

Senate Bill 226

By: Senators Smith of the 52nd, Thomas of the 54th, Mullis of the 53rd, Cagle of the 49th, Unterman of the 45th and others

**AS PASSED**

AN ACT

To amend Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to superior courts, so as to update the priorities of distributions of fines; to amend Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to payment and disposition of fines, so as to provide a short title; to create the Georgia Driver's Education Commission; to provide for the membership, appointment, terms, and duties of such commission; to provide for the ability of the commission to accept federal grants and funds and donations from other sources and the disposition of such funds; to provide for the imposition, collection, and disposition of certain additional fees for violation of certain criminal and traffic laws of this state; to provide for appropriations; to amend Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, so as to change the minimum age for the issuance of certain licenses and permits; to provide that a Class D license holder, during the second six-month period following issuance of such license, may transport only one other passenger in the vehicle who is less than 21 years of age and is not a member of the driver's immediate family; to provide for revocation of minors' permits and drivers' licenses upon requests by persons who signed and verified the minors' applications; to provide for issuance of new instruction permits and drivers' licenses following such revocations; to provide for a mandatory waiting period; to provide for insurance matters related to such revocations; to provide for related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

WHEREAS, Joshua Brown, the son of Alan and LuGina Brown, was killed in a tragic automobile accident on July 9, 2003; and

WHEREAS, the death of this young man has underscored the need for a greater effort to train Georgia young people in how to drive; and

WHEREAS, the state should assist in getting more young people into these driver education and training programs.

NOW, THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1**

Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to superior courts, is amended by inserting a new paragraph (.1) in Code Section 15-6-95, relating to priorities of distributions of fines and forfeitures, to read as follows:

"(.1) The amount provided for in subsection (a) of Code Section 15-21-179;"

**SECTION 2.**

Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to payment and disposition of fines, is amended by adding a new Article 10 to read as follows:

"ARTICLE 10

15-21-170.

This article shall be known and may be cited as 'Joshua's Law.'

15-21-171.

As used in this article, the term 'commission' means the Georgia Driver's Education Commission created in Code Section 15-21-172.

15-21-172.

There is established the Georgia Driver's Education Commission, which is assigned to the Department of Motor Vehicle Safety for administrative purposes only, as prescribed in Code Section 50-4-3.

15-21-173.

(a) The Georgia Driver's Education Commission shall consist of nine members who shall serve for terms of four years, except that with respect to the first members appointed, three members shall be appointed for a term of three years, three for a term of two years, and three for a term of one year. The State Board of Education shall appoint one member of the commission and the Department of Motor Vehicle Safety shall appoint two members of the commission. The director of the Governor's Office of Highway Safety shall appoint

one member of the commission. The remaining four members of the commission shall be appointed by the Governor, two of whom shall be public school driver's education providers and the other two shall be private driver's education providers. The Governor shall also establish initial terms of office for all nine members of the commission within the limitations of this subsection.

(b) In the event of death, resignation, disqualification, or removal for any reason of any member of the commission, the vacancy shall be filled in the same manner as the original appointment and the successor shall serve for the unexpired term.

(c) Membership on the commission does not constitute a public office, and no member shall be disqualified from holding public office by reason of his or her membership.

(d) The Governor shall designate a chairperson of the commission from among the members, which chairperson shall serve in that position at the pleasure of the Governor. The commission may elect such other officers and committees as it considers appropriate.

(e) The commission, with the approval of the Governor, may employ such professional, technical, or clerical personnel as deemed necessary to carry out the purposes of this article.

15-21-174.

Members of the commission shall serve without compensation but shall receive the same expense allowance per day as that received by a member of the General Assembly for each day such member of the commission is in attendance at a meeting of such commission, plus either reimbursement for actual transportation costs while traveling by public carrier or the same mileage allowance for use of a personal car in connection with such attendance as members of the General Assembly receive. Such expense and travel allowance shall be paid in lieu of any per diem, allowance, or other remuneration now received by any such member for such attendance.

15-21-175.

(a) The commission shall do all of the following:

- (1) Meet at such times and places as it shall determine necessary or convenient to perform its duties. The commission shall also meet on the call of the chairperson or the Governor;
- (2) Maintain minutes of its meetings;
- (3) Adopt rules and regulations for the transaction of its business;
- (4) Accept applications for disbursements of available moneys;

- (5) Maintain records of all expenditures of the commission, funds received as gifts and donations, and disbursements made; and
  - (6) Conform to the standards and requirements prescribed by the state auditor pursuant to Chapter 6 of Title 50.
- (b) The commission shall utilize existing state resources and staff of participating departments whenever practicable.

