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MOTOR VEHICLES AND TRAFFIC Drivers' Licenses, Uniform Rules of the Road: Modify Procedures and Penalties Relating to Driving Under the Influence of Drugs or Alcohol

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MOTOR VEHICLES AND TRAFFIC

Drivers' Licenses, Uniform Rules of the Road: Modify Procedures and Penalties Relating to Driving Under the Influence of Drugs or Alcohol

CODE SECTIONS:	O.C.G.A. §§ 15-21-110 to -115 (new), 17-15-10, 33-9-43 (amended), 40-5-67.1, -67.2 (new), 40-5-55, -58, -63, -64, -66, -67, -68, -69, -81, -83, -85, -86, -153, 40-6-390 to -392 (amended)
BILL NUMBERS:	HB 451, HB 1508, SB 487, SB 489, SB 524, SB 579
ACT NUMBERS:	765, 766, 1340, 1341, 1131, 1194
SUMMARY:	SB 489 initiates administrative suspension of drivers' licenses for second time DUI violators. SB 487 increases penalties for habitual DUI violators and creates a crime of endangering a child by driving under the influence of alcohol or drugs. HB 451 defines "traffic accident which resulted in serious injuries or fatalities." SB 579 allows a driver to reduce points on her license by taking a corrective course before eight points are accumulated. HB 1508 directs the Department of Public Safety to accept driver correction courses certified by other states. SB 524 adds an additional monetary penalty onto a conviction for DUI to help fund the Georgia Crime Victims Emergency Fund.
EFFECTIVE DATES:	January 1, 1993, O.C.G.A. §§ 33-9-43, 40-5-55, -63, -64, -66, -67, -67.1, -67.2, -68, -69, -81, -85, -153, 40-6-390.1, -392; July 1, 1992, all other sections

History

The General Assembly's concern with issues related to driving under the influence of drugs or alcohol (DUI) continued during the 1992 session.[1] Conflicts arose between the Senate, which pressed for stricter DUI laws, and the House, which has historically been reticent to unduly toughen DUI laws for first-time offenders.[2] Public concern was

1. For a survey of last session's DUI legislation, see *Legislative Review*, 8 GA. ST. U. L. REV. 129 (1992).
2. Katie Long, *One Last Push Set for Tougher DUI Penalties*, ATLANTA J. &

raised by a series of articles on the issue published in the *Atlanta Journal-Constitution* which detailed the problem of habitual DUI offenders and highlighted incidents in which people had been convicted up to twenty-two times for driving under the influence of alcohol.[3]

SB 489

By far the most controversial DUI act that passed, SB 489 cleared the General Assembly in the final hours of the session.[4] The Act provides for the administrative suspension of the driver's license of a driver who fails an alcohol test and who also has at least one conviction under Code section 40-6-391.[5]

A person involved in a "traffic accident resulting in serious injuries or fatalities"[6] or arrested under Code section 40-6-391 impliedly consents to take a breath test or a blood test.[7] A driver is subject to penalties under the Act if his blood alcohol reading is .10 grams or more, is .06 grams for a person under age eighteen, or is .04 grams for a person operating a commercial vehicle.[8] Administrative license suspension only applies to a person with at least one conviction under

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CONST., Mar. 30, 1992, at B1.

3. Adam Gelb, *Georgia's DUI Scandal*, ATLANTA J. & CONST., Nov. 3, 1991, at B1. The article compiled traffic statistics over the past twenty-five years: 43 Georgians had 15 or more convictions for DUI; 665 had between 10 and 14 convictions; 16,817 had between 5 and 9 convictions; and 66,018 had between 3 and 4 convictions for DUI. *Id.* The *Atlanta Journal-Constitution* ran a seven-part series from Nov. 3 to Nov. 10, 1991 entitled "Georgia's DUI Scandal," authored by Adam Gelb and Katie Long.

4. SB 489 was part of Governor Zell Miller's legislative agenda and was sponsored by Sens. Harill L. Dawkins (Senate District 45), Mark Taylor (Senate District 12), and Pete Robinson (Senate District 16). These three Senators also sponsored SB 487.

