

1-1-1992

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Michael H. Friedman

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Recommended Citation

Michael H. Friedman, *MOTOR VEHICLES AND TRAFFIC Uniform Rules of the Road: Provide for Application of Uniform Rules of the Road to Vehicles Operated Within Privately Owned Residential Areas*, 8 GA. ST. U. L. REV. (1992).

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MOTOR VEHICLES AND TRAFFIC

Uniform Rules of the Road: Provide for Application of Uniform Rules of the Road to Vehicles Operated Within Privately Owned Residential Areas

CODE SECTION: O.C.G.A. § 40-6-3 (new)
BILL NUMBER: HB 671
ACT NUMBER: 426
SUMMARY: The Act provides that counties or municipalities shall enforce the Uniform Rules of the Road in private subdivisions, and that notice of enforcement shall be given at least thirty days before enforcement begins.
EFFECTIVE DATE: July 1, 1991

History

Before the General Assembly passed HB 671, the Uniform Rules of the Road only applied in certain designated areas: highways, privately owned parking lots or shopping centers, private property fronting coastal marshlands, and any place “specifically referred to in a given Code section.”¹

Accordingly, the increase of privately owned residential areas, or subdivisions, prompted the General Assembly to enact this bill.² As indicated above, the existing law did not provide for enforcement of the rules of the road in private subdivisions. Therefore, the law enforcement officers could not freely patrol private subdivisions, and had to obtain permission to enter the subdivision to provide law enforcement.³ As amended, the Act authorizes law enforcement officers to patrol the subdivisions and to issue citations for violating the Uniform Rules of the Road.⁴

HB 671

HB 671 amended Code section 40-6-3 by offering owners of privately owned residential areas the “opportunity” to have law enforcement

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1. 1990 Ga. Laws 2048 (formerly found at O.C.G.A. § 40-6-3 (Supp. 1990)).
 2. Telephone Interview with Rep. Ann Purcell, House District No. 129 (Apr. 2, 1991) [hereinafter Purcell Interview].
 3. *Id.*
 4. Telephone Interview with Dr. Cynthia C. Thompson, Research Director, Office of Legislative Counsel (Apr. 2, 1991) [hereinafter Thompson Interview].

officers enforce the rules of the road within their subdivision.⁵ Private landowners may petition the “governing authority of the county or municipality” to have the rules of the road enforced in their subdivision.⁶

However, preconditions must first be met before enforcement will begin. First, enforcement is “[s]ubject to the approval” of the county commission or city council.⁷ Second, the subdivision must be within the county or municipality.⁸ Third, a majority of the property owners within the subdivision must file a petition requesting the police to enforce the rules of the road.⁹ And, fourth, the property owners must file a plat of the subdivision with the county or municipality.¹⁰

Once the city council or county commission approves the landowners’ petition, the county or city police “shall enforce the uniform rules of the road within [the] privately owned residential area.”¹¹ Also, the rules of the road shall be enforced “as if such private roads, streets, and common areas were public roads and streets.”¹² The last section of the Act mandates that notice of enforcement shall be given at least one month before enforcement begins, and provides for a method of giving notice.¹³

The bill underwent two significant changes before the General Assembly passed it. As introduced, the bill only required that “the owner of the privately owned residential area file [a] petition requesting the law enforcement agency of the county or municipality to enforce the uniform rules of the road within such privately owned residential area.”¹⁴ The House Motor Vehicles Committee amended the bill by inserting “signed by fifty percent of the property owners located in said subdivision” after the word “petition.”¹⁵ The reason for the change was simple: by requiring a petition signed by fifty percent of the property owners, no single property owner could initiate the enforcement of the Uniform Rules of the Road within the subdivision against the will of a majority of the landowners.¹⁶

5. Purcell Interview, *supra* note 2.

6. O.C.G.A. § 40-6-3(a)(6)(A) (1991).

7. *Id.*

8. *Id.*

9. O.C.G.A. § 40-6-3(a)(6)(A)(i) (1991).

10. O.C.G.A. § 40-6-3(a)(6)(A)(ii) (1991). The plat must show “the location of roads, streets, and common areas within the privately owned residential area.” *Id.*

11. O.C.G.A. § 40-6-3(a)(6)(B) (1991).

12. O.C.G.A. § 40-6-3(a)(6)(C) (1991).

13. O.C.G.A. § 40-6-3(a)(6)(D) (1991). “[N]otice shall be given . . . by publication in a newspaper of general circulation in the area and by posting signs along the private road, streets, and common areas specifying that the county law enforcement agency or municipal law enforcement agency will be enforcing the uniform rules of the roads on said private roads, streets, and common areas.” *Id.*

14. HB 671, as introduced, 1991 Ga. Gen. Assem.

15. HB 671 (HCS), 1991 Ga. Gen. Assem.

16. Purcell Interview, *supra* note 2.

The Senate Committee on Transportation offered the other change in the bill. Originally, the bill would have mandated that the county or municipality either charge the landowners for police enforcement, or designate the subdivision as a "special services district to defray the cost . . . of enforcing the uniform rules of the road therein."¹⁷ As passed, the city or county must absorb the cost of law enforcement within the subdivision.¹⁸ The change in the bill reflected the General Assembly's belief that the private landowners should not have to pay an extra tax for law enforcement only because they lived in a private residential area.¹⁹ Since they have already paid property taxes, the landowners should not be required to pay for services that landowners in nonprivate areas do not pay.²⁰

An interesting note about the Act is that it substantially tracks the language of Code section 40-6-3(a)(5). That subsection makes the Uniform Rules of the Road applicable to "private property . . . on coastal marshlands or estuarine area" if the private landowner so desires.²¹ One difference, however, is that subsection (a)(5) provides for concurrent jurisdiction between state and local law enforcement agencies on the private property.²² The Act, which creates subsection (a)(6), provides no similar provision. Nevertheless, according to the Act's sponsor, no difference exists between the new subsection and subsection (a)(5); the legislature's intent was to provide for concurrent jurisdiction.²³ Whether concurrent jurisdiction will actually exist in the subdivisions must be left to judicial interpretation of the statute based on its plain language and the doctrine of *in pari materia*.²⁴

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17. HB 671, as introduced, 1991 Ga. Gen. Assem.

18. "Upon approval by the governing authority of the county or municipality, the law enforcement agency of such county or municipality shall enforce the uniform rules of the road within said privately owned residential area." O.C.G.A. § 40-6-3(a)(6)(B) (1991).

19. Purcell Interview, *supra* note 2.

20. *Id.*

21. O.C.G.A. § 40-6-3(a)(5)(A) (1991).

22. "Any state or local law enforcement agency empowered to enforce the uniform rules of the road in such areas shall have concurrent jurisdiction with the primary local law enforcement agency to enforce the rules of the road on said private property." O.C.G.A. § 40-6-3(a)(5)(D) (Supp. 1991).

23. Purcell Interview, *supra* note 2.

24. "In *pari materia*" is the rule of "statutory construction that statutes which relate to the same subject matter . . . be read, construed and applied together." BLACK'S LAW DICTIONARY 791 (6th ed. 1990).