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# MOTOR VEHICLES AND TRAFFIC Uniform Rules of the Road: Change Certain Provisions Relating to Homicide or Serious Injury by Vehicle; Change Certain Provisions Relating to Driving Under the Influence of Intoxicating Substances; Change Certain Provisions Relating to Court-Ordered Installation of Ignition Interlock Devices; Change Certain Provisions Relating to Limited Driving Permits for Certain Offenders; Change Certain Provisions Relating to Driving While a License is Suspended or Revoked; Change Certain Provisions Relating to Bailable Offenses

Roger T. Weitkamp

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## MOTOR VEHICLES AND TRAFFIC

*Uniform Rules of the Road: Change Certain Provisions Relating to Homicide or Serious Injury by Vehicle; Change Certain Provisions Relating to Driving Under the Influence of Intoxicating Substances; Change Certain Provisions Relating to Court-Ordered Installation of Ignition Interlock Devices; Change Certain Provisions Relating to Limited Driving Permits for Certain Offenders; Change Certain Provisions Relating to Driving While a License is Suspended or Revoked; Change Certain Provisions Relating to Bailable Offenses*

**CODE SECTIONS:** O.C.G.A. §§ 17-6-1, 17-10-3.1, 40-5-64, -121, 40-6-391, -393 to -394, 42-8-110 to -111 (amended)

**BILL NUMBER:** SB 164

**ACT NUMBER:** 292

**GEORGIA LAWS:** 1999 Ga. Laws 391

**SUMMARY:** The Act, known as "Heidi's Law," changes several sections of the Georgia Code to impose more severe penalties and restrictions on persons convicted of driving under the influence of intoxicating substances (DUI). The Act increases the minimum and maximum sentences for convictions of homicide or serious injury by vehicle arising from certain types of Code violations. The Act also provides for a period of probation for persons convicted of DUI and sentenced to prison for less than twelve months. Further, the Act prohibits anyone convicted of a second DUI from driving a motor vehicle without an automobile ignition interlocking device (IID) for a six-month period. Finally, the Act frees judges from bail restriction schedules and provides them with the discretionary power to set bail or release defendants in homicide by vehicle cases.

EFFECTIVE DATE: May 1, 1999<sup>1</sup>

### *History*

On July 13, 1998, Heidi Flye and her two young daughters, Cathryn (Cady) and Audrey, died in a head-on collision with another driver as they returned to their Forsyth County home after a trip to Chattanooga, Tennessee.<sup>2</sup> The other driver, whose car crossed the center line on state route 20, was not only charged with driving under the influence of alcohol on that occasion, but he had been previously convicted of DUI less than one year before.<sup>3</sup>

The Flyes' story is tragic and unfortunately all too common. Each year drunk drivers kill over 600 people in Georgia.<sup>4</sup> Of the approximately 60,000 DUI cases in Georgia each year, repeat offenders account for nearly 10,000 cases.<sup>5</sup>

In recent years, the Georgia General Assembly has adopted several measures in an attempt to deter motorists from drinking and driving.<sup>6</sup> At former Governor Zell Miller's urging, the General Assembly implemented the following changes: it lowered the blood-alcohol level required for DUI conviction from .12% to .10% (.02% for drivers under age twenty-one); it removed nolo contendere pleas that allowed drunk driving records to disappear; and made it illegal for motorists (even if not intoxicated) to drive with open alcoholic beverage containers in

1. 1999 Ga. Laws 391, §§ 13-14, at 400. The Governor signed the bill into law on April 22, 1999; the Act became effective on May 1, 1999 (the first day of the month following the month in which it was approved by the Governor). *See id.*

2. *See Joe Cory, Georgia Stiffens Penalties for Drunk Drivers*, GWINNETT DAILY POST, Mar. 24, 1999, at A1.

3. *See* SB 164, as introduced, 1999 Ga. Gen. Assem., § 1; David Goldberg & Brad Schrade, *Bill Pushes Device to Stall DUI Drivers*, ATLANTA J. & CONST., Feb. 20, 1999, at B5. Ralph Gilbert Cox, Jr. pleaded guilty to three counts of vehicular homicide in connection with the Flyes' death. Mr. Cox was sentenced to a 36-year prison term in July 1999. *See* Larry Hartstein, *Forsyth County Man Sentenced to 36 Years; Victims' Death Led to Tougher DUI Law*, ATLANTA J. & CONST., July 27, 1999, at B3.