5. O.C.G.A. § 40-5-67.1(f)(1) (Supp. 1992); *see id.* § 40-6-391 (Supp. 1992).

6. *See* O.C.G.A. § 40-6-391(*l*) (Supp. 1992); *infra* notes 66-73 and accompanying text.

7. O.C.G.A. § 40-5-67.1(a) (Supp. 1992). A urine test may be administered at the discretion of the officer. *Id.* At the time of the chemical test, a person must be advised of the legal results of refusing or consenting to a test. *Id.* § 40-5-67.1(b) (Supp. 1992).

8. *Id.* § 40-5-67.1(c) (Supp. 1992). The indicator tests are enumerated in O.C.G.A. § 40-5-67.1(a) (Supp. 1992). Originally, the bill did not specify the three possible tests. SB 489, as introduced, 1992 Ga. Gen. Assem. A Senate floor amendment then specified a "breath test *and* a blood test and may require a urine test." SB 489 (SFA), 1992 Ga. Gen Assem. (emphasis added). A House floor substitute changed the designated test to "a breath test *or* a blood test and may require a urine test." SB 489 (HFS), 1992 Ga. Gen. Assem. (emphasis added). This wording was adopted in the Act. O.C.G.A. § 40-5-67.1(c) (Supp. 1992). The language requiring both a breath test and a blood test was a typographical error and, regardless, would have been too expensive to implement. Telephone Interview with Cindy Wright, Governor's Executive Council (Apr. 9, 1992) [hereinafter Wright Interview].

Code section 40-6-391 or whose license has previously been administratively suspended.[9]

If a driver subject to an administrative license suspension tests positive for the applicable alcohol level, the law enforcement officer will then serve notice to the driver that his license will be suspended after the expiration of a twenty day temporary permit.[10] If an officer fails to serve notice at the time of the test, the officer's department shall do so by regular mail addressed to the driver's last known address.[11] If the law enforcement officer issues a citation for DUI even though the driver's blood alcohol test does not reach the threshold amount for administrative suspension, or if administrative suspension is inapplicable because of the driver's record, the officer will issue a 180 day temporary permit.[12]

The Act provides that the first administrative suspension will be for three years.[13] One hundred and twenty days after the expiration of the twenty day temporary period, a driver may seek a probationary license.[14] A probationary license will be granted after proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and after payment of a $210 fee.[15] A second or subsequent suspension

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9. O.C.G.A. § 40-5-67.1(c) (Supp. 1992).

10. *Id.* § 40-5-67.1(f)(1) (Supp. 1992).

11. *Id.* § 40-5-67.1(f)(2) (Supp. 1992). The original bill called for notice to be served by first class mail. SB 489, as introduced, 1992 Ga. Gen. Assem. The House floor amendment required notice by "certified mail, return receipt requested." SB 489 (HFA), 1992 Ga. Gen. Assem. The Act provides for notification by "regular mail." O.C.G.A. § 40-5-67(f)(2) (Supp. 1992). According to Cindy Wright, a member of the Governor's Executive Council, this change was made because certified mail was thought to be too expensive. Wright Interview, *supra* note 8.

12. O.C.G.A. § 40-5-67(b)(3) (Supp. 1992). Previously, a license was suspended after a conviction under O.C.G.A. § 40-5-4 or O.C.G.A. § 40-6-391. 1991 Ga. Laws 1886 (formerly found at O.C.G.A. § 40-5-63(a) (1991)). Judicial suspension and related procedures were not changed by the Act. O.C.G.A. § 40-5-63(a) (Supp. 1992). Under prior law, the driver's license of a person charged under O.C.G.A. § 40-6-391 was taken by the officer, 1990 Ga. Laws 2048 (formerly found at O.C.G.A. § 40-5-67 (1991)), but the officer then issued a temporary permit valid for 180 days or until a person's license was judicially suspended. *Id.*

