehicle
- Record or broadcast a video (does not apply to in car cameras, dashboard cameras)

Commercial Vehicles-

Language tracks the federal regulations

Fines, as measured in 24 month period

- First offense: \$50 (walkout), 1 point on license
- Second offense: \$100 (walkout), 2 points on license
- Third or subsequent offense: \$150 (walkout), 3 points on license

GET OUT OF JAIL FREE CARD:

- Any person appearing before the court on a first charge may show a device or receipt/proof of purchase of a device that would allow a person to comply in the future shall be NOT GUILTY of the offense.
- Court shall require the person to affirm they have not previously utilized this defense

Statute Does Not Apply If:

- Reporting a traffic accident, medical emergency, fire, potential criminal act, serious road condition or safety hazard
- Utility worker responding to utility emergency
- Law enforcement, firefighter, EMS, ambulance driver: using the phone during the performance of official duties
- While a motor vehicle is lawfully parked

Effective July 1, 2018

SB 409

Amends 40-6-140

Act defines “other on track equipment” and provides for rules of the road when approaching a railroad grade crossing with a train or other on track equipment.

Effective July 1, 2018.

HB 978

Amends 40-6-163, 40-14-5 through 40-14-8, 40-14-11

Enacts 40-14-1.1, 40-14-1.2, and 40-14-18

Act provides that drivers approaching a school bus loading or unloading passengers on the opposite side of highway divided by a turn lane need not stop.

Act revises the process by which a civil monetary penalty for failure to stop for a school bus as evidence by use of video recordings is assessed.

Act provides for the use of cameras and recorded images for detecting and enforcing speeding in school zones.

Act provides for the use of cameras and recorded images for detecting and enforcing speeding in school zones.

Act provides for penalties for failure to pay the civil monetary fines related to passing a school bus and speeding in a school zone, including prohibition or renewal of motor vehicle registration and on the transfer of title of the motor vehicle involved in the violation.

Passing a Stopped School Bus

Divided Highway (with turn lane):

- Don't have to stop for the school bus

Penalties:

OWNER of a vehicle passing a school bus shall be liable for civil penalty:

- \$250
- Not a moving violation
- May pay fine or request a court date
- Failure to pay fine means Department of Revenue shall refuse to renew registration and shall prohibit the transfer of title

Speeding in School Zone

- Enforced by cameras
- Pay civil penalty or contest ticket

- Failure to pay fine means Department of Revenue shall refuse to renew registration and shall prohibit the transfer of title

Effective July 1, 2018.

HB 717

Amends 40-8-11

Act provides certain state consumer protection laws apply to autonomous motor vehicles

Effective July 1, 2018

HB 809

Amends 40-8-91

Act provides that a motor vehicle to be used by any employee of GSP for the enforcement of traffic laws be painted a solid color

Effective July 1, 2018

SB 407

Amends 15-6-11, 15-6-61, 15-7-5, 15-11-64, 35-6A-2, 9-11-5, 15-7-42, 17-4-23, 17-6-1, 17-6-12, 17-10-1, 17-10-8, 35-3-37, 40-5-22, 40-5-76, 42-3-50, 42-3-51, 42-3-52, 42-3-53, 42-3-54, 42-8-34, 42-8-37, 42-8-62.1, 42-8-66, 42-8-102, 42-8-103, 42-8-105, 43-1-19, 31-2-1, 31-2-4, 49-4-31, 49-4-32, 49-4-51, 49-4-52, 49-4-80, 49-4-81, 16-8-12, 16-9-70, 16-11-113, 16-11-131, 16-13-60, 20-8-4, 36-69-3

Creates 35-6A-13, 35-6A-14, 15-1-22, 15-5-21.1, 20-4-39

Electronic Filing

- By Jan 1, 2019, all Superior Courts/State Courts must have electronic filing for Criminal Cases
- By Jan 1, 2019, all civil cases in Superior Court/State Court must be filed electronically- no more paper filings
 - One time filing fee \$30 per filer, per party
 - Supplemental fee of \$5 after a party has made 10 filings
 - Convenience fee not to exceed 3.5%
 - Allowed unlimited viewings of filed documents if a party/attorney to the case

No Filing Fee for:

- Pauper's Affidavit
- Filings made at the courthouse through a public access terminal (convenience fee)

9-11-5

When you file electronically, you are consenting to electronic service unless you file a rescission

15-1-22 (new)

No exclusive contracts for electronic filing service

35-6A-13

Establishes a Criminal Case Data Exchange Board

15-5-21.1 (New Code Section)