4. *See* SB 164, as introduced, 1999 Ga. Gen. Assem., § 1.

5. *See* Bill Torpy, *Crackdown Widens on Drunken Drivers*, ATLANTA J. & CONST., Mar. 25, 1999, at B4 (quoting State Patrol Commander Sid Miles). Nationally, of the approximately 1.6 million DUI convictions each year, 600,000 are of repeat offenders. *See* LifeSaver Interlock, *DWI Offenders* (visited June 15, 1999) <<http://www2.lifesaver.com/lifesaver/facts.htm>> [hereinafter LifeSaver]. Generally, 50% of first offenders become second-time offenders, and 80% of second-time offenders become multiple offenders. *See id.*

6. *See* Torpy, *supra* note 5.

their automobiles.<sup>7</sup> By passing SB 164, the General Assembly took another step in its effort to crack down on drunk drivers.<sup>8</sup>

The passage of SB 164 was a collaborative effort by, among others, the Flye family;<sup>9</sup> Forsyth County Solicitor General Leslie Abernathy; Senator Billy Ray of the 48th District; and Representative Mike Evans of the 28th District.<sup>10</sup> Ms. Abernathy worked with the Flye family, the Executive Board of the State Solicitors General Association, and the Prosecuting Attorneys' Council to draft the bill; she then presented it to Senator Ray and Representative Evans for introduction in the General Assembly.<sup>11</sup> Senator Ray and Representative Evans eventually decided that Senator Ray would introduce the bill in the Senate near the mid-point of the session.<sup>12</sup>

7. *See id.*

8. *See id.* Senator Billy Ray noted that despite the recent significant legislative changes in the State's DUI laws, the number of DUI-related accidents, injuries, and deaths did not seem to be abating. *See* GA. SENATE, WKLY. WRAP-UP REP. (Feb. 15, 1999). Senator Ray stated: "While this bill may address these problems in an aggressive fashion, it is necessary." *Id.*

9. Russ Woodyard and Mark Flye, Heidi Flye's father and husband, were intimately involved in the bill's journey through the General Assembly. *See* Telephone Interview with Sen. Billy Ray, Senate District No. 48 (Apr. 14, 1999) [hereinafter Ray Interview]. Senator Ray stated that Mr. Woodyard traveled to Atlanta from Nashville to be present for every discussion of the bill in the General Assembly. *See id.* Senator Ray attributed the bill's success to the family's efforts: "Quite frankly, [the bill] would not have passed if the family had not been here lobbying," Ray said." Cory, *supra* note 2. In Senator Ray's estimation, the most emotional day of the 1999 legislative session was the day Representative Evans told the story of the Flye family's tragedy while the family looked on. *See* Ray Interview, *supra*.

10. *See* Telephone Interview with Rep. Mike Evans, House District No. 28 (May 17, 1999) [hereinafter Evans Interview]. In November 1998, Ms. Abernathy brought the idea for the bill to Representative Evans, who, along with Senator Ray, represents the Forsyth County area; Representative Evans then asked her to draft the bill's provisions. *See id.*

11. *See* Telephone Interview with Leslie Abernathy, Forsyth County Solicitor General (May 25, 1999) [hereinafter Abernathy Interview]. By working to pass this bill—specifically its IID provisions—the Flyes and Woodyards hoped to create something positive from their tragedy by keeping drunk drivers off Georgia's roads; they wanted to prevent other families from having to endure the loss that they had endured. *See id.*; Evans Interview, *supra* note 10; Ray Interview, *supra* note 9.