13. O.C.G.A. § 40-5-67.2(a)(1) (Supp. 1992).

14. *Id.*

15. *Id.* The fee will be $200 if reinstatement is handled by mail. *Id.* The restoration fee was raised from $35 to $210 in accordance with fee hikes prescribed by HB 1145. *See* HB 1145 (SCSFA) §§ 19-22, 1992 Ga. Gen. Assem. While HB 1145 raised many different types of fees for state services, Rep. Dubose Porter, the sponsor of HB 1145, stated that the purpose of the increased reinstatement fees was more punitive than revenue enhancing. Telephone Interview with Rep. Dubose Porter, House District 119 (Apr. 1, 1992) [hereinafter Porter Interview]. In addition, Rep. Porter noted that language throughout the DUI legislation has been changed to ensure that driver correction courses meet the standards approved by the State. *Id.* The Act also specified that a driver's license suspended under O.C.G.A. § 40-5-63

within five years will result in a suspension of five years with a possibility of a probationary license in two years.[16]

The Act does provide for an appeal process. Drivers whose licenses are administratively suspended have a right to appeal to the Department of Public Safety within five days of the suspension.[17] The appeal is waived if not requested within five days.[18] Within thirty days from an appeal request, the Department must hold a recorded hearing pursuant to the Georgia Administrative Procedure Act.[19] The issues on appeal are specific and limited in scope. Appealable issues include: whether the officer had reasonable grounds to believe that the person was in physical control of the moving motor vehicle while under the influence of alcohol or a controlled substance, and was lawfully placed under arrest; whether the person was involved in a motor vehicle accident or collision; whether the officer informed the driver of the driver's implied consent obligations and the consequences of failing to submit to the alcohol/drug test; whether the test values were sufficiently high to qualify for administrative suspension; and whether the operator was certified and the testing apparatus approved.[20] If a suspension is upheld, a driver has the right to a judicial review pursuant to the Georgia Administrative Procedure Act.[21]

The Act includes a House floor amendment[22] which clarified the required chemical tests.[23] Code section 40-5-55 requires that the tests given pursuant to an arrest for a Code section 40-6-391 violation, or after a "traffic accident resulting in serious injuries or fatalities," shall include both an alcohol and a drug screen.[24] This inclusion was not meant to be a substantive change, but only a clarification.[25] Code

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because of a violation of O.C.G.A. § 40-5-54 may be reinstated after the driver takes either a defensive driving test or an Alcohol or Drug Risk Reduction Program. O.C.G.A. § 40-5-63 (Supp. 1992).

16. O.C.G.A. § 40-5-67.2(a)(2) (Supp. 1992).

17. *Id.* § 40-5-67.1(g) (Supp. 1992).

18. *Id.*

19. *Id.; see id.* §§ 50-13-1 to -23 (1990 & Supp. 1992).

20. *Id.* § 40-5-67.1(g)(2) (Supp. 1992).

21. *Id.* § 40-5-67.1(h) (Supp. 1992). During an appeal, the license suspension will not be stayed. *Id.* The Georgia Administrative Procedure Act is found in chapter 13 of title 50 of the O.C.G.A. *See id.* §§50-13-1 to -23 (1990 & Supp. 1992). In a prior administrative suspension bill, superior court judges had complained that immediate judicial review would be too time consuming. Wright Interview, *supra* note 8.

22. SB 489 (HFA), 1992 Ga. Gen. Assem. This amendment was sponsored by Reps. Jerry D. Jackson, House District 9, and Bobby Eugene Parham, House District 105.

23. O.C.G.A. § 40-5-55 (Supp. 1992).

24. *Id.*

25. Wright Interview, *supra* note 8.

section 40-6-391 prohibits driving under the influence of alcohol or drugs.[26]

Administrative suspension for first-time offenders was a very controversial subject during the session. As introduced, SB 489 provided for administrative suspension of a person's driver's license after all arrests—including arrests of first-time offenders—made under section 40-6-391.[27] The House Motor Vehicle Committee substitute also contained this provision.[28] The House floor substitute, however, deleted the provision calling for administrative suspension for first-time offenders.[29] Thus, the battle lines were drawn on a very emotional issue.[30]