- Judicial Council of Georgia shall develop a uniform misdemeanor citation and complaint form to be used by law enforcement in misdemeanor and local ordinance cases
- Form will be citation, summons, accusation, or other instrument of prosecution of the offenses
- Each form will have a unique identifying number which shall serve as the docket number for the court

15-7-42

Prosecution of misdemeanors may proceed by accusation as provided in 17-7-71, citation or citation and arrest as provided by law, or summons

17-4-23 – arrests by citation for motor vehicle offenses

- Law Enforcement may arrest a person accused of a misdemeanor violation of 16-7-21 (criminal trespass), 16-8-14 (TXS), 16-8-14.1 (Return Fraud), 16-13-30 (drug possession) by issuance of citation
- Offense must be committed in presence of an officer
- Prior to releasing the accused on citation, must check GCIC and NCIC, and ensure that accused finger prints are obtained
- If issued a citation and accused fails to appear, bench warrant will issue, accused shall then be allowed to make a reasonable bond to appear

17-6-1 Before Whom Offenses are Bailable

- Adds “inclusive of offenses that are violations of local ordinances”
- When determining bail for a person charged with misdemeanor
 - Not excessive
 - Impose only conditions reasonably necessary to ensure each person attends court appearances

When determining bail, court shall consider

- Accused financial resources and other assets
- Accused earnings and other income
- Accused financial obligations
- The purpose of bail
- Any other factor the court deems appropriate

Family Violence Cases:

- Bail set on a case by case basis, no schedule shall be utilized

17-10-1 Determinate Sentences

- Behavioral Incentive Date allowed for split sentences
- Sentenced pursuant to 16-13-2 or First Offender Act
- Not more than 12 months of imprisonment
- Date to be set not more than 3 years from the date such sentence is imposed

Behavioral Incentive Date:

IF:

- Defendant not arrested for anything other than nonserious traffic offense as defined in 35-3-37,
- Defendant has complied with probation
- Defendant paid all restitution

THEN:

- Department of Community Supervision shall notify prosecuting attorney of such facts
- Department shall provide court with an order terminating Defendant’s probation
- Court must execute order unless:

- Court or prosecutor request a hearing
- Court shall take whatever action it determines would be for the best interest of justice and the welfare of society

Probation must terminate after 2 years unless:

- Court ordered
- Collecting restitution
- Conviction under Street Gang Act
- Conviction requires the defendant to register on the sex offender registry
 - Remain on active probation until terminated by the court
 - The sentence terminates

Court may waive imposition of a fine if defendant has significant financial hardship or inability to pay

- Must impose a theoretical fine and then require defendant to pay statutory surcharges

40-5-22

- DDS may issue a probationary license, limited driving permit, or IIDLD to anyone whose license is expired (assuming such person eligible for the above)

40-5-76

Accountability Courts:

Judge (drug court, mental health court, veteran's court, DUI Court) may order DDS to:

- Reinstate defendant's GADL
- Issue a Limited Driving Permit
- Issue an IIDLP
- Suspend or revoke such license, permit, etc.

Court may order DDS to issue a defendant a limited driving permit or IIDLP for one year and may allow such permit to be renewed for a one year period

43-1-19

Grounds for revoking professional licenses

Professional licensing board shall refuse to grant a professional license to an applicant or revoke the license of an individual (unless a felony or crime of moral turpitude directly relates to the occupation for which the license is sought or held):

- Conviction of a felony or any crime involving moral turpitude
- Arrest, charge, sentence for the commission of such offense
- First offender sentence
- 16-13-2 sentence
- Sentence for such offense as a result of a plea of nolo
- Adjudication of guilt that was otherwise withheld or not entered

Statute discusses how to determine whether a crime of moral turpitude directly relates to the occupation for which the license is sought or held

16-8-12

If property stolen was a destructive device, explosive, or firearm

- 1st offense = 1-10
- 2nd or subsequent offenses = 5-10

16-9-70

Criminal use of an article with an altered identification mark

- 1-5 year punishment
- If a Gun:
 - 1st offense = 1-10
 - 2nd or subsequent offenses = 5-10

16-11-113

Don't knowingly attempt to get a gun dealer to convey a gun to someone who is on felony probation

16-11-131

If you are a felon, don't receive, possess, transport firearms

20-4-39

Campus policemen and other security personnel who are regular employees of the Technical College System of Georgia shall have the power to make arrests for offenses committed upon property under the TCSGA jurisdiction, and for offenses committed upon any public or private property within 500 feet of such property

Effective July 1, 2018