12. *See* Ray Interview, *supra* note 9. Both Senator Ray and Representative Evans agreed that the Senate would probably not find the bill as controversial as the House would (given the House's reputation for closely scrutinizing any bills related to DUI offenses); both expected the bill to pass in the Senate, but thought it might take another year to pass in the House. *See id.* Moreover, they thought that the bill's chances for passage in the House might increase if it were able to gain some momentum in the Senate. *See id.* Finally, they thought that the bill would be more likely to pass if introduced later in the session, after other more controversial bills were allowed to work their way through the legislative process. *See id.*

Both Senator Ray and Representative Evans agreed that the ignition interlock devices (IIDs) requirement for repeat DUI offenders represented the bill's cornerstone issue; they decided that they could not allow the legislative process to erode this provision.<sup>13</sup> An IID is a State-certified system that is attached to an automobile's ignition system; it prevents a driver from starting his vehicle if his breath-alcohol concentration measures above a predetermined level.<sup>14</sup> The Flyes and Woodyards knew other states used IIDs and thought that the devices would help keep drunk drivers off Georgia roads.<sup>15</sup>

### *Introduction*

Senators Billy Ray, Casey Cagle, and Donzella James,<sup>16</sup> of the 48th, 49th, and 35th Senate Districts, respectively, sponsored SB 164.<sup>17</sup> Senator Ray introduced the bill on the Senate floor on February 15, 1999.<sup>18</sup> The Senate assigned the bill to its Public Safety Committee, which favorably reported the bill, as substituted.<sup>19</sup> The Senate adopted the Public Safety Committee's substitute and passed the bill

13. *See id.*; Cory, *supra* note 2.

14. *See* National Highway Traffic Safety Admin., *Repeat Intoxicated Driver Laws*, 23 C.F.R. pt. 1275 [No. NHTSA-98-4537]. Senator Ray noted that the device may also require the driver to register acceptable breath analyses periodically once the automobile has started (this would prevent the driver from starting his car while sufficiently sober, and subsequently drinking while driving). *See* Ray Interview, *supra* note 9.

15. *See* Ray Interview, *supra* note 9. While an individual convicted of DUI is usually subject to license suspension, some studies indicate that as many as 70% of all repeat DUI offenders continue to drive without a license. *See* United States Dep't of Trans., Nat'l Highway Traffic Safety Admin., *State Legislative Fact Sheets: Vehicle and License Plate Sanctions*, Mar. 1999 [hereinafter *Legislative Fact Sheets*]. As of May 1999, 35 states had passed some form of IID legislation (either mandatory or discretionary). *See* LifeSaver, *supra* note 5; *Legislative Fact Sheets*, *supra*. As of March 1999, IIDs were discretionary in the following 32 states: Alaska, Arkansas, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, Tennessee, Utah, Virginia, Washington, West Virginia, and Wisconsin. *See* LifeSaver, *supra* note 5. In California, Oregon, and Texas, IIDs are mandatory under some circumstances. *See id.* Moreover, Congress has created a number of incentive programs (*e.g.*, federal grants) to encourage states to adopt laws aimed at stopping repeat DUI offenders. *See* *Legislative Fact Sheets*, *supra*.

16. For Senator James, SB 164 held special meaning. Like the Flye family, Senator James' family was devastated in 1993 when her son, a high-school senior, was killed by a drunk driver with *four* prior DUI convictions. *See* Telephone Interview with Sen. Donzella James, Senate District No. 35 (June 10, 1999) [hereinafter James Interview].

17. *See* State of Georgia Final Composite Status Sheet, May 3, 1999.

18. *See id.*

19. *See id.*

unanimously on March 10, 1999.<sup>20</sup> On March 10, 1999, the bill was assigned to the House Special Judiciary Committee, which favorably reported the bill, as substituted, on March 17, 1999.<sup>21</sup> The House adopted the Special Judiciary Committee's substitute and passed a floor substitute on March 23, 1999.<sup>22</sup> The House returned the bill to the Senate on March 23, 1999, where the Senate concurred with the House amendments.<sup>23</sup> The Senate forwarded the bill to Governor Roy Barnes, who signed SB 164 into law on April 22, 1999.<sup>24</sup>

### *SB 164*

#### *Consideration by the Senate Public Safety Committee*

Upon introduction, the Senate assigned the bill to its Public Safety Committee where it passed, as substituted, on March 2, 1999.<sup>25</sup> The Public Safety Committee's substitute provided that if a court orders the use of an IID under Code section 42-8-111, it must provide a notice of the order to the Department of Public Safety (DPS).<sup>26</sup> The notice must specify how long the defendant must use the IID.<sup>27</sup>

In addition, the substitute added language in Code section 42-8-111 to ensure that none of the bill's IID provisions would reduce the period of any license suspension or revocation.<sup>28</sup> Further, the substitute provided for language in Code section 42-8-111 imposing a fifteen-dollar fee for the issuance of a driver's license noting a person's IID requirement and levying the fee prescribed in Code section 40-5-58 (currently \$210) for issuance of a probationary license noting the IID requirement for "habitual violators."<sup>29</sup>

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20. *See id.*

21. *See id.*

22. *See id.*

23. *See id.*

24. *See id.*

25. *See* GA. SENATE, WKLY. WRAP-UP REP. (Mar. 5, 1999); State of Georgia Final Composite Status Sheet, May 3, 1999.