Both proponents and opponents of the bill relied on emotional as well as statistical arguments to support their positions. Proponents of administrative suspension cited to a study by the National Highway Traffic Safety Administration which claimed that as many as sixty lives could be saved in the first year if administrative suspensions were instituted for all offenders.[31] Supporters of first-time offender administrative suspensions pointed out that Georgia's lax DUI laws allowed almost $1.2 million in federal highway money and grants for law enforcement training to escape.[32] Supporters also noted that laws in twenty-nine other states provide for such administrative suspensions.[33]

Opponents argued that administrative suspensions would be unfair and would violate the spirit of due process. One member of the House criticized the first-time offender suspensions stating that "[e]verybody in America is entitled to one chance, I think. . . . You are taking this man's driver's license for being arrested."[34] Other opponents claimed

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26. *Id.*

27. SB 489, § 5, as introduced, 1992 Ga. Gen. Assem.

28. SB 489 (HCS), 1992 Ga. Gen. Assem.

29. SB 489 (HFS), 1992 Ga. Gen. Assem.

30. Mothers Against Drunk Driving (MADD) displayed a dramatic exhibit in the Capitol entitled "We'll Remember You" with pictures of Georgians killed by drunk drivers. *Lawmakers '92* (WGTV television broadcast, Mar. 18, 1992) (videotape available in Georgia State University College of Law Library). Bob Shearhouse, legislative liaison of MADD, stated that 87% of the people in the display were killed by first time DUI offenders. *Id.* First time offenders reportedly accounted for about three-fourths of last year's DUI arrests. Long, *supra* note 2.

31. Long, *supra* note 2. The study found that administrative suspension laws had reduced drunk driving fatalities by six percent in other states. *Id.*

32. Katie Long, *Fate of DUI Bill Up in the Air: House to Take Up Plan for License Suspension Today*, ATLANTA J. & CONST., Mar. 25, 1992, at D1.

33. Katie Long, *House OKs DUI License Suspension: First Offenders Are Exempted*, ATLANTA J. & CONST., Mar. 26, 1992, at F3.

34. Rep. Henry Bostick, House District 138, appearing on *Lawmakers '92* (WGTV television broadcast, Mar. 25, 1992) (videotape available in Georgia State University College of Law Library). Cindy Wright, a member of the Governor's Executive

that new laws passed last year to deal with the problem of DUI had not yet had enough time to work.[35]

Some House members were concerned that a mere arrest for DUI and the resulting suspension could cause the loss of a job for the person arrested.[36] A House floor amendment was proposed to give judges the discretion to immediately issue a temporary license for employment purposes.[37] Proponents of administrative suspension responded that a person should have considered the possibility of having their license suspended before they decided to drink and drive.[38] This proposal was dropped in the Act's final form.[39]

At one point, members of the House almost succeeded in restoring language in the bill to include first offenders. After a tie, however, the Speaker of the House cast the deciding vote against the inclusion of this language.[40] In a House-Senate conference committee, administrative suspensions for first time DUI offenders were again rejected.[41]

The aftermath of the Act's passage was just as rancorous. The Governor said he was disappointed and is prepared to introduce administrative suspensions for first time offenders next session because "we've got to get these drunk drivers off the highways."[42] Referring to House amendments to SB 489, the legislative liaison for Mothers Against Drunk Driving (MADD) stated: "Not only have they gutted what would have been a significant bill, they have created a monster."[43]

Council, responded by suggesting that opponents of administrative suspensions for firt-time offenders should try making their argument to families and children of those killed in DUI accidents. Wright Interview, *supra* note 8.

35. Rep. Bobby Eugene Parham, House District 105, Chair of the House Motor Vehicles Committee, appearing on *Lawmakers '92* (WGTV television broadcast, Mar. 25, 1992) (videotape available in Georgia State University College of Law Library). For a survey of last session's DUI legislation, see *Legislative Review*, 8 GA. ST. U. L. REV. 129 (1992).