15-21-176.

The commission may recommend to the Governor and the General Assembly changes in state programs, statutes, policies, budgets, and standards relating to the provision of driver education and training in this state, with the objective of maximizing participation in driver's education and training and accident reduction.

15-21-177.

The commission may accept federal funds granted by Congress or executive order for the purposes of this article as well as gifts and donations from individuals, private organizations, or foundations. The acceptance and use of federal funds do not commit state funds and do not place an obligation upon the General Assembly to continue the purposes for which the federal funds are made available.

15-21-178.

The commission may authorize the disbursement of available funds from moneys appropriated to the commission by the General Assembly for purposes of providing driver education and training to a person, entity, or program eligible pursuant to criteria to be set by the commission. Nothing in this Code section shall be construed to limit the authority of the Department of Motor Vehicle Safety under Chapter 13 of Title 43, 'The Driver Training School and Commercial Driver Training School License Act.'

15-21-179.

(a) In every case in which any court in this state shall impose a fine or bond payment, which shall be construed to include costs, for any violation of the traffic laws of this state or for violations of ordinances of political subdivisions which have adopted by reference the traffic laws of this state, there shall be imposed as an additional penalty a sum equal to 5 percent of the original fine.

(b) Such sums shall be in addition to any amount required to be paid into any pension, annuity, or retirement fund under Title 47 or any other law and in addition to any other amounts provided for in this article.

(c) This Code section shall be repealed in its entirety on June 30, 2008, unless extended by an Act of the General Assembly.

15-21-180.

(a) The sums provided for in Code Section 15-21-179 shall be assessed and collected by the clerk or other court officer charged with the duty of collecting moneys from fines and shall be paid over by the last day of the following month to the Georgia Superior Court Clerks' Cooperative Authority for remittance to the Office of Treasury and Fiscal Services to be deposited into the general fund of the state treasury.

(b) Any person whose duty it is to collect and remit the sums provided for in this article who refuses to so remit shall be guilty of a misdemeanor.

15-21-181.

As soon as practicable after the end of each fiscal year, the Office of Treasury and Fiscal Services shall report the amount of funds received pursuant to Code Section 15-21-179 to the Office of Planning and Budget and the commission. It is the intent of the General Assembly that, subject to appropriation, an amount equal to such proceeds received from such fines in any fiscal year shall be made available during the following fiscal year to the commission for the purposes set forth in Code Section 15-21-178."

### **SECTION 3.**

Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, is amended by striking Code Section 40-5-22, relating to persons not to be licensed and minimum ages for licenses, and inserting in lieu thereof a new Code Section 40-5-22 to read as follows:

"40-5-22.

(a) Except as otherwise provided in this Code section, the department shall not issue any Class C driver's license to any person who is under 18 years of age or Class M driver's license to any person who is under the age of 17 years, except that the department may, under subsection (a) of Code Section 40-5-24, issue a Class P instruction permit permitting the operation of a noncommercial Class C vehicle to any person who is at least 15 years of age, and may, under subsection (b) of Code Section 40-5-24, issue a Class D driver's

license permitting the operation of a noncommercial Class C vehicle to any person who is at least 17 years of age. On and after January 1, 1985, the department shall not issue any driver's license to any person under 18 years of age unless such person presents a certificate or other evidence acceptable to the department which indicates satisfactory completion of an alcohol and drug course as prescribed in subsection (b) of Code Section 20-2-142; provided, however, that a person under 18 years of age who becomes a resident of this state and who has in his or her immediate possession a valid license issued to him or her in another state or country shall not be required to take or complete the alcohol and drug course. The department shall not issue a driver's license or a Class P instruction permit for the operation of a Class A or B vehicle or any commercial driver's license to any person who is under the age of 18 years.

(a.1)(1) The department shall not issue an instruction permit or driver's license to a person who is younger than 18 years of age unless at the time such minor submits an application for an instruction permit or driver's license the applicant presents acceptable proof that he or she has received a high school diploma, a general educational development (GED) diploma, a special diploma, or a certificate of high school completion or has terminated his or her secondary education and is enrolled in a postsecondary school or the records of the department indicate that said applicant:

(A) Is enrolled in and not under suspension from a public or private school and has satisfied relevant attendance requirements as set forth in paragraph (2) of this subsection for a period of one academic year prior to application for an instruction permit or driver's license; or

(B) Is enrolled in a home education program that satisfies the requirements of all state laws governing such courses.