26. *Compare* SB 164, as introduced, 1999 Ga. Gen. Assem., *with* SB 164 (SCS), 1999 Ga. Gen. Assem.

27. *Compare* SB 164, as introduced, 1999 Ga. Gen. Assem., *with* SB 164 (SCS), 1999 Ga. Gen. Assem.

28. *Compare* SB 164, as introduced, 1999 Ga. Gen. Assem., *with* SB 164 (SCS), 1999 Ga. Gen. Assem.

29. *Compare* SB 164, as introduced, 1999 Ga. Gen. Assem., *with* SB 164 (SCS), 1999 Ga. Gen. Assem.

*From the Senate Public Safety Committee to Passage on the Senate Floor*

The Senate unanimously (53-0) passed the bill, as substituted, on March 10, 1999.<sup>30</sup> The Senate referred the bill to the House Special Judiciary Committee the same day.<sup>31</sup>

*From the Senate Floor to the House Special Judiciary Committee*

The House Special Judiciary Committee favorably reported the bill, as substituted, on March 17, 1999.<sup>32</sup> The Committee substitute changed the bill's proposed amendment to Code section 40-5-64(a), which prohibited anyone who had ever been convicted of driving under the influence from applying for a limited driving permit, to allow persons who have not been convicted of driving under the influence in the past five years to apply for a limited driving permit.<sup>33</sup> In addition, the substitute relaxed the bill's proposed change to the provisions of Code section 40-6-391(j), which would have required published notice of second or subsequent convictions for DUI, to require notice publication for second or subsequent convictions within a five-year period.<sup>34</sup> The substitute also eliminated the Code section 40-6-391(j) assessment of twenty-five dollars against the convicted person for the cost of conviction notice publication.<sup>35</sup>

The Committee substitute also eliminated the Code section 40-6-391(j)(3) provision immunizing the court clerk, legal notice publishers, and others involved in the publication of DUI notices from civil and criminal liability for good-faith erroneous publications.<sup>36</sup> In addition,

30. See State of Georgia Final Composite Status Sheet, May 3, 1999.

31. See *id.*

32. See *id.* Ms. Abernathy noted that the bill's most important changes occurred in the House Special Judiciary Committee. See Abernathy Interview, *supra* note 11. She said that the Committee chairman, Representative William "Billy" Randall of the 127th District, told the bill's proponents to work out a compromise on the bill's specific sentencing provisions with the criminal defense lobby's representative, and he would recommend the agreed-upon provisions to the Committee. See *id.*

33. Compare SB 164, as introduced, 1999 Ga. Gen. Assem., with SB 164 (HCS), 1999 Ga. Gen. Assem. This revision was the result of negotiations between the bill's proponents and the criminal defense attorneys' lobby. See Abernathy Interview, *supra* note 11.

34. Compare SB 164, as introduced, 1999 Ga. Gen. Assem., with SB 164 (HCS), 1999 Ga. Gen. Assem.

35. Compare 1997 Ga. Laws 760, § 23, at 789-94 (formerly found at O.C.G.A. § 40-6-391(j)(2) (1997)), with SB 164 (HCS), 1999 Ga. Gen. Assem.