36. Porter Interview, *supra* note 15.

37. SB 489 (HFA), § 3.1, 1992 Ga. Gen. Assem.

38. Rep. Dubose Porter, House District 119, stated that a person who needs their car for employment has a higher responsibility to consider the ramnifications of drinking and driving. Porter Interview, *supra* note 15.

39. *See* O.C.G.A. § 40-5-67.1(f)(1) (Supp. 1992).

40. Long, *supra* note 32.

41. Conf. Comm. Rep., SB 489, 1992 Ga. Gen. Assem. (1992). Administrative suspensions for those who refuse to take a screening test were approved. O.C.G.A. § 40-5-67.1(d) (Supp. 1992).

42. *Lawmakers '92* (WGTV television broadcast, Apr. 1, 1992) (videotape available in Georgia State University College of Law Library).

43. *Quote of the Day*, ATLANTA J. & CONST., Mar. 26, 1992, at F3. Tom Enright, southeast chief of the National Highway Traffic Safety Administration, said "Georgia has come up with something unique. . . . It's a local invention and a terrible one at that. It sends absolutely the wrong message and that is, it's still public policy in the state that Georgia is going to get tough on drunk driving—the second time around." Long, *supra* note 2.

SB 487

Like SB 489, SB 487 was also part of the Governor's legislative program for dealing with the problems of drunk driving.[44] As with SB 489, a series of newspaper articles helped to spur DUI reform.[45] Prior to the Act, a driver who was convicted three or more times for violations of Code section 40-5-54[46] and/or sections 40-6-391 to 40-6-395[47] was declared to be an habitual violator.[48] An "habitual violator" who was then convicted of driving on a revoked license within five years was to be fined at least $750 and/or imprisoned from one to five years.[49] The Act does not change this "habitual violator" designation.[50]

The Act creates another, more limited, category of habitual violators.[51] This limited category consists of drivers who are convicted three or more times of driving under the influence of alcohol or drugs[52] within five years.[53] Under this more limited definition, an "habitual violator," who is convicted of operating a motor vehicle under a revoked license will be guilty of the felony of habitual impaired driving.[54]

An habitual violator may still apply for a probationary license after two years from the date of the loss of his license.[55] The Act added several new conditions for the issuance of a probationary license.[56]

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44. Porter Interview, *supra* note 15. Rep. Porter helped shepherd SB 487 through the House. *Id.* SB 487 was sponsored by Sens. Harrill L. Dawkins (Senate District 45), Mark Taylor (Senate District 12), and Pete Robinson (Senate District 16).

45. *See supra* note 3.

46. O.C.G.A. § 40-5-4 (1991) deals with homicide by vehicle, vehicular manslaughter, a felony in which a motor vehicle is used, hit and run, racing, using a vehicle in fleeing or attempting to elude an officer, and fraudulent or fictitious use of a license. O.C.G.A. § 40-5-4 (1991).

47. O.C.G.A. §§ 40-6-391 to -395 prohibits driving under the influence of alcohol or drugs, driving a school bus under the influence, homicide by vehicle, feticide by vehicle, serious injury by vehicle, and fleeing or attempting to elude a police officer. *Id.* §§ 40-6-391 to -395 (1991 & Supp. 1992).

48. O.C.G.A. § 40-5-58(a) (Supp. 1992).

49. *Id.* § 40-5-58(c)(1) (Supp. 1992). If the driver has obtained a license from the Department of Public Safety, this section is inapplicable. *Id.*

50. *Id.*

51. *Id.* § 40-5-58(c)(2).

52. *Id.* § 40-6-391 (Supp. 1992).

53. *Id.* § 40-5-58(c)(2) (Supp. 1992). The five year period of time is to be measured from the dates of previous arrests for which convictions were obtained to the date of the most recent arrest for which a conviction was obtained. *Id.*

54. *Id.* This section is inapplicable if the driver has been granted a driver's license. *Id.* A plea of nolo contendere will continue to be considered as a conviction under both the old and the new "habitual violator" designation. O.C.G.A. § 40-5-58(d) (Supp. 1992). The punishment shall be a fine of at least $1000 and/or imprisonment from one to five years. *Id.*