The department shall notify such minor of his or her ineligibility for an instruction permit or driver's license at the time of such application.

(2) The department shall forthwith notify by certified mail or statutory overnight delivery, return receipt requested, any minor issued an instruction permit or driver's license in accordance with this subsection other than a minor who has terminated his or her secondary education and is enrolled in a postsecondary school that such minor's instruction permit or driver's license is suspended subject to review as provided for in this subsection if the department receives notice pursuant to Code Section 20-2-701 that indicates that such minor:

(A) Has dropped out of school without graduating and has remained out of school for ten consecutive school days;

(B) Has more than ten school days of unexcused absences in any semester or combination of two consecutive quarters; or

(C) Has been suspended from school for:

- (i) Threatening, striking, or causing bodily harm to a teacher or other school personnel;
- (ii) Possession or sale of drugs or alcohol on school property;
- (iii) Possession or use of a weapon on school property. For purposes of this subparagraph, the term 'weapon' shall be defined in accordance with Code Section 16-11-127.1 but shall not include any part of an archeological or cultural exhibit brought to school in connection with a school project;
- (iv) Any sexual offense prohibited under Chapter 6 of Title 16; or
- (v) Causing substantial physical or visible bodily harm to or seriously disfiguring another person, including another student.

Notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima-facie evidence that such person received the required notice. Such notice shall include instructions to the minor to return immediately the instruction permit or driver's license to the department and information summarizing the minor's right to request an exemption from the provisions of this subsection. The minor so notified may request in writing a hearing within ten business days from the date of receipt of notice. Within 30 days after receiving a written request for a hearing, the department shall hold a hearing as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of suspension or rescind such order. The department shall be authorized to grant an exemption from the provisions of this subsection to a minor, upon such minor's petition, if there is clear and convincing evidence that the enforcement of the provisions of this subsection upon such minor would create an undue hardship upon the minor or the minor's family or if there is clear and convincing evidence that the enforcement of the provisions of this subsection would act as a detriment to the health or welfare of the minor. Appeal from such hearing shall be in accordance with said chapter. If no hearing is requested within the ten business days specified above, the right to a hearing shall have been waived and the instruction permit or driver's license of the minor shall remain suspended. The suspension provided for in this paragraph shall be for a period of one year or shall end upon the date of such minor's eighteenth birthday, whichever comes first.

(3) The State Board of Education and the commissioner of motor vehicle safety are authorized to promulgate rules and regulations to implement the provisions of this subsection.

(a.2)(1) On and after January 1, 2002, the department shall not issue any initial Class D driver's license or, in the case of a person who has never been issued a Class D driver's license by the department or the equivalent thereof by any other jurisdiction, any initial Class C driver's license unless such person:

(A) Is at least 16 years of age and has completed an approved driver education course in a licensed private or public driver training school and in addition a cumulative total of at least 40 hours of other supervised driving experience including at least six hours at night, all of which is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age; or

(B) Is at least 17 years of age and has completed a cumulative total of at least 40 hours of supervised driving experience including at least six hours at night, and the same is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age; provided, however, that a person 17 years of age or older who becomes a resident of this state, who meets all of the qualifications for issuance of a Class C license with the exception of the completion of an approved driver's training course and at least 40 hours of supervised driving experience as required by this subsection, and who has in his or her immediate possession a valid license equivalent to a Class C license issued to him or her in another state or country shall be entitled to receive a Class C license.

(2) The commissioner shall by rule or regulation establish standards for approval of any driver education course for purposes of subparagraph (A) of paragraph (1) of this subsection, provided that such course shall be designed to educate young drivers about safe driving practices and the traffic laws of this state and to train young drivers in the safe operation of motor vehicles.

(3) For purposes of supervised driving experience under paragraph (1) of this subsection, supervision shall be provided by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver.

(b) Notwithstanding the provisions of subsection (a) of this Code section, any person 14 years of age who has a parent or guardian who is medically incapable of being licensed to operate a motor vehicle due to visual impairment may apply for and, subject to the approval



of the commissioner, may be issued a restricted noncommercial Class P instruction permit for the operation of a noncommercial Class C vehicle. Any person permitted pursuant to this subsection shall be accompanied by such visually impaired parent or guardian whenever operating a motor vehicle.