36. Compare 1997 Ga. Laws 760, § 23 at 789-94 (formerly found at O.C.G.A. § 40-6-

the substitute eliminated the bill's proposed addition of Code section 40-6-391(j)(4), which would have made driving under the influence notice publication applicable to juvenile courts.<sup>37</sup>

The substitute reduced the bill's proposed minimum sentence under Code section 40-6-393 for convictions of homicide by vehicle in cases of hit and run, reckless driving, DUI, or fleeing from a police officer from five to three years.<sup>38</sup> The substitute lowered the bill's proposed minimum sentence under Code section 40-6-393 for convictions of homicide by vehicle in cases of a habitual violator with a revoked license from ten to five years.<sup>39</sup> In addition, the substitute eliminated the bill's proposed minimum sentence of five years under Code section 40-6-394 for convictions of serious injury by vehicle in cases of reckless driving or driving under the influence.<sup>40</sup> Finally, the substitute removed the proposed Code section 42-8-111 language imposing IID requirements for persons convicted of DUI for the first time and restored the Code's second-offense IID language; however, the substitute made the imposition of IIDs mandatory rather than discretionary for second offenses.<sup>41</sup>

391(j)(3) (1997)), with SB 164 (HCS), 1999 Ga. Gen. Assem.

37. Compare SB 164 (SCS), 1999 Ga. Gen. Assem., with SB 164 (HCS), 1999 Ga. Gen. Assem.

38. Compare SB 164 (SCS), 1999 Ga. Gen. Assem., with SB 164 (HCS), 1999 Ga. Gen. Assem. According to Ms. Abernathy, this change was the result of negotiations between the bill's proponents and the criminal defense attorneys' lobby. See Abernathy Interview, *supra* note 11. Ms. Abernathy noted that the criminal defense lobby was much more concerned about keeping the mandatory minimum sentences low (to allow the judge discretion to mitigate the sentence in special cases where the facts warrant a more lenient sentence) than it was about keeping the maximum sentences low. See *id.*

39. Compare SB 164 (SCS), 1999 Ga. Gen. Assem., with SB 164 (HCS), 1999 Ga. Gen. Assem.

40. Compare SB 164 (SCS), 1999 Ga. Gen. Assem., with SB 164 (HCS), 1999 Ga. Gen. Assem.

41. Compare SB 164 (SCS), 1999 Ga. Gen. Assem., with SB 164 (HCS), 1999 Ga. Gen. Assem. Senator Ray informed the committee that he could not support the change imposing use of an IID after a second DUI conviction (rather than after the first conviction) because he did not want to have to justify that provision to another family victimized by a second-time DUI offender who might have been prevented from driving under the influence if an IID had been in place. See Abernathy Interview, *supra* note 11; Ray Interview, *supra* note 9. Representative Evans believes that passing the mandatory use of IIDs after a second conviction was still a big victory because this will require judges to use the IID program more frequently. See Evans Interview, *supra* note 10. He and Senator Ray both believe that as judges get more comfortable with the IID program, they will begin to use their discretion to impose IID use after first DUI offenses. See *id.*; Ray Interview, *supra* note 9.



*From House Special Judiciary Committee to House Floor Substitute*

The bill moved to the House floor, where it passed as substituted.<sup>42</sup> The House floor substitute eliminated the bill's classification and punishment of certain types of homicide by vehicle cases under Code section 40-6-393 as high and aggravated misdemeanors.<sup>43</sup> In addition, the substitute added a subsection to Code section 42-8-111, providing that if local governments contract with private entities for the operation of IID centers, the contracts with those entities must provide for the participation of indigent defendants in the "ignition interlock program."<sup>44</sup> The substitute also restored language in the original version that gave courts discretion to order the installation of IIDs on any vehicle owned or operated by a person convicted of driving under the influence.<sup>45</sup>

*From House Floor Substitute to Version as Passed*

The bill returned to the Senate from the House on March 24, 1999, where the Senate adopted the House substitute; Governor Roy Barnes signed the bill into law on April 22, 1999.<sup>46</sup>

*The Act*

Section 1 of the Act, dubbed "Heidi's Law," declares the Act a memorial to Heidi Marie, Cathryn Nicole, and Audrey Marie Flye, provides relevant statistics on drunk-driving related accidents, and explains the benefits of IID programs.<sup>47</sup>

The Act amends Code section 17-6-1, regarding bailable offenses, by providing judges with the discretion to decide bail or other release from custody on a case-by-case basis (rather than according to a set

42. See State of Georgia Final Composite Status Sheet, May 3, 1999.

43. Compare SB 164 (HCS), 1999 Ga. Gen. Assem., with SB 164 (HFS), 1999 Ga. Gen. Assem.

44. See *id.* Representative Barbara Mobley of the 69th District raised her concerns that an indigent defendant would not be able to afford the IID; this language requires that private parties who contract with political subdivisions to provide IID installation devote a percentage of their IID installation proceeds toward a fund to help indigents pay for IID installation. See Abernathy Interview, *supra* note 11.