55. O.C.G.A. § 40-5-58(e) (Supp. 1992).

56. *Id.* § 40-5-58(e) (Supp. 1992). These are additional requirements. The previous

Persons applying for a probationary license must not have been convicted of, or pleaded nolo contendere to, a title 3 alcohol violation or any provision of chapter 13 of title 16, which relates to controlled substances.[57] An applicant seeking a probationary license must also submit an affidavit swearing that they do not use alcohol excessively and that they do not use illegal controlled substances at all.[58]

In the House, a floor amendment was added to SB 487[59] with little opposition[60] which creates an offense of "endangering a child by driving under the influence of alcohol or drugs."[61] This offense is committed when a driver transports a child under the age of fourteen while in violation of Code section 40-6-391.[62] The Act provides that the punishment for driving under the influence of alcohol or drugs and the punishment for endangering a child by driving under the influence are not to merge.[63] The "endangering a child" offender will be punished under Code section 16-12-1[64] which punishes contributing to the delinquency, unruliness, or deprivation of a child.[65]

HB 451

The Act adds subsection (g) to Code section 40-5-55 and defines the term "traffic accident which resulted in serious injuries or fatalities."[66] Code section 40-5-55 provides that a person operating a motor vehicle has given implied consent to a alcohol or drug screening test when arrested for a violation of Code section 40-6-391[67] or when the driver has been involved in a "traffic accident resulting in serious injuries or fatalities."[68] Although Code section 40-5-55 underwent substantial change because of SB 489, the substantive doctrine of implied consent remained unchanged.[69]

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requirements for a probationary license are unchanged. *Id.*

57. *Id.* § 40-5-58(e)(1)(D) (Supp. 1992).

58. *Id.* § 40-5-58(e)(1)(E) (Supp. 1992).

59. SB 487 (HFA), 1992 Ga. Gen. Assem.

60. Long, *supra* note 32, at D1.

61. O.C.G.A. § 40-6-391(*l*) (Supp. 1992).

62. *Id.*

63. O.C.G.A. § 40-6-391(*l*) (Supp. 1992).

64. *Id.* § 16-12-1 (1988). For a first offense, the conviction is a misdemeanor punishable by a fine of at least $200 and not more than $500, or imprisonment from one month to five months, or both. Future convictions escalate the penalty. *Id.*

65. O.C.G.A. § 40-6-391(*l*) (Supp. 1992).

66. *Id.* § 40-5-55 (g) (Supp. 1992).

67. *Id.* § 40-6-391 (Supp. 1992). This section prohibits driving under the influence or drugs or alcohol. *Id.*

68. O.C.G.A. § 40-5-55 (Supp. 1992).

69. *Id.*

As introduced, HB 451 offered a liberal definition of a "traffic accident which resulted in serious injuries" as "a motor vehicle accident . . . in which one or more persons were transported from the scene of the accident to a hospital."[70] The House Judiciary Committee substitute bill, which was adopted by the House, offered the following definition: "a motor vehicle accident . . . in which one or more persons were transported in an authorized emergency vehicle . . . from the scene of the accident to a hospital."[71] The Senate floor amendment offered the following definition: "a motor vehicle accident . . . in which one or more persons suffered a fractured bone, severe burns or lacerations, disfigurement, dismemberment, partial or total loss of sight or hearing, or loss of consciousness."[72] The House later agreed to the definition proposed by the Senate floor amendment.[73]

SB 579

The Act amends Code section 40-5-86 and allows a driver to reduce the points against her license by attending a "DUI Alcohol or Drug Use Risk Reduction Program" regardless of the number of points she has.[74] The Act also changes prior language that called for a driver to complete an "approved basic alcohol or drug course" and now requires the driver to complete a DUI Alcohol or Drug Use Risk Reduction Program.[75] Previously, a driver had to accumulate eight points against her license before being allowed to reduce these points by participating in such a course.[76] The Act did not disturb the seven point reduction for taking a course but did provide that a driver could not reduce her total points