(c) The department shall not issue any driver's license to nor renew the driver's license of any person:

- (1) Whose license has been suspended during such suspension, or whose license has been revoked, except as otherwise provided in this chapter;
- (2) Whose license is currently under suspension or revocation in any other jurisdiction upon grounds which would authorize the suspension or revocation of a license under this chapter;
- (3) Who is a habitual user of alcohol or any drug to a degree rendering him incapable of safely driving a motor vehicle;
- (4) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;
- (5) Who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;
- (6) Who the commissioner has good cause to believe would not, by reason of physical or mental disability, be able to operate a motor vehicle with safety upon the highway; or
- (7) Whose license issued by any other jurisdiction is suspended or revoked by such other jurisdiction during the period such license is suspended or revoked by such other jurisdiction."

#### **SECTION 4.**

Said article is further amended by striking Code Section 40-5-24, relating to instruction permits and graduated licensing, and inserting in lieu thereof a new Code Section 40-5-24 to read as follows:

"40-5-24.

- (a)(1) Any resident of this state who is at least 15 years of age may apply to the department for an instruction permit to operate a noncommercial Class C vehicle. The department shall, after the applicant has successfully passed all parts of the examination referred to in Code Section 40-5-27 other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his or her immediate possession, to drive a Class C vehicle upon the public highways for a period

of two years when accompanied by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver.

(2) A person who has been issued an instruction permit under this subsection and has never been issued a Class D driver's license under subsection (b) of this Code section will become eligible for a Class D driver's license under subsection (b) of this Code section only if such person is at least 17 years of age, has a valid instruction permit which is not under suspension, and, for a period of not less than 12 consecutive months prior to making application for a Class D driver's license, has not been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, or convicted of any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of this paragraph except for age who has completed an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22 will be eligible for a Class D driver's license.

(3) This subsection does not apply to instruction permits for the operation of motorcycles.

(b)(1) Any resident of this state who is at least 17 years of age and who, for a period of at least 12 months, had a valid instruction permit issued under subsection (a) of this Code section may apply to the department for a Class D driver's license to operate a noncommercial Class C vehicle if such resident has otherwise complied with all prerequisites for the issuance of such Class D driver's license as provided in subsection (a) of this Code section, provided that a resident at least 17 years of age who has at any age surrendered to the department a valid instruction permit or driver's license issued by another state or the District of Columbia or who has submitted to the department proof, to the satisfaction of the department, of a valid instruction permit or driver's license issued by another state or the District of Columbia may apply his or her driving record under such previously issued permit or driver's license toward meeting the eligibility requirements for a Class D driver's license the same as if such previously issued permit or driver's license were an instruction permit issued under subsection (a) of this Code section; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of this paragraph except for age who has completed an approved

driver education training course as provided in subsection (a.2) of Code Section 40-5-22 may apply for a Class D driver's license.

(2) The department shall, after all applicable requirements have been met, issue to the applicant a Class D driver's license which shall entitle the applicant, while having such license in his or her immediate possession, to drive a Class C vehicle upon the public highways of this state under the following conditions:

(A) Any Class D license holder shall not drive a Class C motor vehicle on the public roads, streets, or highways of this state between the hours of 12:00 Midnight and 6:00 A.M. eastern standard time or eastern daylight time, whichever is applicable; and

(B)(i) Any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when more than three other passengers in the vehicle who are not members of the driver's immediate family are less than 21 years of age.

(ii) During the six-month period immediately following issuance of such license, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when any other passenger in the vehicle is not a member of the driver's immediate family.

(iii) Notwithstanding the provisions of division (i) of this subparagraph, during the second six-month period immediately following issuance of such license, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when more than one other passenger in the vehicle who is not a member of the driver's immediate family is less than 21 years of age;

provided, however, that a Class D license holder shall not be charged with a violation of this paragraph alone but may be charged with violating this paragraph in addition to any other traffic offense.

(3) A person who has been issued a Class D driver's license under this subsection and has never been issued a Class C driver's license under this chapter will become eligible for a Class C driver's license under this chapter only if such person has a valid Class D driver's license which is not under suspension and, for a period of not less than 12 consecutive months prior to making application for a Class C driver's license, has not been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, or convicted of any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57 and is at least 18 years of age.