45. Compare SB 164, as introduced, 1999 Ga. Gen. Assem., and SB 164 (HFS), 1999 Ga. Gen. Assem., with SB 164 (HCS), 1999 Ga. Gen. Assem.

46. See State of Georgia Final Composite Status Sheet, May 3, 1999.

47. See 1999 Ga. Laws 391, § 1, at 393.

schedule of bails) in cases involving homicide by vehicle.<sup>48</sup> In addition, the Act amends Code section 17-10-3.1, regarding punishment for violations of Code section 40-6-391 (DUI offenses), by limiting judges' discretion to allow DUI offenders under the age of twenty-one to serve out their sentences on weekends or non-working hours to first-time offenders only.<sup>49</sup> The Act also limits judges' discretion to segregate DUI offenders under the age of twenty-one from the rest of the county jail population to first-time offenders only.<sup>50</sup>

Furthermore, the Act amends Code section 40-5-64, regarding limited driving permits, by prohibiting persons previously convicted of DUI within a five-year period from applying for a limited (*e.g.*, daytime, work only, etc.) driving permit.<sup>51</sup> The Act also amends Code section 40-5-121, regarding driving with a suspended or revoked license, by making a minor grammatical change in the "habitual violator" language.<sup>52</sup> It also increases the maximum period of imprisonment from six to twelve months for habitual violations of driving while driving privileges have been suspended, revoked, or disqualified.<sup>53</sup>

The Act amends Code section 40-6-391, regarding driving under the influence, by adding three subsections (one each for first, second, and third or subsequent convictions) imposing a twelve-month minimum period of probation (less the number of days incarcerated) upon defendants sentenced to prison for less than one year for any DUI conviction.<sup>54</sup> In addition, the Act includes defendants' prior adjudications of delinquency based on DUI violations within the meaning of "conviction" for the purposes of imposing sentences.<sup>55</sup> The

48. Compare 1994 Ga. Laws 1270, § 5, at 1271-76, and 1998 Ga. Laws 270, § 9, at 280 (formerly found at O.C.G.A. § 17-6-1 (Supp. 1998)), with O.C.G.A. § 17-6-1(f)(5) (Supp. 1999).

49. Compare 1997 Ga. Laws 760, § 2, at 762-63 (formerly found at O.C.G.A. § 17-10-3.1 (Supp. 1998)), with O.C.G.A. § 17-10-3.1(a) (Supp. 1999).

50. Compare 1997 Ga. Laws 760, § 2, at 762-63 (formerly found at O.C.G.A. § 17-10-3.1 (Supp. 1998)), with O.C.G.A. § 17-10-3.1(b) (Supp. 1999).

51. Compare 1997 Ga. Laws 760, § 18, at 781-83 (formerly found at O.C.G.A. § 40-5-64 (1997)), with O.C.G.A. § 40-5-64 (Supp. 1999).

52. Compare 1991 Ga. Laws 1886, § 5, at 1890-91 (formerly found at O.C.G.A. § 40-5-121 (1997)), with O.C.G.A. § 40-5-121 (Supp. 1999).

53. Compare 1991 Ga. Laws 1886, § 5, at 1890-91 (formerly found at O.C.G.A. § 40-5-121 (1997)), with O.C.G.A. § 40-5-121 (Supp. 1999).

54. Compare 1997 Ga. Laws 760, § 23, at 789-94 (formerly found at O.C.G.A. § 40-6-391(c) (1997)), with O.C.G.A. § 40-6-391(c) (Supp. 1999).

55. Compare 1997 Ga. Laws 760, § 23, at 789-94 (formerly found at O.C.G.A. § 40-6-391(c) (1997)), with O.C.G.A. § 40-6-391(c) (Supp. 1999).