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70. HB 451, as introduced, 1992 Ga. Gen. Assem. The bill's sponsor, Rep. Vinson Wall, stated that he was approached by MADD through their legislative liaison Robert Shearhouse and asked to help tighten up the definition of a "traffic accident which resulted in serious injuries." Telephone Interview with Rep. Vinson Wall, House District 61 (Apr. 7, 1992) [hereinafter Wall Interview]. Rep. Wall was concerned that the lack of definition was a loophole that drunken drivers were using to avoid punishment. *Id.*

71. HB 451 (HCS), 1992 Ga. Gen. Assem.

72. HB 451 (SCSFA), 1991 Ga. Gen. Assem. The definition continues to include any accident in which a person was killed. O.C.G.A. § 40-5-55(g) (Supp. 1992).

73. O.C.G.A. § 40-5-55 (Supp. 1992). Rep. Wall expressed disappointment and frustration with the final version of the Act. Wall Interview, *supra* note 70. He commented that the extensive effort that went into changing only a small part of the DUI law demonstrates the magnitude of the problems facing DUI reformers. Rep. Wall stated that such reformers have to face the "trial lawyers" in the House and Senate who want to leave the DUI laws vague and full of loopholes. *Id.*

74. O.C.G.A. § 40-5-86 (Supp. 1992). SB 579 was introduced by Sen. Arthur B. "Skin" Edge, IV, Senate District 28.

75. O.C.G.A. § 40-5-86 (Supp. 1992). The purpose of this change is to ensure compliance with State standards and regulations. Porter Interview, *supra* note 15.

76. 1990 Ga. Laws 2048, 2213 (formerly found at O.C.G.A. § 40-5-86 (1991)).

to less than zero with either a DUI Alcohol or Drug Use Risk Reduction Program or a defensive driving course.[77]

As introduced, SB 579 allowed a driver to take advantage of a point reducing course once every three years,[78] instead of the prior limit of once every ten years.[79] The Senate Judiciary Committee amended this provision to allow a course once every five years.[80] The House approved the five year amendment in the final version of the Act.[81]

HB 1508

The Act authorizes the Public Safety Commissioner to accept certifications issued by out-of-state defensive driving schools, DUI schools, and drug programs pursuant to Code section 40-5-83.[82] Previously, the Department of Public Safety was required to enter into reciprocal agreements with the authorities of other states, military reservations, and other possessions of the United States before such certifications could be accepted.[83] With the passage of the Act, out-of-state programs approved by their respective state, military, or other authorities became acceptable substitutes.[84]

The Act was introduced because of requests by the Department of Public Safety, constituent problems, and problems facing out-of-state non-residents.[85] The Department of Public Safety was unhappy with the increased paperwork that resulted from entering into the required reciprocity agreements.[86] In addition, the prior law caused out-of-state residents difficulty when Georgia courts required them to attend corrective courses.[87] Such non-residents might have to make special trips back into Georgia to attend a course.[88] Further, not requiring reciprocity agreements may encourage other states to accept Georgia-

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77. O.C.G.A. § 40-5-86 (Supp. 1992).
78. SB 579, as introduced, 1992 Ga. Gen. Assem.
79. 1990 Ga. Laws 2048, 2213 (formerly found at O.C.G.A. § 40-5-86 (1991)).
80. SB 579 (SCS), 1992 Ga. Gen. Assem.
81. O.C.G.A. § 40-5-86 (Supp. 1992). Rep. O.M. (Mike) Barnett of House District 59 offered a floor amendment to SB 579 which would have piggybacked his proposal for a program to use an ignition interlock system to prevent persons who had been drinking from starting their car. SB 579 (HFA), 1992 Ga. Gen. Assem. This amendment failed. *See* O.C.G.A. § 40-5-86 (Supp. 1992). The ignition interlock bill, HB 1122, also failed to pass. Final Composite Status Sheet, Mar. 31, 1992, 1992 Ga. Gen Assem.
82. O.C.G.A. § 40-5-83(b) (Supp. 1992). HB 1508 was sponsored by Reps. Lynda Coker, Kip Klein, and Bill Atkins; all of House District 21.
83. 1991 Ga. Laws 1140 (formerly found at O.C.G.A. § 40-5-83(b) (1991)).
84. O.C.G.A. § 40-5-83(b) (Supp. 1992).
85. Telephone Interview with Rep. Lynda Coker, House District 21 (Apr. 7, 1992).
86. *Id.*
87. *Id.*
88. *Id.*

certified programs.[89] Thus, the Act may be helpful to Georgia residents, especially those who live in perimeter areas of the state, who are required to take corrective driving courses in other states.[90]