(c) Any resident of this state who is at least 17 years of age may apply to the department for a noncommercial Class M motorcycle instruction permit. The department shall, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his or her immediate possession, to drive a motorcycle or a motor driven cycle upon the public highways for a period of six months; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of this subsection except for age who has completed an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22 may apply for a Class M motorcycle instruction permit. A motorcycle instruction permit shall not be valid when carrying passengers, on a limited access highway, or at night.

(d) Any resident of this state who is at least 18 years of age may apply to the department for an instruction permit to operate noncommercial vehicles in Classes A and B. Such permits may be issued only to persons with valid commercial or noncommercial Class C licenses or persons who have passed all required tests for a commercial or noncommercial Class C license. The department shall, after the applicant has successfully passed all parts of the appropriate examination other than the skill and driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having the permit in his or her immediate possession, to operate a vehicle of the appropriate noncommercial class upon the public highways for a period of 12 months when accompanied by a licensed driver, qualified in the vehicle being operated, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver as an instructor. Prior to being issued a driver's license for Classes A and B, the applicant shall pass a knowledge and skill test for driving a Class A or B vehicle as provided by the commissioner.

(e) The department shall issue a temporary driver's permit to an applicant for a driver's license permitting him or her to operate a specified type or class of motor vehicle while the department is completing its investigation and determination of all facts relative to such applicant's eligibility to receive a driver's license. Such permit must be in his or her immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused. Such permit shall be valid for no more than 45 days. When a license has been refused, the permit shall be returned to the department within ten days of receipt of written notice of refusal."

## SECTION 5.

Said article is further amended in Code Section 40-5-26, relating to applications of minors for drivers' licenses and distinctive licenses for persons under age 21, by striking subsection (a) and inserting in lieu thereof the following:

"(a)(1) The application of any person under the age of 18 years for an instruction permit or driver's license shall be:

(A) Signed and verified by the father, mother, or guardian of the applicant before a person authorized to administer oaths or, in the event there is no parent or guardian, by another responsible adult; or

(B) Signed and verified by a licensed driver training instructor before a person authorized to administer oaths when such instructor is acting as an agent for such purposes on behalf of the father, mother, or guardian of the applicant and such agency is evidenced by permission of such parent or guardian which has been granted in writing and signed and verified by such parent or guardian before a person authorized to administer oaths and on such form as shall be prescribed by rule or regulation of the department.

(2)(A) A person who signed and verified a minor's successful application for an instruction permit or driver's license may subsequently during such minority request revocation of the minor's instruction permit or driver's license by written notice to the department on such form as specified thereby, signed and verified before a person authorized to administer oaths. If the request for revocation is submitted by a licensed driver training instructor acting as an agent on behalf of the father, mother, or guardian of the applicant, such agency must be evidenced by permission for the revocation of such parent or guardian which has been granted in writing and signed and verified by such parent or guardian before a person authorized to administer oaths. Upon receipt of such request and payment of a fee in an amount equivalent to that which was required for issuance of the instruction permit or driver's license, and after a mandatory three business day waiting period, during which the request for revocation may be withdrawn but the fee shall not be returned, the department shall revoke the minor's instruction permit or driver's license.

(B) A minor whose instruction permit or driver's license has been revoked under this paragraph shall not be eligible for issuance of another instruction permit or driver's license until he or she reaches 18 years of age, unless consent for issuance of an instruction permit or driver's license has been granted as provided by subparagraphs (A) and (B) of paragraph (1) of this subsection upon application of the minor made not sooner than three months after the effective date of revocation.

(C) The provisions of Code Section 40-5-62 shall not apply to a person whose instruction permit or driver's license has been revoked under this paragraph.

(D) A revocation of a minor's instruction permit or driver's license under this paragraph shall not be deemed a revocation for purposes of any increase in insurance rates or cancellation of any policy of motor vehicle insurance for which the minor is not the sole named insured, but such a policy may be amended so as to remove such minor from the list of named insureds under such policy."

#### **SECTION 6.**

The provisions of this Act shall not apply to or otherwise affect any valid license or instructional permit which has been issued to any person by this state and which is in effect on the effective date of this Act. On and after the effective date of this Act, no new license or instructional permit shall be issued except in compliance with the provisions of this Act.

#### **SECTION 7.**

Section 2 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall apply to all traffic offenses committed on and after such date. The remaining sections of this Act shall become effective on January 1, 2007, subject to available funds.

#### **SECTION 8.**

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