Act also changes the requirements for publishing notice of a defendant's DUI conviction from the third and subsequent convictions to the second and subsequent convictions within a five-year period.<sup>56</sup>

The Act amends Code section 40-6-393, regarding homicide by vehicle, by raising the minimum sentence for convictions of homicide by vehicle in cases of hit and run, reckless driving, driving under the influence, or fleeing from a police officer, from two to three years.<sup>57</sup> The Act also raises the minimum sentence for convictions of homicide by vehicle in cases of "habitual violators" with revoked licenses from three to five years and raises the maximum sentence for such offenses from fifteen to twenty years.<sup>58</sup>

The Act amends Code section 40-6-394, regarding serious injury by vehicle, by raising the maximum sentence for convictions of serious injury by vehicle in cases of reckless driving or DUI from five to fifteen years.<sup>59</sup> The Act also amends Code section 42-8-110, regarding the purchase or lease of IIDs by political subdivisions, by adding a subsection providing that if a government entity contracts with a private entity to install IIDs, the provider must allow indigent defendants to participate in the IID program.<sup>60</sup>

The Act amends Code section 42-8-111, regarding court-ordered installation of IIDs, by mandating that, as a condition of probation, persons convicted of DUI are prohibited from driving a vehicle without an IID.<sup>61</sup> In addition, the Act changes the persons who may be prohibited from driving a vehicle without an IID from persons convicted of DUI two or more times within a five-year period to any person convicted of DUI a second time.<sup>62</sup> The Act also removes language from the Code that allowed courts to order IID installation on a convicted DUI offender's vehicle only after his third DUI

56. Compare 1997 Ga. Laws 760, § 23, at 789-94 (formerly found at O.C.G.A. § 40-6-391(j) (1997)), with O.C.G.A. § 40-6-391(j) (Supp. 1999).

57. Compare 1992 Ga. Laws 2093, § 1, at 2093-94 (formerly found at O.C.G.A. § 40-6-393 (1997)), with O.C.G.A. § 40-6-393 (Supp. 1999).

58. Compare 1992 Ga. Laws 2093, § 1, at 2093-94 (formerly found at O.C.G.A. § 40-6-393 (1997)), with O.C.G.A. § 40-6-393 (Supp. 1999).

59. Compare 1990 Ga. Laws 2048, § 5, at 2239-2322 (formerly found at O.C.G.A. § 40-6-394 (1997)), with O.C.G.A. § 40-6-394 (Supp. 1999).

60. Compare 1997 Ga. Laws 760, § 26, at 795-96 (formerly found at O.C.G.A. § 42-8-110 (1997)), with O.C.G.A. § 42-8-110(e) (Supp. 1999).

61. Compare 1993 Ga. Laws 568, § 1 at 570-71 (formerly found at O.C.G.A. § 42-8-111(a) (1997)), with O.C.G.A. § 42-8-111(a) (Supp. 1999).

62. Compare 1993 Ga. Laws 568, § 1, at 570-71 (formerly found at O.C.G.A. § 42-8-111 (1997)), with O.C.G.A. § 42-8-111 (Supp. 1999).

offense.<sup>63</sup> This change effectively makes section (b) of the statute congruent with section (a) (*i.e.*, the court must order the IID installed after the second DUI offense).<sup>64</sup>

*Opposition to SB 164*

According to Senator James, most of the initial resistance to the bill came from constituents with alcohol-related businesses (*e.g.*, taverns, night clubs, etc.), who feared that more DUI laws would limit social drinkers' rights unnecessarily.<sup>65</sup> However, by educating the legislators and constituents about the dangers of DUI and the magnitude of the DUI problem in Georgia throughout the legislative session, the bill's advocates won the support of concerned legislators.<sup>66</sup> Ultimately, the bill passed both houses unanimously.<sup>67</sup>

*Roger T. Weitkamp*

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63. Compare 1993 Ga. Laws 568, § 1, at 570-71 (formerly found at O.C.G.A. § 42-8-111(b) (1997)), with O.C.G.A. § 42-8-111(b) (Supp. 1999).

64. Compare 1993 Ga. Laws 568, § 1, at 570-71 (formerly found at O.C.G.A. § 42-8-111(b) (1997)), with O.C.G.A. § 42-8-111(b) (Supp. 1999).

65. See James Interview, *supra* note 16.

66. See *id.*

67. See State of Georgia Final Composite Status Sheet, May 3, 1999.