One of the bill's sponsor stated that this Act was not an attempt to lessen the impact of DUI laws but was only an attempt to make attendance at corrective driving courses easier.[91] The intent is for people to get the information and instruction offered at these courses so that they can become better drivers.[92] The Act passed the General Assembly without substitute or amendment.[93]

SB 524

In 1988, Georgia's Constitution was amended to provide for allocation of funds to compensate crime victims.[94] Enabling legislation created the Georgia Crime Victims Emergency Fund.[95] Prior to the passage of SB 524, the amount of money available to the fund was limited to money allocated by the General Assembly.[96] Those funds have totaled approximately $100,000.[97]

The Act[98] imposes an additional penalty for driving under the influence of alcohol or drugs[99] of $25 or 10 percent of the original fine.[100] The Act provides that the additional penalties are to be conveyed to the Crime Victims Emergency Fund for disbursement to

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89. *Id.*
90. *Id.*
91. *Id.*
92. *Id.*
93. Final Composite Status Sheet, Mar. 31, 1992.
94. GA. CONST. art III, § 6, ¶ 6(f) (amended 1988).

> The General Assembly is authorized to provide by law for compensating innocent victims of crimes which occur on and after July 1, 1989. The General Assembly is authorized to define the types of victims eligible to receive compensation and to vary the amounts of compensation according to need. The General Assembly shall be authorized to allocate certain funds, to appropriate funds, to provide for a continuing fund, or to provide for any combination thereof for the purpose of compensating innocent victims of crime and for the administration of any laws enacted for such purpose.

Id.

95. O.C.G.A. §§ 17-15-1 to -13 (1991 & Supp. 1992).
96. 1988 Ga. Laws 591, 600 (formerly found at O.C.G.A. § 17-15-10(b) (1991)).
97. Telephone Interview with Sen. Cathey W. Steinberg, Senate District 42 (Apr. 7, 1992) [hereinafter Steinberg Interview]. Sen. Steinberg sponsored SB 524 along with J. Nathan Deal (Senate District 49), Wayne Garner (Senate District 30), and Jack Hill (Senate District 4).
98. O.C.G.A. §§ 15-21-110 to -115 (Supp. 1992).
99. *Id.* § 40-6-391 (1991).
100. *Id.* § 15-21-112(a) (Supp. 1992).

innocent victims of crime.[101] The Act also establishes a method for transferring funds from local courts to the Crime Victim's Compensation Board.[102]

MADD asked one of the sponsors of SB 524 to introduce this bill.[103] With 60,000 DUI arrests yearly, this sponsor and MADD anticipate approximately $1.5 million a year will be made available to the Victims Fund.[104] Although this increase in funding will stem from DUI penalties, the sponsor emphasized that the money will be available for all crime victims.[105] SB 524 passed the General Assembly with no changes.[106]

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101. *Id.* § 17-15-10(b)(1) (Supp. 1992).
102. *Id.* §§ 15-21-113 to -115 (Supp. 1992).
103. Steinberg Interview, *supra* note 97.
104. *Id.*
105. *Id.* Sen. Steinberg noted that there is always interest in tacking penalties on fines to fund other projects. This is not done very often because everyone wants to do it and the result would be chaotic. However, because the Crime Victims Fund is not a new concept and because there is much support for compensating victims, this additional fee easily passed the General Assembly. *Id.*
106. Final Composite Status Sheet, Mar. 31, 1992. Sen. Steinberg noted that there was no organized opposition to this Act. Steinberg Interview, *supra* note 97. However, she was contacted by representatives of clerks of courts who were concerned with the extra administrative costs which this Act would entail. *Id.*